

MORIARTY TRIBUNAL - DAY 166

I N D E X

WITNESS:	EXAMINATION:Q. NO:	
AIDAN PHELAN	Mr. Coughlan	1 - 227
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THE TRIBUNAL RESUMED AS FOLLOWS ON FRIDAY, 20TH

DECEMBER, 2002 AT 10.30AM:

MR. COUGHLAN: Mr. Aidan Phelan.

AIDAN PHELAN, PREVIOUSLY SWORN, WAS EXAMINED AS

FOLLOWS BY MR. COUGHLAN:

CHAIRMAN: Thank you, Mr. Phelan, for coming back.

You are already sworn, of course. Please sit down.

Q. MR. COUGHLAN: Now, Mr. Phelan, I think you are coming

to assist the Tribunal today concerning certain

letters which were drawn to your attention by the

Tribunal; isn't that correct?

A. Yes.

Q. I think those particular documents which were drawn to

your attention were, first of all and I'll go

through them in a moment, but just first of all, what

has been described at the Tribunal as a short form

file copy, a short form letter, and then what has been

described as a long form letter; isn't that correct?

A. Yeah, I am familiar, yeah.

Q. And those relate to letters of the 12th July, 2000, and the 5th September, 2000, and addressed to Mr.

Kevin Phelan; isn't that correct?

A. Yes, that's correct.

Q. Now, what I propose doing in the first instance, Mr.

Phelan, is taking you through your statement, and then

we'll look at the letters, and you might be able to

/RS

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clarify some matters after that; is that all right?

A. Yes.

Q. I think you furnished a statement to the Tribunal on

the 3rd October of this year, and you say at paragraph

1: "With regard to the two different versions of the

letter of the 12th July 2000 and the 5th September

2000 from Christopher Vaughan to Kevin Phelan, I have

no knowledge of the long form letter and only became

aware of the matter when contacted by the Tribunal.

Following the Tribunal's inquiry regarding this

matter, I met with Christopher Vaughan in order to

discuss the origin of these letters which I had not

heretofore seen and which did not reflect the factual

position, which was that effectively Michael Lowry had

no interest in this property from January 2000,

although, as I have said, I regarded him as morally

responsible to help sell it.

"Christopher Vaughan was confused as to the existence of these documents as they did not form part of his file. He could not explain how these letters came into existence. I asked him what his understanding was in relation to the ownership of the property at Cheadle on the 12th July 2000, and he confirmed that he regarded me as being the beneficial owner of this property as and from mid-January 2000. I also put it to him, in view of the meeting we had in August 2000, that this was improbable, that he would write a letter three weeks later which was a clear misstatement of the facts. He was clearly very confused and upset,

/RS

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and he agreed with this. He offered me a possible explanation of in his letter to Kelly Noone, which I found implausible. I further suggested to him that in my view, these letters were in fact created mischievously in order to mislead the Tribunal and create difficulties for the parties involved, and the fact that they were given anonymously to the Tribunal via a journalist would endorse this opinion. This remains my view. He agreed this was possible.

"I had met with Christopher Vaughan on three occasions, and my solicitor met with him to encourage him to attend the Tribunal's public sittings. It is clear that this issue can best be cleared up by having

him attend. Despite my best efforts in this regard, I cannot persuade him to come. He is a man of very delicate health, and he considers he has assisted the Tribunal by meeting them in private and handing over his files. As I have stated on several occasions, there was never any reason to conceal Michael Lowry's name in connection with these transactions as, inter alia, he was clearly named on public documentation. Then turning to the issue of the meeting at the Regency Airport Hotel.

"The meeting at the Regency Hotel was held at the urgent request of Michael Lowry for the purpose of briefing his accountant, Denis O'Connor. The people who attended the meeting were Christopher Vaughan,
/RS

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Denis O'Connor, Michael Lowry, Helen Phelan (sic), and Aidan Phelan. Kevin Phelan was in the hotel available to answer any questions with regard to the properties.

The meeting was convened by Michael Lowry. I may have contacted Christopher Vaughan at his request. I would also have asked Helen Malone to attend, considering her involvement with the resolutions given to the bank.

"Broadly speaking, the meeting consisted of answering questions raised by documents. With regard to the issue of note taking, there was no need for me to take

any notes because I had already issued a statement to the Tribunal at this time, and I was not acquiring any new information. I would only take notes where there were action points for me or others. From memory, the meeting was not a particularly long meeting ."

I think that's the statement you furnished to the Tribunal?

A. Just Helen Malone you said Helen Phelan; just a small point.

Q. I beg your pardon.

Now, if we just look at the letters or the documents which the Tribunal asked you to consider in the first instance. The first one, or the first series is what has been described as Document A here at the Tribunal. And it's addressed to Mr. Kevin Phelan, and it's dated 12th July 2000, and it reads:

/RS

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"Dear Kevin,

Saint Columba's Church

"I enclose copy letter and policy schedule relating to this property, which has only just been sent to me.

"You will recall that this property was purchased I"

I presume that's "in" "my name as trustee for Aidan Phelan. I have only appreciated upon reading the policy schedule the conditions as to the property whilst it is unoccupied.

"Could you please let me know, as a matter of urgency

"1. Have you managed to find a purchaser?

"2. If not, is there now a tenant in the house as discussed with you recently?

"3. Can you please ensure that the conditions be complied with immediately, as the policy could be null and void and I would personally be liable for losses.

"Yours sincerely."

Now, I think that is the document, first of all, that document or the contents of that document were made available to the Tribunal through the file of Mr.

/RS

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Christopher Vaughan. I think you understand that; isn't that correct?

A. Yes.

Q. And that document was considered during the course of your evidence previously to the Tribunal; isn't that correct?

A. Yes.

Q. And during the course of that evidence, you informed the Tribunal that that particular document reflected the situation as of the 12th July, as you understood the matter, you having taken over the responsibility in respect of this property in January of 2000; isn't that correct?

A. Yeah, the letter as it stands isn't strictly correct.

Q. Isn't?

A. Isn't strictly correct, as obviously there was the Catclause involvement for a couple of days or whatever it was. But practically speaking, it reflected the position.

Q. To reflect the situation that was being asserted by you, isn't it, that you had taken over the property?

A. Yes.

Q. As and from January 2000. So leave aside the question of Catclause.

A. Okay.

Q. That particular the contents of that particular document reflects the evidence that you gave, in effect; isn't that correct?

A. Yes.

Q. Now, there is a Document B, and this is a document on /RS

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Mr. Christopher Vaughan's notepaper; isn't that correct?

A. Yes.

Q. And again it's addressed to Mr. Kevin Phelan. And it's dated 12th July, and it's in exactly the same terms as the document which was furnished to the Tribunal by Mr. Vaughan from his file. Isn't that correct?

A. Yes.

Q. Other than the fact, of course, that it is signed at the bottom, "Christopher Vaughan"; isn't that correct?

A. Yes.

Q. And it has, again at the bottom, printed information about Mr. Vaughan's practice which is standard on his notepaper; isn't that correct?

A. Yes.

Q. Now, that was furnished to the Tribunal by Mr. Kevin Phelan when he disclosed his file to the Tribunal. Do you understand that?

A. I understand.

Q. And putting the two documents together, it would appear that one is the letter to Mr. Kevin Phelan and the other is the file copy which Mr. Vaughan would put on his file ,which would seem like an appropriate practice; isn't that right?

A. Yes.

Q. Now, those were the documents which were available to the Tribunal during the course of your evidence, and as you agree, they, the contents of these documents, support the main thrust of your evidence about you

/RS

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having taken over this particular property from January 2000 on?

A. Yes.

Q. And in effect, exclude Mr. Michael Lowry from having any involvement, isn't that correct, as and from that date at least?

A. Any beneficial ownership, yes.

Q. Yes, I take your point, that he continued to have, as you say, a moral responsibility to help to sell the property; isn't that right?

A. Yes.

Q. Now, I think you are aware that a journalist, Mr. Colm Keena, made two documents available, for the 12th July, made two documents available to the Tribunal, aren't you? You have been informed of that?

A. I am, yeah.

Q. And what he made available to the Tribunal was a document which was the file copy of Mr. Christopher Vaughan's, do you understand, the plain file copy?

A. Document A?

Q. Document A.

A. Yeah.

Q. Right. And he also made available to the Tribunal Document C, which I will now go into?

A. Yes, I am with you.

Q. And again just looking at Document C. That again appears to be on Mr. Christopher Vaughan's notepaper, doesn't it?

A. It appears to be, yes.

Q. And that appears to be Mr. Christopher Vaughan's

/RS

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signature?

A. Yeah, it appears to be.

Q. Now, this again is addressed to Mr. Kevin Phelan, and

it differs in the first instance from the file copy of

Document A and from Document B in that the first

thing is that there is a fax number, isn't that right,

over the date?

A. Yes.

Q. And then it continues:

"Dear Kevin.

"Re Saint Columba's Church". That again is different

to the two documents, A and B, in that they just read

"Saint Columba's Church"; isn't that right?

A. Yeah, that's right.

Q. And then it continues:

"I enclose copy letter and policy schedule relating to

this property which has only just been sent to me.

"You will recall that this property was purchased I"

again, I presume, that's in the same format, I

presume means "in" "my name as trustee for our

client." That's different to the contents of

Documents A and B, isn't it?

A. Yes.

Q. "I have only appreciated upon reading the policy

schedule the conditions as to the property whilst it

is unoccupied.

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"Could you please let me know as a matter of urgency

"1. Have you managed to find a purchaser?

"2. If not, is there now a tenant in the house as discussed with you recently?

"3. Could you please ensure that the conditions be complied with immediately, as the policy could be null and void and I would personally be liable for losses."

Now, just looking at that particular portion and

looking at Documents A and B, they appear to be not

different in content, but different in layout, isn't

that correct, in that if you take Number 2, "If not,

is there now a tenant in the house as discussed with

you recently?" That's all on one line, whereas in

Document A and B, the "recently" goes on to a second

line.

And then 3 again is different in format, isn't it, in

terms of the number of lines and the positioning of

words

A. Correct, yeah.

Q. added onto the final portion of that.

"I seem to recall when the lending process was being

completed that the lender was going to require a

six-monthly report on the marketing of the property.

/RS

Could you please let me have details so I can deal with this. I think the same will apply to Mansfield as well.

"Yours sincerely,

"Christopher Vaughan."

Now, that particular paragraph in that is not in

Documents A or B, is it?

A. Yes, I agree.

Q. Now, if we go to the second series of documents,

that's documents D, E and F, and if we look at

Document D, that is a document addressed to Mr. Kevin

Phelan; it's dated 5th September 2000, and it reads:

"I faxed through to you on the 4th September the letter from Thistlewood Estates that was waiting for me when I returned from holiday. This looks to be excellent news depending on whether the conditions can be satisfied.

"Can you therefore let me know

"1. What is the current situation with regard to the

grant of planning consent for the proposed

residential scheme? Who is going to submit and

pay for the planning application, and when will

it be done?

"2. Presumably the access will be dealt with at the

/RS

same time as the planning application is

submitted?

"3. Are Thistlewood undertaking a soil survey at the

present time?

"Do you know the identity of Thistlewood Estates'

clients? I have done a company search against

Thistlewood, and I enclose a copy herewith which says

very little. Do you know who their actual clients

are?

"Kind regards,

"Yours sincerely

"C.J. Vaughan."

Now, that document was furnished to the Tribunal from

the file of Mr. Christopher Vaughan when he enclosed

his file, and I think it's a document which, again,

was used during the course of the evidence which you

gave to the Tribunal; isn't that correct?

A. Yes.

Q. And we have what appears to be the top copy or the

letter issued again which was furnished to the

Tribunal by Mr. Kevin Phelan, the addressee, dated 5th

September. And again, if we put that up, that's

Document E, and again, would you agree that that's Mr.

Christopher Vaughan's notepaper?

A. Yes.

Q. And that appears to be Mr. Christopher Vaughan's

/RS

signature?

A. Yes.

Q. And if we go through it.

"I faxed through to you on the 4th September the letter from Thistlewood Estates that was waiting for me when I returned from holiday. This looks to be excellent news depending on whether the conditions can be satisfied.

"Can you therefore let me know

"1. What is the current situation with regard to the grant of planning consent for the proposed residential scheme? Who is going to submit and pay for the planning application, and when will it be done?

"2. Presumably the access will be dealt with at the same time as the planning application is submitted?

"3. Are Thistlewood undertaking a soil survey at the present time?

"Do you know the identity of Thistlewood Estates' clients? I have done a company search against Thistlewood, and I enclose a copy herewith which says very little. Do you know who their actual clients are?

/RS

"Kind regards

"Yours sincerely

"C.J. Vaughan", and it's signed.

Now, that again is in the same the content and format are the same as the file copy furnished to the Tribunal by Mr. Christopher Vaughan; doesn't that appear to be the situation?

A. Yes.

Q. Now, I think you are aware that Mr. Colm Keena furnished Mr. Davis, solicitor to the Tribunal, with a document which was consistent with the file copy of Mr. Christopher Vaughan; isn't that correct?

A. Yes.

Q. That's Document D. And he also furnished the Tribunal with a document, which is document F, and again, looking at that, that appears to be on Mr. Christopher Vaughan's notepaper, doesn't it?

A. Yes.

Q. And that is Mr. Christopher Vaughan's signature?

A. Yes.

Q. And it's addressed to Mr. Kevin Phelan, and it's dated 5th September 2000, and it reads:

"Dear Kevin

"I faxed through to you on the 4th September the letter from Thistlewood Estates that was waiting for me when I returned from holiday. This looks to be

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excellent news depending on whether the conditions can be satisfied.

"What I would like to do is to set up a timetable, bearing in mind that Michael wants to own the property in his own name for a month prior to the sale to Thistlewood Estates.

"Could you therefore let me know

"1. What the current situation is with regard to the grant of planning consent for the proposed residential scheme. Who is going to submit and pay for the planning application, and when will it be done?

"2. Presumably the access will be dealt with at the same time as the planning application is submitted.

"3. Are Thistlewood undertaking a soil survey at the present time?

"Do you know the identity of Thistlewood Estates' clients? I have done a company search against Thistlewood, and I enclose a copy herewith which says very little. Do you know who their actual clients are?

"I have not written to Michael about this as I get concerned about corresponding with him, but a copy has been sent to Aidan as he needs to keep the mortgage

/RS

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lender happy as to the loan that Michael took out."

And then down at the bottom, the asterisk is above,
and there is an asterisk below "to follow". That must
be the search against Thistlewood.

Now, I take it you agree that that's a completely
different letter

A. Totally different, yeah.

Q. to the letter, the copy letter or the file copy
furnished by Mr. Vaughan and the top of that copy
furnished by Mr. Kevin Phelan; totally different?

A. Totally different.

Q. And would you agree that this letter states that a
copy has been sent to the "Aidan" must be a
reference to you?

A. It must be, yes.

Q. Before I come to that, the difference is that the
format is different in the first instance, isn't it?

The typeface and the format is different. And
secondly, there are two paragraphs in this letter;
that is the one "What I would like to do now is set up
a timetable, bearing in mind that Michael wants to own
the property in his own name for a month prior to the
sale to Thistlewood Estates." That is not in the file
copy or in the top copy furnished by Mr. Kevin Phelan;
isn't that right?

A. Correct.

Q. And the final paragraph: "I have not written to
Michael about this as I get concerned about

/RS

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correspondence going to him, but a copy has been sent to Aidan as he needs to keep the mortgage lender happy as to the loan that Michael took out."

That's not in either the file copy or the top copy.

Those are documents D and E; isn't that correct?

A. Correct.

Q. Now, the first thing I'd like to ask you is: Did you receive Document F? That is the long form of the letter of the 5th September 2000 from Mr. Christopher Vaughan.

A. No.

Q. Are you certain of that?

A. I am certain.

Q. Now, I think you were aware that the inquiry being conducted by the Tribunal as regards these particular documents is that the documents furnished to the Tribunal in the first instance by Mr. Christopher Vaughan and Mr. Kevin Phelan, and which were used during the course of your evidence and the evidence of other people dealing with these particular property transactions, do not make reference to Michael Lowry, as of the 12th July or of the 5th September, as having a beneficial interest in the property; isn't that correct?

A. On the 12th July

Q. The first one is the 12th July.

A. Where is the reference to Lowry in that one?

Q. I am not saying sorry

A. Sorry, am I missing, sorry

/RS

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Q. What I am saying is that what was furnished take

Document A.

A. Okay.

Q. Maybe that's the best way to deal with it. And

Document B.

A. Yeah.

Q. Those are the two documents of the 12th July, the file

copy and the top copy which were furnished to the

Tribunal and which were used during the evidence of

you and other people; isn't that correct?

A. Yes.

Q. And neither document, as of the 12th July, would give

any indication that Michael Lowry might have had any

sort of a beneficial interest in the property as of

that date; isn't that correct?

A. Yes, correct.

Q. The long form of the 12th July, that's C, where what

is stated in the second paragraph, "You will recall

that this record was purchased in my name as trustee

for our client", is in totally different form to the

documents which were furnished to the Tribunal; isn't

that correct?

A. Yes.

Q. And if you continue to the final paragraph, which was not is not in the short form documents, "I seem to recall when the lending process was being completed that the lender was going to require a six-monthly report on the marketing of the property. Could you let me have some details so I can deal with this. I think the same will apply to Mansfield as well."

/RS

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That that may be a reference to somebody other than you, Aidan Phelan, isn't that correct," trustee for our client"?

A. Our client, yeah. It could be anybody.

Q. It could be Michael Lowry?

A. It's possible.

Q. Document F, that is the long form of the letter of the 5th September 2000, clearly makes reference to Michael Lowry, doesn't it?

A. Yes.

Q. And in the course of inquiries, one would have to inquire and form a view as to whether this indicates that as of the 5th September 2000, according to this document, that Michael Lowry had a beneficial interest in Saint Columba's Church?

A. According to the document, yes.

Q. According to the document; that's all I am asking for this stage. Whereas the file copy and the top copy of the short form, that is Documents D and E, which were used during the course of your evidence and the evidence of other people, could not be viewed as indicating any interest of Michael Lowry's in the property; isn't that correct?

A. Yes.

Q. Now, in August of 2000, a meeting took place in Jurys Hotel; isn't that correct?

A. Yes.

Q. And present at that meeting were Michael Lowry, Christopher Vaughan, you, and Helen Malone; isn't that

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correct?

A. Correct.

Q. And Ms. Malone kept a note of that meeting?

A. Yes.

Q. We have already dealt with this in evidence.

A. We have, yes.

Q. And it's headed "UK property, ML, meeting notes".

A. Yes.

Q. And it's the 17th August, and has present ML, CV, AP, HM, and then "Hilltop Farm acquired March 1999, cost sterling 250K, registered owner: ML.

"Financed by: Partnership investment AP.

"Action.

"ML to hold as trustee" we have been over all of this?

A. We have, yeah.

Q. Then "Saint Columba's Church.

"Acquired: December 1999

"Cost: St445 K

"Registered owner: CV as trustee

"Financed by: Investec

"Loan: From partnership 44.5K

"Original loan: 420K

"Balance outstanding at 1/8 444K

"Action:

"- AP to obtain copy from ML of letter of offer from /RS

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developers in relation to the site

- planning application to be submitted within 3 weeks

- CV to arrange strike off of Catclause."

Now, I don't want to revisit this particular meeting because you have given your evidence, and it can be viewed in the context of all of your evidence and the evidence of other people. But from the evidence which you gave and I think Ms. Malone gave, you were clearly of the view that as of that meeting in August, that Christopher Vaughan could have had no doubt but that whatever about any doubt he might have had before,

that he could have had no doubt but that you were the beneficial owner of this property; isn't that correct?

A. Yes, "this property" being Cheadle, obviously.

Q. Cheadle, Saint Columba's Church, yes. And that Michael Lowry's sole involvement was a moral responsibility to assist in the sale of it?

A. Yes.

Q. So in those circumstances, the letter, the long form of the document of the 5th September, could not have been written by Christopher Vaughan to correctly reflect what you say was known as and from just a few weeks previously, the 17th August 2000?

A. That's my view.

Q. If the long form of these letters is correct, if

A. C and F.

Q. If C and F is correct, they appear to be clear evidence that Michael Lowry was beneficially entitled to Cheadle, isn't that correct, if they are correct?

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A. Yes.

Q. And any evidence given to the Tribunal to the contrary would not be correct; isn't that right?

A. Yes.

Q. Now, you have been informed of the explanations which have been furnished to the Tribunal by one route or another

A. Mm-hmm.

Q. about these particular documents; isn't that correct?

A. Yes.

Q. And I think in the first instance you were made aware that when Mr. Keena furnished Mr. Davis with the long form of both letters and the file, short form file copies, that Mr. Davis made contact with Mr. Vaughan; isn't that correct?

A. Yes.

Q. And that Mr. Vaughan accepted that the long form were his; isn't that correct?

A. Yes.

Q. That they were on his notepaper and that those were his signatures?

A. Yes.

Q. Now, in subsequent correspondence, I think it was pointed out to Mr. Vaughan that an explanation which he had speculated about to begin with, in fairness to him, was the reason for the two different documents, or the two forms of the two different documents were that what was on his file was in draft and that what he had sent on to Mr. Kevin Phelan was expanded on.

/RS

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That was the first speculation.

I think Mr. Davis then drew to his attention that it

would be unusual for a solicitor to retain the draft, although he might retain a draft on his file, but that it would be more usual for a solicitor to retain a file copy of what actually had been sent to the addressee?

A. Yeah.

Q. I think you'd have no difficulty yourself, as a professional man, in understanding that as a proposition?

A. Yes, I'd have no difficulty in understanding it.

Q. Now, there was subsequent correspondence which has all been opened to the Tribunal; I don't need to go into it in great detail but there was correspondence between Mr. Davis and Mr. Vaughan to-ing and fro-ing, and eventually, in response to an inquiry made by Messrs. Kelly Noone Solicitors on behalf of Mr. Michael Lowry, Mr. Vaughan furnished an explanation which was furnished to the Tribunal.

A. Yeah.

Q. And I suppose if I can just summarise what that explanation was, it was that Mr. Vaughan had many contacts with Mr. Kevin Phelan, and on occasions he would get confused whether he was talking about you as his client or Michael Lowry as his client. That was said. And that on occasions he would send a letter to Mr. Kevin Phelan sorry, Mr. Vaughan didn't say this, Mr. Phelan, in response to Mr. Vaughan said

/RS

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this, that he, Mr. Kevin Phelan, would, on occasions, have to correct it and return it to Mr. Vaughan and get Mr. Vaughan to issue the corrected letter or document. You understand that that is the explanation

A. I am aware of the explanation.

Q. But Mr. Vaughan speculated that Mr. Phelan may have had the top form, the long form, and the top copy of the short form; that's what Mr. Vaughan speculated.

But Mr. Phelan stated that all he had was the top copy of the short form of both documents. I am just putting it all in context.

A. Yeah.

Q. And you were informed of all of this?

A. I was, yeah.

Q. And you understand it?

A. I understand it.

Q. And you have informed the Tribunal that you found, or you find this particular explanation as being implausible?

A. Yes.

Q. And you say that you went and saw Mr. Vaughan?

A. I did.

Q. To effectively confront him about this, I presume?

A. Yeah, to discuss the matter.

Q. To discuss the matter. And you say that he was confused when you spoke to him as to the existence of the documents as they did not form part of his file?

A. Yes.

Q. When did you speak to him about this?

/RS

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A. In August of this year.

Q. In August of this year?

A. Early August this year.

Q. And how did the confusion manifest itself?

A. I discussed with him the first of all, I discussed with him the content of both letters, and in particular, the differences. I mean, there is the whole issue that they are clearly separate. I mean, it's not a question that they are different letters. There is no fax number on one, all these details, I discussed that with him.

I discussed first of all that the 12th July, the idea that the mortgage lender like, there is no mortgage lender in Mansfield. I mean, there is no bank. It's a straight equity position. And I reminded him of that and said, like, "How could that be logical, that you'd write that?" And he agreed that that was the case and his understanding of it.

I went on to discuss the September letter there and the whole idea that these paragraphs to do with

Michael Lowry being well, Michael, Michael Lowry, we assume it's Michael Lowry, being wanting to be the owner, and a month before the property was sold, the gist that's the gist of it. And he accepted that that was not a position he should have written or could have written, because it flies in the face of the facts. It's incorrect.

Q. How was he confused, though? How did the confusion /RS

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manifest itself?

A. It manifested itself in I mean, I discussed with him the whole idea that he would be sending letters to Kevin Phelan for his approval, and he said that that was a situation that he may have done once or twice, but it wasn't something he did by routine. He was confused about that.

Q. He was confused about that. Was there any other confusion?

A. We are only discussing the letters.

Q. Were there any other signs of confusion?

A. No particular other signs.

Q. Very good.

I think you have informed the Tribunal that he could not explain how these letters came into existence; is that right?

A. Yes. Adequately explain.

Q. Well, I think what you informed the Tribunal he could not explain; you say "adequately explain". Very good, I'll take that answer.

Now, you say that in the you informed him that you found that the possible explanation which he had furnished in the letter to Kelly Noone, that you found that implausible?

A. Yes.

Q. How did he react to that?

A. He gave me the impression he wanted to close the matter. And I formed the view that he was being put

/RS

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under pressure to give some answer, and this is the answer he gave.

Q. Put under pressure by whom, do you think?

A. I think Michael Lowry's solicitors were much more actively involved in investigating the matter than I was. When I arrived he had already I think he had already gone through this in fair detail. I wouldn't be I mean, I know you have read out the correspondence from Mr. Davis, and I know whereas I accept everything you are saying, I didn't study that correspondence in any reasonable detail.

Q. Yes, that's fine.

A. So there was a process I think these letters emerged from the journalist in around April, and I

went to see him in August, so there is a fair bit of water under the bridge by the time I met with Christopher.

Q. Well, I take it, quite rightly I suppose, that Mr. Lowry's solicitors, Messrs. Kelly Noone, and yourself no doubt, would be extremely concerned?

A. I was concerned more about the less about the content and more about the fact that different documents, even if you know, in any shape or form, existed. Any documentation

Q. That there might be two different forms of a document?

A. Any documentation outside the file concerned me rather than the content.

Q. So your concern so was the fact that there may have been in existence different documents on the file or two separate files being kept?

/RS

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A. My concern was more about documentation purporting to be Christopher Vaughan's documentation being given anonymously to I believe anonymously to a journalist and him passing it on to the Tribunal. I found that extraordinary.

Q. Why do you say "purporting to be Christopher Vaughan's"? Christopher Vaughan has accepted that it is his documentation.

A. Well, he didn't accept it to me.

Q. He did not accept that to you so?

A. No.

Q. What did he say to you so?

A. I said to him, "Could these have mischievously been created?" And he said they could be. I took that that he wasn't accepting that they were his documents.

Q. Let's go over that and take it slowly. You told him that you considered the explanation which he had furnished to Kelly Noone as being implausible; isn't that correct?

A. Yes.

Q. He did not, up to that time, offer you any explanation that these documents could have been created mischievously?

A. No.

Q. You raised the issue with him?

A. Yes.

Q. And he, you say, said to you they could be, that's a possibility, isn't it?

A. Yes.

Q. He did not offer that to you?

/RS

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A. No, I put it to him.

Q. He did not offer that to you as an explanation?

A. No.

Q. So it is your view that these documents were created

mischievously? That's the long form; isn't that

correct?

A. Yes.

Q. They are both on Christopher Vaughan's notepaper;

isn't that correct?

A. Correct.

Q. They both bear Christopher Vaughan's signature?

A. Yes.

Q. When you spoke to Mr. Vaughan, did you meet him on

your own?

A. Yes.

Q. Did he keep an attendance of that meeting?

A. I have no idea.

Q. Did you see him writing anything down?

A. No, he had files with him. I didn't

Q. He did not keep an attendance of the meeting?

A. Well, I don't know. I mean, he may have recorded I

am sure he recorded it in his diary.

Q. No, but you know in dealings with solicitors, they

note what's being said at meetings, don't they?

A. They do, yeah.

Q. Now, could I ask you, or could I suggest to you what

would make these documents mischievous is the fact

that they make reference to Michael Lowry; isn't that

correct?

A. Well, yeah, yes, and also that they are different than

/RS

the file copies.

Q. Yes, I accept that.

A. In any shape

Q. They are different to the extent that what they do is that they, as you have said yourself earlier in evidence that it is correct that they are evidence that Mr. Michael Lowry had a beneficial interest in Cheadle; isn't that correct?

A. Yes, in the 12th July it said the client could be Michael Lowry, and in the second instance it overtly refers to Michael Lowry. Yeah, I am accepting

Q. There can be no doubt let's call a spade there can be no doubt that these documents are directed towards the proposition that Michael Lowry is the beneficial owner of

A. The second document, for sure.

Q. The second document in particular. Right. All of the evidence to this Tribunal has been to the contrary, hasn't it, that you have given evidence that as and from January 2000, he couldn't have been; isn't that right?

A. Yes.

Q. Somebody first of all we'll go through the documents. If they weren't created by Mr. Christopher Vaughan, they are forgeries, aren't they?

A. Yes.

Q. And over and above that, somebody would have had to have access to Mr. Vaughan's office; isn't that correct?

A. Certainly his notepaper.

/RS

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Q. Well, might I suggest not just his notepaper, because what Mr. Keena had was that long form of both documents and the file copy short form which appears to be from Mr. Vaughan's file; isn't that correct?

A. Yes. I don't know how widely circulated these documents well, the file copy has been. But I mean, I just say that there was evidence in the newspapers that I would have had on my file I certainly didn't give to anybody.

Q. We'll check that, but it appears that the file copies were never actually led in evidence.

A. I am just speculating.

Q. Speculating, very good.

Now, apart from that, if somebody had access there are a number of things. Somebody had access to Mr. Vaughan's office and I want to be clear about this stole notepaper, stole it. That's the first thing.

The alternative is that somebody created a forged document by having Mr. Christopher Vaughan's notepaper printed; isn't that correct?

A. Well

Q. One or the other?

A. Can I just ask a question, sorry, just for clarification. Did Keena give you an original notepaper?

Q. Mr. Phelan, answer the questions now you are being asked. You are the one who have asserted to this Tribunal that these documents it's your view that

/RS

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these documents were created mischievously to mislead the Tribunal and to effectively blacken your reputation and other people.

A. And others.

Q. Isn't that correct?

A. Yes.

Q. And to cause mischief. That's what you are saying?

A. Yes.

Q. Now, I want to ask you about that, because it raises some very serious questions. And I just want you to listen to me. Somebody let's take it step by step.

Somebody took Mr. Vaughan's notepaper?

A. Possibly.

Q. Somebody forged Mr. Vaughan's signature?

A. Again possibly, I am just saying can I explain?

People can top and tail documents, you know paste them.

Q. Let me just explain a little bit about the law to you,

Mr. Phelan. Doing that would be creating a forgery as well.

A. I am just offering you

Q. There is no doubt these documents, as far as you are concerned, are forgeries?

A. Yes.

Q. And that in furnishing these or uttering them to Mr.

Keena with an understanding that they would either appear in the newspaper and come to the attention of the Tribunal that way, or as they appropriately came to the attention of the Tribunal, through Mr. Keena,

/RS

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that somebody has been engaged in an act not only of forgery, but of uttering a forged document, a separate criminal matter; do you understand me?

A. That's my opinion.

Q. And thirdly, that whoever did this would have been committing another criminal offence, in that they would be attempting to hinder or obstruct a Tribunal established under the 1921 Act. That's all your view?

A. Yes.

Q. To do that, somebody would have to be motivated by malice, wouldn't they?

A. Yes.

Q. Now, I am not going to ask you to name anybody in the witness-box, but can you point the Tribunal to any

person who would be so motivated by malice as to take these very serious criminal steps?

A. No.

Q. You don't?

A. No, I can't point, no, to an individual.

Q. Now, might I suggest this to you, Mr. Phelan, that the more probable position here is that these long forms of these documents are the true documents of Christopher Vaughan and that they are the true expression of the factual situation as then pertained, and that evidence to the contrary which has been given to this Tribunal has not been correct.

A. I disagree with that.

Q. And that the creation of the short form documents of the 12th July and the 5th September were designed not only to obscure Mr. Lowry's involvement, direct

/RS

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involvement in these properties, but were designed to ensure that this Tribunal did not get the true picture of what was occurring in July and September of 2000.

A. I believe the Tribunal have been given the correct position in my evidence.

Q. There was a meeting in your office in Clonskeagh on the 15th March 2001; isn't that correct?

A. A point of detail; it was in Clanwilliam Terrace.

Q. I beg your pardon, Clanwilliam Terrace.

A. Yes.

Q. That meeting occurred because of inquiries that Investec Bank were making; isn't that correct?

A. Yes.

Q. And I think you were aware around that time that Investec Bank were going to take this matter up with the Central Bank and the Tribunal?

A. Yes.

Q. And present at that meeting were yourself, is that correct?

A. Yes.

Q. Ms. Helen Malone?

A. Yeah, can I just clarify?

Q. Yes, indeed.

A. There were various meetings during the day, and various people were present it wasn't just the one solid meeting.

Q. Very good. Well, during the day, you were there?

A. Yes.

Q. Were you common to meeting all people?

A. I was common.

/RS

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Q. Was Helen Malone present?

A. She was, yeah; she was in and out.

Q. Mr. Michael Lowry?

A. Was there.

Q. Mr. Christopher Vaughan?

A. Yes.

Q. And Mr. Kevin Phelan was there?

A. Yeah.

Q. I take it Mr. Christopher Vaughan had his file with him?

A. He did.

Q. Did Mr. Kevin Phelan have his file with him? I take it he did.

A. No.

Q. He didn't?

A. No.

Q. How do you remember that?

A. Because he called in to my office early in the day, early in that day. I had returned from Canada. I can remember it quite clearly well, fairly clearly, because when I came back from Canada I was informed by Michael Tunney to seek legal advice as Investec were referring had been to the Central Bank, and the Central Bank advised Investec to go

Q. To come here?

A. To go to the Tribunal. And he told me to get legal advice, that I should prepare some kind of response to what they were saying. And Kevin Phelan called to my office early-ish in that morning, like nine o'clock, ten o'clock, that type of time. And he had been asked

/RS

to do so by Michael Lowry. And I asked him you know, when I arrived I told him there was a banking problem, and it wasn't really it didn't have any commercial ramifications at the moment for the properties and you know, he left. I mean, he didn't come down. I mean, he was in or around the place. Whether he travelled down from Omagh that day, whether he was on business, I don't know, but he didn't I'd no reason to deal with him at all.

Q. Well, was Kevin Phelan around the office for most of the day?

A. No, no.

Q. Why was Mr. Christopher Vaughan there?

A. I asked Christopher to come over to help me clarify what Investec had said to him and what he said to Investec. There were various there would have been a few conversations, and certainly towards the end of February this all happened in March of 2000. And towards the end of February, he had a couple of dealings with I think Tony Morland in Investec. And I wanted to clarify, like, you know, where we were in relation to what he was saying to Investec. And particularly at the beginning of the loan as well, just to understand what his view was.

Q. Did he have Mr. Christopher Vaughan had his whole file with him?

A. He had his file, yeah, with him.

Q. Did you go through the file?

A. I went through it, yeah, yeah.

Q. The whole file?

/RS

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A. I am not sure whether I went through the whole file.

I was interested in particular aspects.

Q. Did you look through the whole file?

A. Well, I can't remember. It's logical that I probably did.

Q. Did anybody else go through the whole file?

A. No. I would say well, I'd say it was really I was more interested in getting the statement together.

I felt it was my responsibility to do that.

Q. Now, some days after that there was a meeting at the Regency Airport Hotel; isn't that correct?

A. That's right.

Q. And you have informed the Tribunal, as have other witnesses, that the purpose of that meeting was to brief Mr. Denis O'Connor, who was Mr. Lowry's accountant and was assisting him in relation to dealings with the Tribunal; isn't that correct?

A. Yes.

Q. And present at the meeting at the Regency Hotel were you, Ms. Helen Malone, isn't that correct?

A. Yes.

Q. Mr. Denis O'Connor?

A. Yes.

Q. Mr. Michael Lowry?

A. Yes.

Q. Mr. Christopher Vaughan?

A. Yes.

Q. And you were all in one room?

A. We were.

Q. Mr. Kevin Phelan was in the hotel, some other part of

/RS

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the hotel?

A. Yes.

Q. Why wasn't he in the room?

A. I don't really remember, but I suppose he didn't really have any role in this particular I mean, the purpose of this meeting was to assist Michael Lowry in preparing or Denis O'Connor, he had some kind of a draft statement for Michael Lowry to do. It really wasn't any of Kevin Phelan's business.

Q. Why was he there so? Why was he in the hotel?

A. I have no idea. I didn't ask him to come.

Q. Mr. O'Connor I think said he may have been in the room at some stage, he may have been?

A. Yes, when I arrived at the hotel when I arrived to the hotel, Denis O'Connor and Michael Lowry and Kevin Phelan were together.

Q. Could you say that again?

A. When I arrived to the hotel they had a meeting room booked, and when I came into the room, Michael Lowry, Denis O'Connor, and Kevin Phelan were there and

Q. Together?

A. Together, yes. And there was some time before Christopher Vaughan arrived. When Christopher arrived, we started the meeting. Kevin Phelan had left between the time. I didn't join them.

Q. I see. So you hadn't asked Kevin Phelan to come to this meeting?

A. No.

Q. You hadn't arranged to meet him at the hotel?

A. No.

/RS

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Q. And when you arrived, Michael Lowry and Denis O'Connor and Kevin Phelan were together?

A. Yes.

Q. Where? In the room, or

A. In the meeting room that was booked.

Q. Very good. Did Mr. Vaughan have his file with him at that meeting?

A. I believe he did, yeah, yes.

Q. Was the file gone through?

A. No, no.

Q. It wasn't?

A. No.

Q. Now, how did Mr. Vaughan or you brief Mr. O'Connor without reference to Mr. Vaughan's file?

A. I did most of the talking. I had already done prepared a statement. I didn't really need any reference to Christopher Vaughan at that stage. I went through Mansfield was very easy, and I went through the major issue was the Investec situation. What they were saying, why they felt it was a matter to be referred to the Central Bank and onward to the Tribunal.

And I explained to them I explained to Denis O'Connor the history of Catclause, the problem with the guarantor, etc. I mean, Christopher would have added any detail that he was asked for.

Q. Was Kevin Phelan's name mentioned during the course of the briefing by either you or Christopher Vaughan to Mr. Lowry and Mr. O'Connor?

/RS

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A. I don't believe so.

Q. It would be difficult to tell the story without telling him, wouldn't it, about Kevin Phelan being the one who brought you together, identified properties, dealt with Christopher Vaughan?

A. I can't remember whether

Q. You can't remember?

A. It wasn't he wouldn't have been a significant figure in the meeting. I was there I was at this meeting for no more than an hour.

Q. The whole thing is assuming huge significance now, isn't it, in the context of these documents?

A. Well, I mean, he is the recipient of the documents.

Q. Let's be clear about this, Mr. Phelan. Mr. Kevin Phelan was the recipient of the documents. Mr. Kevin Phelan furnished the Tribunal with the short form document?

A. Well, for clarification, that's what I mean.

Q. He is refusing to give evidence to the Tribunal; Mr. Christopher Vaughan is refusing to give evidence to the Tribunal. Isn't that right?

A. That's correct.

Q. Did you feel that Kevin Phelan had any moral responsibility along with Michael Lowry to move the Cheadle property along?

A. Yes, I would have. I mean, he was the person that Michael who brought it to Michael, and I saw them as being both of them, really, as being responsible to deal with it.

Q. Now, I think the files or, sorry, at least the

/RS

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documents in relation to the Mansfield and Cheadle properties were you changed solicitors, isn't that

correct, from Mr. Vaughan to

A. Yes, to DLA. Dip Lupton & Alsop?

Q. In Manchester, I think?

A. Yes.

Q. When was that?

A. About sort of March of this year, spring time, February/March.

Q. Why did you change solicitors?

A. Because I took on an agent, and he suggested that he would use his own team. And I thought it was a good idea; they were all based in Manchester.

Q. Did you issue instructions to Mr. Vaughan to transfer his files to DLA?

A. Well I met with DLA, and DLA had actually contacted Christopher that day, before I got a chance to tell him that I had instructed a new solicitor, so initially he hadn't realised that I was instructing a new solicitor. But I then asked him to cooperate and transfer whatever documentation they needed to effectively act for me in the sale of the properties.

Q. You weren't dissatisfied with Mr. Vaughan, were you?

A. No, no.

Q. Now, I think in the course of that change-over, Mr.

Vaughan wrote a letter dated 5th March 2002 to Mr.

Martin Hallam, who would be a solicitor

A. He is the DLA partner.

Q. I am going to put up a copy and just highlight one or

two things on it.

/RS

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It's dated 5th March 2002, and it's from it's

Christopher Vaughan's notepaper.

It reads:

"Dear Martin, 377 Wimslow road, Handforth, and Hilltop Farm, Glapwell, Mansfield.

"Thank you for your email. Your telephone call came as somewhat of a surprise, especially as your telephonist had introduced you as a totally different solicitor with a very similar sounding name with whom I have a conveyancing matter on in Liverpool.

"I am not going to go into the history of the acquisition of these two properties, save to say they were acquired on the advice of a particular agent as investment properties.

"Subsequently, Aidan Phelan took over the management of these two properties and is now seeking to sell them.

"I have had various pieces of correspondence with Stephen Barker and somebody called Roger Holman of Manchester Property and Development Limited in respect of Saint Columba's Church over the last few months.

"At the time of dictating this letter, I have not

/RS

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managed to speak to Aidan Phelan, but my clear understanding is that Stephen Barker and his colleagues were dealing with the planning issues relating to the property and that I was dealing with the conveyancing.

"Indeed, 377 Wimslow Road, Handforth, is registered in my name and that of my wife, who is also a solicitor, in the proprietorship register, because when it was acquired, it was done so on the basis that we were nominees for an unnamed investor.

"Hilltop Farm is in the name of a particular individual who, so far as I am aware, now has little or no financial interest in the property, as he has been "paid out" by Aidan Phelan.

"I will therefore hold onto the two land certificates in respect of these properties until I have definite instructions from Aidan Phelan."

And it's signed by Christopher Vaughan.

Now, first of all, do you consider this somewhat unusual, that Mr. Vaughan wouldn't furnish a history to your new solicitors of the acquisition of these two properties?

A. No.

Q. Do you understand how Mr. Vaughan is stating here that you took over the management of the properties?

/RS

A. I don't know why he is saying that.

Q. You don't know. And finally, do you know why Mr.

Vaughan is informing Mr. Holman that the Wimslow Road

property is in the name of himself and his wife

"because when it was acquired, it was done so on the

basis that we were nominees for an unnamed investor"?

Do you know why he is saying that?

A. I don't know. It's not correct.

Q. Or is it the situation that Mr. Vaughan cannot

disclose the true situation to your new solicitors?

A. I can't speculate on why he wrote that. It's

not it doesn't reflect he acted for Catclaus

initially. It's clear on his records.

Q. Does it indicate a sensitivity on Mr. Vaughan's part

disclosing the real details of what occurred in

relation to the property?

A. I can't speculate on why he wrote that.

Q. And just to conclude if I can just come back for

one moment. The meeting at the Regency Hotel, the

Regency Airport Hotel, if I could go to both meetings.

First of all the meeting in your office in

Clanwilliam.

A. Yeah.

Q. And secondly the meeting at the Regency Airport Hotel.

A. Yeah.

Q. To your recollection, were any notes made at either of

those meetings?

A. To my recollection, no, but I did prepare a statement at the first, so in terms of writing up a statement, that's what I was doing.

/RS

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Q. So if I could just conclude so by if I might just summarise and say that it is your opinion that somebody created these forgeries for mischievous purposes, which we have discussed; isn't that correct?

A. Yes.

Q. And that had to be motivated by malice?

A. Yes.

Q. And you cannot name one single person who might be so motivated; is that correct?

A. Yes.

Q. And to the best of your knowledge, has Mr. Christopher Vaughan gone to the police about it?

A. I didn't ask him that question.

Q. Thank you very much.

CHAIRMAN: Mr. Coughlan, I wonder, just for the record, might you establish the actual state of play as regards the properties? I think some information was made available and Mr. Lowry did testify.

Q. MR. COUGHLAN: What is the actual position now? Your solicitor, your Irish solicitor, furnished the Tribunal with documents, and one is a land registry transfer, I think; is that correct?

A. Yes.

Q. And that shows that Mr. Lowry was paid a sum of
£30,000 by you; isn't that correct?

A. That's not correct, but if it shows I'll just
explain.

Q. Yes, indeed.

/RS

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A. At some stage I said to Michael Lowry that you
know, "I want to buy you out of Mansfield because I
want to sell the properties and I want full control".
And I made him an offer on that. I haven't paid him
any money.

Q. I see. Perhaps so I am not having any conflict
with you about this. It's your intention to buy him
out of Mansfield; is that correct?

A. Yes.

Q. It hasn't actually happened?

A. No, so our arrangement, in my view, is still intact.
But that's the level of money that

Q. Very good. And it would be around that price, you
think?

A. Around that price, yeah.

Q. And the present position is that from documents which
were furnished by your Manchester solicitors, that
there was an abortive sale in respect of the two
properties earlier in the year; is that correct?

A. Yes.

Q. And there is a present deal under negotiation; is that correct?

A. Yes. It's actually the parent company of the aborted sale, so it's the same transaction, effectively.

Q. It's been reactivated, or

A. Yes.

Q. But it hasn't occurred yet?

A. Contracts are imminent.

Q. Does Mr. Kevin Phelan have any involvement?

A. No.

/RS

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CHAIRMAN: Well, I'll leave you till the end, Mr. Gleeson.

Mr. O'Donnell.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. O'DONNELL:

Q. MR. O'DONNELL: A few questions.

Mr. Phelan, I appear on behalf of Mr. Michael Lowry, and I'd like to ask you just a small number of questions about these matters.

Now, just to be clear that I that we are discussing the same thing, I think there are two pieces of correspondence, the 12th July and the 5th September of the year 2000, we are talking about?

A. Yes.

Q. And there are three versions of each

A. Yes.

Q. that are before the Tribunal?

A. Yes.

Q. And versions A and D are respectively the file note from Mr. Vaughan's file?

A. Yes.

Q. Versions B and E are respectively the short form version which came, I think, from Mr. Kevin Phelan?

A. Yes.

Q. As sent with Mr. Vaughan's notepaper?

/RS

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A. Yes.

Q. And Versions C and F are the long form version furnished to this Tribunal, I think, on the 21st March of this year by Mr. Colm Keena, a journalist?

A. Yes.

Q. And the Tribunal is investigating the apparent discrepancy between these two versions?

A. Yes.

Q. And I think it was said today, and I am not sure, I think certainly to me it was the first time it was said, that Mr. Keena furnished not just Documents C and F, being the long form version, but also Documents copies of Documents A and E, being the file copy?

A. Yes.

Q. I think that's what was put to you.

A. Yes, that's correct.

Q. There may be no issue on this. Certainly when Mr.

Davis gave evidence originally, he said it was only

the long form versions were given by Mr. Keena, and

the Tribunal then compared them with the file copies

which they had because Mr. Vaughan had given his file

to the Tribunal. Nothing may turn on it. It's a

matter for the Tribunal, but I think that was well,

I am just reading from Mr. Davis's statement, but

either way, Mr. Phelan, just to try and set those

facts out, and we can perhaps discuss them now.

Either way, there are at least four people who could

shed direct light on this mystery. There is obviously

/RS

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the parties to the correspondence, Mr. Vaughan and Mr.

Kevin Phelan.

A. Yeah.

Q. There is Mr. Colm Keena, and there is the person or

persons who furnished the documents to Mr. Keena?

A. Yes.

Q. Isn't that right?

A. Yes.

Q. Now, we know that Mr. Vaughan that the Tribunal is

not in a position to require either Mr. Vaughan or Mr.

Phelan to answer questions in relation to it, and we

know that they have not asked for Mr. Keena or his informant to give evidence in relation to these matters; so in a sense, those four people are not before the Tribunal. Isn't that right?

A. Yes.

Q. And that's how you come, as a party at some remove to this, to be asked questions about all of these matters?

A. Yes.

Q. Now, if we can focus for a moment on the person who furnished the documentation to Mr. Keena, that on the version now put forward that Mr. Keena furnished two documents, and indeed on either version, that person must have been very close to the transaction?

A. Yes.

Q. He must have had access to some amount of the documents?

A. Yes.

Q. He must, in particular he or she must have had /RS

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access to the short form versions. You couldn't know the significance of the long form version without no doubt knowing that there was a short form version in existence?

A. Yes.

Q. You also wouldn't you would have to be familiar

with the fairly closely familiar with the dealings of the Tribunal to be aware that the short form version had been circulated, and either in its file version or in its short form version referred to in evidence. So that person is a person reasonably close to the events in issue here and reasonably familiar, closely familiar with the dealings of this Tribunal?

A. Yes.

Q. And therefore is by definition a person who is likely to have other information which may be of assistance to the Tribunal; would you agree with me on that, Mr. Phelan?

A. I don't know.

Q. But, without applying any epithet to that person, whether derogatory or laudatory, it's clear that that person has not approached the Tribunal directly with this information?

A. It would seem logical.

Q. And wouldn't it be fair to say that the action of a public-spirited person who had concerns about this correspondence would be to approach the Tribunal directly with that information?

A. Yes.

Q. However, we know that this information was supplied to
/RS

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the Tribunal through the medium of a journalist, who

the Tribunal considered would not reveal the identity of the source because of the longstanding convention in journalistic circles to that effect; isn't that right, Mr. Phelan?

A. Well, I accept that.

Q. Isn't it the inevitable if the person had themselves approached the Tribunal, isn't it an inevitable consequence that that person's identity would have to be known, they would be called to give evidence?

A. Correct.

Q. That their credibility could be in issue. You have made observations about the motivation you see behind the production of this information; obviously if the identity of the person was known, the credibility of that person might be in issue, and they of necessity might themselves be asked questions in this Tribunal, both about this and other matters to which they might have relevant information?

A. Yes.

Q. So would you agree with me then, Mr. Phelan, as I say, without applying any epithets to the person, that as a matter of simple logic, the motivation in producing this documentation to the Tribunal through the medium of a journalist was to ensure that questions could be asked of you and others without questions being asked of that person?

A. Yes.

/RS

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Q. And the end result of this, Mr. Phelan, is that there are four people who know something about this, and none of them are giving evidence to the Tribunal: that's Mr. Vaughan, Mr. Kevin Phelan, Mr. Keena, and the unnamed informant?

A. Yes.

Q. Thank you, Mr. Phelan.

MR. GLEESON: I have no questions.

CHAIRMAN: Very good.

Just a couple of loose ends, while they are in my mind, Mr. Phelan. Reference has been made to Mr. Kevin Phelan in the context of the Cheadle transaction. We know, of course, he was the instigator of Mansfield; but I think the evidence indicated it was an associate of his, Mr. John Eastham, who had, if you like, set the ball rolling as regards Cheadle with Mr. Lowry. But is it nonetheless your clear recollection from the dealings had with Mr. Lowry, Mr. Phelan, and others that Mr. Kevin Phelan did become involved in Cheadle as well?

A. He did, yeah.

CHAIRMAN: And obviously he was present, if not fully in attendance, at some meetings and dealt with you and others in relation to the latter sale in Cheadle.

You, I think, shared the view that virtually everybody

/RS

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connected with the Tribunal has expressed, that the first explanation advanced by Mr. Vaughan when Mr. Davis, the Tribunal solicitor, dealt with them in correspondence was not a realistic or cogent one.

A. Yes.

CHAIRMAN: And I think, because of what you have said in relation to the more stark propositions that arise in relation to a forgery or an act of mischief, you implicitly also appear to accept that Mr. Kevin Phelan or Mr. Christopher Vaughan's other explanation, in essence, that he habitually got confused in his dealings with Mr. Kevin Phelan, is similarly not a particularly probable or realistic one.

A. Yes.

CHAIRMAN: And what you have told us as regards your latter dealings with the Manchester firm of solicitors indicates that matters are approaching finalisation, you would hope, in relation to a joint sale of both Mansfield and Cheadle?

A. Yes.

CHAIRMAN: And I am correct in thinking that the projected price is roughly in the vicinity of 900,000 sterling?

A. Yes.

CHAIRMAN: Which will be, if you like, a realistic

/RS

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profit on the overall aggregate outlay involved in the two purchases?

A. Yeah, reasonable.

CHAIRMAN: Reasonable. Well, yes. And you in fact I

think paid back the bank, Investec, at a time when you

were still obviously not in funds as regards any

disposition of the property, and that was within a few

days of the storm brewing last year when the bank went

to the central bank and then thence to this Tribunal?

A. They actually called the loan. They officially called the loan.

CHAIRMAN: Yes, and you paid out very speedily.

A. Yes.

CHAIRMAN: Very good.

Nothing that you wanted to raise? Thank you for

attending again, Mr. Phelan. I think

MR. GLEESON: Ms. Malone is here.

MR. COUGHLAN: I beg your pardon; there is one

question I should have asked Mr. Phelan.

THE WITNESS WAS EXAMINED FURTHER BY MR. COUGHLAN

AS FOLLOWS:

Q. MR. COUGHLAN: Can I just ask you, did you have any

/RS

discussions with Mr. Michael Lowry or Mr. Kevin Phelan about these documents?

A. I may have spoken I didn't discuss it with Kevin Phelan. I haven't spoken to him for a long time.

Q. Did you speak to Michael Lowry about that?

A. I did, yes.

Q. When?

A. I'd say around about the time that they, you know, the Tribunal inquired into them.

Q. What did you say to him?

A. I said, you know, "This is a big problem. I think that, you know, this is not in keeping with what happened; we have to get to the bottom of it". I felt at the time that it was very damaging.

Q. Yes, and you still think so?

A. Yes, I do.

Q. But and what did he say?

A. He said his solicitors were going to see or going to write to Christopher Vaughan to seek an explanation.

Q. Did he give you any explanation himself?

A. No.

Q. Did Mr. Lowry feel it was damaging?

A. Yes.

Q. And when the explanation you didn't proffer your opinion that these were forgeries at that time?

A. No, not at that time.

Q. When did you come to that view?

A. After I met with Christopher Vaughan and you know, thought about the situation.

Q. After Mr. Lowry gave his evidence to this Tribunal?

/RS

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A. Well, it just so happens, yes.

Q. And after Mr. the explanation had been proffered through Kelly Noone, you came to that opinion?

A. Yes.

Q. Did you go back to Mr. Lowry and tell him that?

A. I told him what my view was.

Q. When?

A. I don't know. Sometime after I met Christopher Vaughan.

Q. When?

A. I don't know.

Q. Mr. Phelan, when did you meet him?

A. I didn't meet Michael Lowry.

Q. Did you ring him?

A. Rang him.

Q. From where?

A. My mobile.

Q. To where?

A. To his mobile.

Q. When was that?

A. I don't know. Sometime after

Q. Mr. Phelan, you were unable to come here to give evidence at the end of July; isn't that correct?

A. Yes.

Q. This issue arose in the context of evidence at the end of July; isn't that correct?

A. Yes.

Q. The explanation had been furnished to Mr. Michael Lowry's solicitor, Mr. Kelly, by Mr. Vaughan, by the time that evidence came on for hearing; isn't that

/RS

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correct?

A. Yes.

Q. When did you speak to Michael Lowry, first of all, about being a problem? Was that in June, July of this year?

A. It would have been sometime after I was written to by the Tribunal and these things became

Q. Very good.

A. an issue.

Q. I think the first response from your solicitors is that you weren't able to assist the Tribunal in relation to these letters; isn't that correct?

A. Yes.

Q. And that correspondence has been read out. You then went to see Christopher Vaughan; is that right?

A. Yes.

Q. He had furnished the explanation to Mr. Michael Lowry?

A. To Kelly Noone, yeah.

Q. Through Kelly Noone, which you knew of?

A. Yes.

Q. He did not proffer an explanation to you that there was mischief afoot here?

A. No, no.

Q. You brought that into the equation?

A. Yes.

Q. And you express that as an opinion, and you can point to nobody who would have sufficient malice to do it?

A. Yes.

Q. Thank you.

/RS

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CHAIRMAN: Thank you.

Q. MR. COUGHLAN: I beg your pardon, I am sorry: When did you speak to him after you spoke to Mr.

Christopher Vaughan, roughly?

A. Roughly probably you know, a couple of weeks.

Q. And did you tell him of your opinion?

A. Yes.

Q. What did he say?

A. He said that you know, it's so outrageous, that what's in the content of the letter, it could be the position, it could be right.

Q. How long did you speak for?

A. I spoke to him for my conversations with Michael

Lowry would be very short.

Q. Why were you talking to him about it?

A. Because I told him that it was causing me a big problem. I was still I thought I was finished with the Tribunal last July. I am trying to get on, rebuild a business.

Q. Thank you.

THE WITNESS THEN WITHDREW.

CHAIRMAN: Whilst Ms. Malone is coming up, Mr. O'Donnell, I am diffident about any interim pronouncements, but in relation to the matter that you understandably and properly raised in the cross-examination with Mr. Phelan, I think I probably should say this, that in the course of some

/RS

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introductory remarks when these sittings commenced two weeks ago, I did make a few observations about selective and unauthorised leaks at various stages, and I did say that in the course of that, that whilst I deplored these, and whilst I did not necessarily subscribe in a Tribunal context to all aspects of journalistic confidentiality, I nonetheless understood and respected that, and I said I think I had no ambitions to duplicate the experience of Mr. Kevin O'Kelly many years ago. But I do fully note your

remarks, and I do say that were it the case that Mr.

Keena's informant were disposed to come forward or to release Mr. Keena from any seal of confidentiality, it would, of course, enhance the cogency and weight of anything in this particular context, or any other available information, and it may be no harm if that observation was reported.

MR. O'DONNELL: Thank you, Chairman. I saw your comments in that regard, and of course I accept that it's fully a matter for the Tribunal to proceed as it thinks fit and appropriate in that regard, and I suppose I would only observe that that position taken by the Tribunal may have necessary constraints on what the Tribunal can conclude in the absence of such evidence. But that's a consequence which upon which the submissions may be made, Sir.

CHAIRMAN: I am not delimiting findings at this stage, but I certainly do say it would be preferable if

/RS

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people who have information to vouchsafe do so in an open and candid manner.

MR. GLEESON: Just in that context, if I could just add that Mr. Phelan's position has been and remains that he has exhorted Mr. Vaughan to come to give evidence, and notwithstanding those exhortations Mr. Vaughan has continued to refuse. And my solicitor

went to England to speak with Mr. Vaughan and made a similar exhortation, but the position remains the same. But I just wish the Tribunal to note that.

CHAIRMAN: I have noted that, Mr. Gleeson. Thank you.

Thanks, Ms. Malone. Sorry for keeping you waiting for a while.

/RS

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HELEN MALONE, PREVIOUSLY SWORN, WAS EXAMINED AS

FOLLOWS BY MR. COUGHLAN:

Q. MR. COUGHLAN: Thank you, Ms. Malone.

Ms. Malone, I think you are aware that the Tribunal wrote to your solicitor last July about certain documents which the Tribunal had, letters, copies of letters and long form letters; isn't that correct?

A. Yes.

Q. And I think you know that the Tribunal informed your solicitor of the potential for certain findings or inferences to be drawn about these particular documents; isn't that correct?

A. Yes.

Q. Do you know anything about these documents?

A. Nothing.

Q. I think, if I could just bring you to three meetings, if I may, that you attended. You attended a meeting, Mr. Phelan has corrected me, it was in Clanwilliam House, I think, on the 15th March 2000?

A. Yes.

Q. 2001, I beg your pardon.

You attended one a few days later at the Regency

Airport Hotel; isn't that correct?

A. I attended a meeting in the Regency; I think it was a bit longer than a couple of days.

Q. Maybe a week or so later?

A. Mm-hmm.

/RS

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Q. And you were also in attendance at a meeting in Jurys Hotel in August of 2000?

A. Yes.

Q. Now, coming to the meeting on the 15th March of 2001 at Clanwilliam House. I think could you just describe that meeting to us? First of all, who was present, what format did it take?

A. Well, from memory, it was I was in my office; it was in my office, as in the building. I was there. I had spoken to Aidan that morning, probably, about these events; it was the first time that I had heard about them. It would have been later on that evening or late afternoon.

I am not sure, I think Kevin Phelan came in first of all, I am not sure, to meet Aidan; I didn't really see him. I think he left, but he may have been in the building; I am not sure. Michael Lowry arrived, and

Christopher Vaughan arrived, and Michael was in with
in Aidan's room. And Christopher went into the
room, and Aidan called me in. It was very brief.

Just he was trying to explain my part of it, which
was why I was on a resolution in the bank.

Q. I see.

A. So it was very short for me. I think Michael left
fairly I don't know how long he was there, but I
don't think he was there very long. And as far as I
know, Christopher stayed on for a while.

Q. Did you stay on?

A. Well, I didn't stay in the room; I stayed I was
/RS

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working.

Q. You didn't stay in the room?

A. I did briefly, but I left and went home maybe at six,
I don't know what time into the evening.

Q. So was your sole participation in that meeting
surrounding the question of your name on the
resolution in the bank?

A. The bank, yeah.

Q. That's all?

A. That's all.

Q. You didn't participate in the meeting any further?

A. No, no.

Q. Mr. Vaughan had his file with him; is that correct?

A. He would have had, yes.

Q. Well, did he? Do you remember him having his file?

A. Well, he had a file; I presume it was his file on the properties.

Q. I think you may have given evidence already, Ms. Malone, where you recounted that the purpose of this particular meeting, apart of course from dealing with the question of your name on the resolution, was really one of briefing you and everybody concerned, so that you were basically getting a history at that stage. And you felt that you were "We were all getting a history of what had happened, because I was certainly very confused, and I think everyone else was."

Would that perhaps be correct? I am not suggesting that you are giving any different evidence now; I am

/RS

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just trying to

A. Yeah, well, whatever

Q. understand.

A. Well, I didn't know what was going on; that's a fair assessment.

Q. I don't think that you are in any way backing away from what you have already told the Tribunal.

A. It was a discussion about I mean, I don't know whether you can call it a meeting; it was a

discussion.

Q. Well, I think you did use the word a "briefing".

MR. GLEESON: If My Friend is putting previous evidence which this witness has given and is apparently going to take issue in some way

CHAIRMAN: I don't think so, Mr. Gleeson.

MR. COUGHLAN: I am not at all.

MR. GLEESON: Well, then, perhaps

CHAIRMAN: Let it run for a minute. I don't think there are going to be grounds for differences.

Q. MR. COUGHLAN: What I am trying to I understand, Ms. Malone, that you wouldn't have been through all of this. I am not trying to catch you out. I am not trying to do anything of the sort. I am trying to get you to accept or understand the evidence that you have

/RS

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given. I am not suggesting that you are in any way trying to give any evidence different today. So My Friend can rest assured.

You were briefed at that meeting in March, weren't you, about the whole thing?

A. What do you mean by "briefed"?

Q. Well, maybe it means a different thing to a lawyer than as to another person. You used the word yourself. I'll just explain what I understand what you might have meant by it, that you were given a

history of the events.

A. I was given a history, I suppose, if you want to put it that way, of what had happened in the last couple of months, I suppose.

Q. Right.

A. Rather than going back over properties and why they were bought or anything to do with that. It was really only relating to the bank, letters, you know, what Christopher Vaughan had said to the bank, what Aidan had said.

Q. And as far as you can recollect, was anyone taking notes?

A. No, not when I was in the room, anyway.

Q. Now, just for My Friend's reference, I am not taking this issue up with you, Ms. Malone, but I think it's transcript Day 142, page 62, and it's the answer to Question 405, but I am not making an issue.

Now, the next meeting that you were at was one in the

/RS

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Regency about these issues was a meeting in the Regency Airport Hotel?

A. Yes.

Q. And can you tell us, when you arrived at the Regency Airport Hotel, can you just tell us who was there, what you remember?

A. We went up I think Christopher Vaughan was late, as

far as I remember. I was with Aidan, I travelled with Aidan, and Michael Lowry and Denis O'Connor and Kevin Phelan were in the room. I am not sure if Christopher Vaughan was there actually or we were there first, I am not sure, but they were there, and we came in then.

Q. And did they stay during the meeting?

A. Kevin Phelan didn't. The rest of the people did.

Q. Can you remember how he excused himself, or

A. I beg your pardon?

Q. Can you remember how he excused himself, or

A. I am sorry, I can't; he just left. I wasn't really

paying much attention. He just left.

Q. Why do you think you were at the meeting?

A. Well, I was asked to go by Aidan.

Q. But

A. He said if Denis O'Connor wanted to ask me any

questions about the corporate side of it. It turned

out he didn't ask very much. He already had some

information.

Q. And again at this meeting, do you recollect if anyone

took a note?

A. Well, I didn't, because I didn't even have a file with

me, but people had files. I don't know whether I

/RS

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can't remember them actually writing notes.

Q. That's what I mean; did anyone keep a note, a

memorandum, an attendance?

A. No, there was no formal minutes taken.

Q. Not even a formal minute; a note of the meeting?

A. Well, I don't know if they were writing a formal note on their files, they had pens in their hands. I don't think so.

Q. They had pens

A. Presume they had.

Q. Well, did they?

A. I can't remember. I mean, I wasn't paying that much attention. It wasn't a very significant meeting to me at the time.

Q. How long was the meeting?

A. I don't know, an hour and a half, something like that.

Q. I think Mr. O'Connor may have given evidence that it may have lasted about three hours; would he perhaps be more correct in his recollection?

A. I certainly wasn't there for three hours. Maybe he was, but I wasn't.

Q. Did you leave the meeting yourself?

A. I think it broke up when I left. Unless he was there before and having a meeting, I don't think that's I certainly wasn't there for three hours.

Q. And the meeting at Clanwilliam House, you know the one that preceded this?

A. Clanwilliam Terrace.

Q. In Clanwilliam Terrace, I beg your pardon.

/RS

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I know you say that people came in Mr. Kevin Phelan came first, Mr. Christopher Vaughan arrived sorry, Mr. Michael Lowry arrived, Mr. Christopher Vaughan, you were called into the room. How long did all that take? Can you remember?

A. I actually don't know how long Christopher Vaughan was in the building. I don't think Michael Lowry was there very long. I actually don't know. Maybe I was certainly only there well, I work in the office beside him, but

Q. I understand that.

A. I was fifteen, twenty minutes in the room with them. But Christopher did stay, like, I mean, he he didn't leave with me, if you know what I mean. I left the room, went into my own room, continued my work, and I went home.

Q. At your usual time, or whatever?

A. Yeah, yeah.

Q. When could I just ask you this: What would be your normal time of going home at that time, around that time?

A. Well, six, I suppose.

Q. Around six. And can you remember around what time you had been called into the room and stayed for fifteen or twenty minutes?

A. I don't remember. It was afternoon, late, half four, five, I don't know, something around that.

Q. And Mr. Vaughan was there when you left?

A. I think he was, yeah.

Q. And who was there then? Mr. Vaughan and Mr. Aidan /RS

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Phelan; is that correct?

A. Yeah.

Q. Only?

A. Yeah. I think so, well

Q. As far as you can recollect, they were there when you left?

A. Mmm.

Q. Now, you know the meeting that the third meeting I referred to, which was the one that took place on the 17th August 2000 and that happened in Jurys Hotel when Mr. Lowry, Christopher Vaughan, Aidan Phelan and yourself had a meeting. We have discussed this note before.

A. Yes.

Q. And you in fact typed it up, I think?

A. Yes.

Q. And it's headed "UK property, ML, meeting notes", and then I have already opened them this morning about Mr. Aidan Phelan.

Now, you made a note of that meeting?

A. Yes.

Q. Now, would you accept that at the time the meeting took place in Clanwilliam Terrace and the meeting at the Regency Airport Hotel, that those two meetings revolved around a very serious issue in that the bank had informed Mr. Phelan that they were going to the Central Bank and/or to the Tribunal; isn't that correct?

A. Yes.

/RS

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Q. Now, whilst the meeting on the 17th August was not an insignificant meeting, it was an important meeting. You took a note at that meeting, isn't that correct?

A. That's correct, yes.

Q. But at two meetings which concerned a very serious situation, you took no note?

A. I took no notes, no.

Q. Was that a normal practice of yours, or had anyone asked you not to keep a note?

A. Nobody asked me to keep a note.

Q. Nobody asked you to sorry, a good point, a distinction nobody asked you to keep a note?

A. Nobody asked me to keep a note.

Q. And if you had been asked to keep a note, I take it you would have?

A. Of course, yes.

Q. And it was a normal practice of yours attending meetings

A. Well, it depends on the meeting.

Q. Serious meetings?

A. Meetings where I was corporate meetings where I would be the secretary, I'd be taking minutes, or meetings where I was asked to do a job and I had to take notes in order to do that job, I would obviously take notes. Other meetings I probably wouldn't take notes. It depends on the meeting.

Q. I understand. Can you say in your professional capacity you had a training and a facility to keep a note or a minute of a meeting?

A. Yeah, I would keep notes if I was asked to do it and /RS

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paid for it, in other words.

Q. Now, you know the meeting at Clanwilliam Terrace, the first meeting concerning the bank's notification of the Central Bank and of the Tribunal, that particular first meeting was to apart from dealing with your involvement, your name on a resolution in the bank, was also one where you got a history of the transaction; isn't that right?

A. Well, as I said before, I got there was a discussion about what had happened between Aidan and the bank and Christopher Vaughan and the bank the

previous I didn't get a history of the properties,

as such.

Q. No, a history of the transaction. It was the bank's what was central to this whole matter of the bank's involvement with the central players and why they were going to the Central Bank and coming to this Tribunal at all; isn't that correct?

A. Yes.

Q. It was an important issue, wasn't it?

A. It was for them, yeah.

Q. Yes, but you were getting your name was on the resolution, so it had a certain importance for you as well; isn't that correct?

A. Well, at that stage I had no idea my involvement in the Tribunal was going to be anything like it turned out to be in the end.

Q. But you knew that your name was on the resolution?

A. Oh I knew my name was on it, yeah.

Q. And you knew this was a matter that was going to be

/RS

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looked at by the Central Bank, a serious step, I suppose, in its own right?

A. Yeah. I wasn't overly concerned, myself, because I had been asked to do it rather than my taking any decision myself.

Q. And you knew that bringing the matter to the attention

of the Tribunal was a serious step?

A. I don't really understand your question; I am sorry.

Q. Bringing the matter to the attention of the Tribunal, the transaction, was a serious and significant event; isn't that correct?

A. Yes.

Q. You were getting a history, not of the whole history of the properties, but you were getting a history of the transaction; isn't that correct?

A. Yes.

Q. You didn't make a note for your own assistance; am I correct about that?

A. Well, there was two resolutions, or as far as I remember there was a couple of pieces of paper with my name on it, and nobody was able to tell I don't know what notes I could have taken, to be quite honest with you.

Q. Sorry, you were being given a history, as you said, of the banking side of the transaction, if I could put it that way?

A. But nobody could tell me, and I still don't know I don't know what I could have written down. You know.

Q. Well, I suppose what people were telling you.

A. But there was nothing in that that you know, I /RS

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could write down. They were just telling me. It was

very easy to understand. I didn't have to write it down. I mean, my statement on it was very simple.

Q. But nobody asked you to keep a note of the meeting?

A. Nobody asked me to keep a note, no.

Q. And likewise, at the briefing of Mr. Denis O'Connor at the Regency Airport Hotel, nobody asked to you keep a note of the meeting?

A. No.

Q. And why do you say you were present? To give assistance in relation to what, specifically?

A. That's probably a good question now, because I mean, I think the corporate side of it, the company, the matters

Q. Which company?

A. Catclause Limited. I would have understood about that side of things. The strike-off. I suppose the resolutions as well. I said very, very little at the meeting.

Q. And you are sure that there is no note in existence

A. I don't have any notes.

Q. Sorry

A. I don't know what's in existence; I only know what I have, and I don't have any notes of those meetings.

Q. I know your evidence is that you don't have any note.

But what I am asking you, Ms. Malone, is this: Do you know if there are any notes of these meetings in existence anywhere?

A. I don't, no. I don't know if there are any notes.

Q. Have you seen any notes?

/RS

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A. No.

Q. You were certainly confused at the meeting at Clanwilliam Terrace, isn't that correct? You have told us that in evidence already.

A. Yes.

Q. And you have told us that you were all getting a history of what happened, because you certainly were very confused and you think everyone was; isn't that correct?

A. Yes.

Q. Might I suggest to you that it seems improbable that nobody took a note at the meetings?

A. You are asking me is it improbable?

Q. Yes.

A. I would be when I was in the room, nobody took notes of that meeting. I would have thought that Aidan, when he met Christopher Vaughan later on, would have taken copies of documents or whatever to help him prepare his statement.

Q. Or could I suggest to you alternatively that the purpose that no notes were taken is because the matters under discussion were so sensitive?

A. I can't say that.

Q. Thank you.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. BARNIVILLE:

Q. MR. BARNIVILLE: Sorry, Sir, there is just one.

Ms. Malone, I appear with Mr. O'Donnell for Michael

/RS

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Lowry. There is just one point that that arose during your examination by Mr. Coughlan that there may have been some confusion about.

I think the first of these meetings that you attended was in August of 2000; isn't that right?

A. That's right.

Q. That was a meeting in Jurys Hotel?

A. Yes.

Q. That was in fact about six months before Investec had informed Mr. Phelan that they intended referring the matter to the Tribunal, to the Central Bank and ultimately the Tribunal; isn't that right?

A. That's correct.

Q. That meeting took place a number of months before that took place?

A. Yes.

Q. I think there may have been some confusion in Mr. Coughlan's examination.

MR. COUGHLAN: There's no confusion at all. I brought them all to the attention of the witness.

CHAIRMAN: Well, Ms. Malone, what you are telling the

Tribunal is that your primary skill was the corporate aspect of things, and you didn't envisage yourself as having a huge role in contributing to the discussions of what should be done by way of tactics?

A. Absolutely not.

/RS

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CHAIRMAN: And your main involvement was in matters

I think I recall your telling me that you in fact,

when the matter was raised of striking off Catclause,

and someone felt you might have to do it through

England, you said you can do that, and you saw to it.

A. Yes.

CHAIRMAN: Very good. Thank you for your attendance.

A. Thank you.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Those are the available witnesses

today, Sir.

CHAIRMAN: I don't think it's an appropriate course

generally for judges or chairpersons of Tribunals to

be wishing festive greetings to anyone, but if I do so

on this occasion, it is on basis that I do intend this

to be the last Christmas that we, for purposes of

public sittings, are in occupation of these particular

premises. I am certainly not saying that the Tribunal

may not be here in the course of preparing a report,

and from long experience, I am not precluding what

things may arise, but it is as of now my firm and
expressed intention that this will be the last
Christmas that we will holding public sittings in this
particular venue for purposes of the Tribunal.

Thank you for your attendance.

/RS

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THE TRIBUNAL THEN ADJOURNED UNTIL FURTHER NOTICE.

/RS