

THE TRIBUNAL RESUMED ON THE 28TH FEBRUARY, 2007,

AS FOLLOWS:

CHAIRMAN: As this delayed portion of evidence is taken up this morning, and as the public sittings of the Tribunal, in general terms, come close to their conclusion, I have only two brief remarks to make.

Firstly, I have undertaken to the Government and to the Oireachtas that the second part of the report of this Tribunal will be prepared and finalised at the earliest possible date in the course of this calendar year, and undoubtedly in the course of that year.

Whilst, of course, I must continue to adhere to the requirements of fairness towards all persons affected, I unequivocally and emphatically intend to honour that commitment.

The second matter I would briefly mention, whilst it has no direct relevance to today's Doncaster sittings, relates to a ruling which is to be given in relation to certain matters, primarily relating to the involvement of the economist, Mr. Peter Bacon. Whilst the primary thrust of the Tribunal's time in recent months has been spent on finalising the first part of its report, and in substantive works relating to this second part of the report, I have taken the opportunity to read and consider with care the submissions that were furnished in relation to this aspect last year, the majority of which I have found to be constructive and useful. I accordingly will deliver a

ruling on the matters that are outstanding either at or promptly upon the conclusion of these Doncaster-related sittings, which I anticipate to take a duration in the two-to three-week mark.

Thanks. Mr. Healy?

OPENING STATEMENT AS FOLLOWS:

MR. HEALY: Following the adjournment of the Tribunal's last sittings in connection with the Doncaster transaction, it will be recalled that proceedings were instituted by Mr. Denis O'Brien to prohibit the Tribunal from proceeding with the examination of the transaction. Those proceedings were unsuccessful in the High Court, but the refusal of the High Court to prohibit the Tribunal from examining the transaction was appealed to the Supreme Court and that appeal was again unsuccessful. At the time of the Tribunal's Opening Statement in September of 2004 and, in other words, just before the application to the High Court, the Tribunal was in possession of a certain amount of material concerning the Doncaster transaction. This material had been accumulated on foot of inquiries prompted in the main by an article published in The Irish Times by Mr. Colm Keena. That article was based on the contents of a letter of the 25th September, 1998, from Mr. Christopher Vaughan to Mr. Michael Lowry.

The Tribunal's inquiries following that newspaper article resulted in the production of further documentation and information, that is to say, apart from documentation,

information was also obtained from a number of individuals in response to specific queries. One of the features of the litigation in which an attempt was made to prohibit the Tribunal from examining the transaction is that it led to the production of a substantial amount of other material all relevant to the inquiries being conducted by the Tribunal. The Tribunal had, of course, been unaware of the existence of this information prior to the institution of the proceedings.

The disclosure of that information led to further inquiries, and those inquiries resulted in the production of additional documentary and other material of which the Tribunal had also been unaware.

I propose to refer in this Opening Statement initially to the Opening Statement and most of the material referred to in the Opening Statement made in September 2004.

Thereafter, I propose to refer to what I'll call the new material or the additional material that has come to hand since then.

While ultimately it may be necessary to refer extensively to a lot of this new material in the Opening Statement, I intend to refer only to a limited number of documents so as to indicate the general line of inquiry proposed by the Tribunal.

Now, to return to what was stated in 2004. It will be recalled that in the year 2001, the Tribunal examined a number of property transactions in England, and that

examination focused on the properties which have come to be known as the Mansfield property and the Cheadle property.

The properties are described by reference to the places in which they were situated. References were made during the course of evidence concerning those properties to a number of other properties. The Tribunal examined the apparent involvement of Mr. Michael Lowry in the Mansfield and Cheadle transactions and the possible connections between Mr. Michael Lowry and a number of other individuals who appear to have been involved in those transactions,

including Mr. Aidan Phelan and Mr. Denis O'Brien. At that time, the Tribunal also examined certain aspects of what has come to be known as the Carysfort transaction, to which reference had been made in even earlier sittings of the Tribunal, at a time when the Tribunal was unaware of the material which came to its notice at the time of the examination of the English property transactions.

The examination in 2001 of the English property transactions was prompted in the main by information brought to the Tribunal by Investec Woodchester Bank. The Tribunal had been informed, in the course of its private inquiries, that the Doncaster transaction, which the Tribunal now proposes to examine, concerned Denis O'Brien exclusively and that there was no connection between the transaction and Mr. Michael Lowry. From the evidence which was given at the time, there appeared to be no connection between Mr. Michael Lowry and the transaction and nothing

appeared from the evidence which would have warranted any further scrutiny whatsoever. The Tribunal's September 2004 inquiries, public sittings and its earlier private inquiries, as I have already said, into that transaction, were prompted by Mr. Colm Keena's article. And I think, as I did before, it might be useful if I were to outline the main elements of the Doncaster transactions before referring to the article.

Doncaster Rovers Football Club, in the late 1990s, had fallen on hard times, both financially and in sporting terms, and as we know, its sporting profile has now improved significantly. Its ground, I think called Belle Vue, was leased from the Doncaster Borough Council. In 1998, a proposal was put to the club which entailed the acquisition of the club's grounds, coupled with the relocation of the club to a new ground in a more accessible location. The attraction of the proposal for the developer was the return to be made on the redevelopment of the old ground. In this case, the transaction was seen by the purchaser as an opportunity to promote a retail development on the old ground. This commercial opportunity had apparently been identified by Mr. Kevin Phelan, an Irish business man involved in property development in England. It appears that it was Mr. Phelan, who is no relation of Mr. Aidan Phelan, who was subsequently involved in introducing Mr. Michael Lowry to the Mansfield transaction, and, at a later point in time, to the Cheadle transaction.

The Tribunal has been informed that the Doncaster Rovers Football Club transaction was introduced by Mr. Kevin Phelan to Mr. Aidan Phelan at a time when Mr. Aidan Phelan was sourcing and reviewing business opportunities for Mr. Denis O'Brien. From what I will call the official documentation in relation to the transaction, it appears that the purchase was taken in the name of an Isle of Man company entitled Westferry Limited. Apart from the desire of the individuals involved in the purchase to avoid, for understandable business and personal reasons, the disclosure of their identities, it seems to be recognised that in a purchase such as this which may excite strong sentimental or emotive reactions on the part of football supporters, it is preferable to keep the personalities involved, and especially the possibility, or the perception, rather, that they may be associated with business rather than sporting circles out of the picture.

The deal involved a share purchase rather than a purchase of individual assets. The Tribunal has been informed that what was agreed was that Westferry would acquire most of the shares in Doncaster Rovers Football Club. Apparently, these assets were owned by two companies, Dinard and Shelter Trust Anstalt. The individuals associated with those companies were a Mr. Ken Richardson, and apparently some members of his family, and a Mr. Mark Weaver. The consideration for the share purchase was  $\frac{1}{2}$ 3.7 million sterling. Certain further sums were apparently to be paid

by the purchasers, including compensation payments to cover the costs of early termination of players' contracts, the repayment of loans, payments in relation to the transfer of players, various other fees relating to players, and so forth. In addition, it was agreed that a sum of £250,000 sterling was to be paid by the purchasers to the vendors if evidence could be produced, prior to the completion of the share purchase, that Doncaster Borough Council had granted a new lease in respect of the car-parking area adjoining the club's main football stadium.

Until some of these outstanding matters, both the matter connected with the lease and the other matters, were sorted out, it was agreed that, out of the total consideration of £4.3 million, approximately £700,000 sterling would be retained.

It would be retained by the solicitors for the purchasers until such time as they had concluded their agreements with the solicitors for the vendors as to how much should be paid, if anything, for the lease and as to how much would be paid in respect of the sums ultimately found to be due to players for the termination of their contracts, and so forth.

In December of the year 2002, the Tribunal heard evidence from Mr. Aidan Phelan and Ms. Helen Malone which related to some of the property transactions I have mentioned, the Mansfield and Cheadle transactions, and, in particular, evidence concerning a number of solicitors' letters

purporting to have been written by Mr. Christopher Vaughan, solicitor, the solicitor handling those transactions, which, on a view which was being examined by the Tribunal at the time, appeared to suggest that a connection between Mr. Michael Lowry and the Cheadle transaction was being obscured, or that there was a sensitivity to the disclosure of a connection or involvement which he may have had with the transaction.

While Mr. Keena's article was published on the 11th January, 2003, it appears that, prior to that date, Mr. Keena had been in contact with Mr. Denis O'Brien, Mr. Michael Lowry and Mr. Denis O'Connor concerning material which was subsequently referred to in his article.

On the 10th January, 2003, the Tribunal's solicitor received a letter from solicitors acting for Mr. Denis O'Brien indicating that Mr. O'Brien had been contacted that morning by Mr. Keena, and the letter, which is dated 10th January, 2003, William Fry to Mr. John Davis, Solicitor for the Tribunal, said:

"Dear Mr. Davis,

"Our client was contacted this morning by Mr. Colm Keena who indicated that he had information which might suggest that Mr. Michael Lowry was some way involved in the Doncaster Rovers property transaction. Our client has instructed us to inform you that Michael Lowry was not involved in Doncaster Rovers and that he refutes any suggestion otherwise."



That letter, as I said, was written on the 10th, and presumably received by fax, or, in fact, as I see from the document, by courier on the 10th January, 2003, and the article in question was published the following day.

In any case, on the same day that the Tribunal received the letter I have just mentioned from Mr. Denis O'Brien's solicitors, the Tribunal also received a letter from Messrs Kelly Noone, Solicitors, acting for Mr. Michael Lowry, indicating that Mr. Denis O'Connor, Mr. Lowry's accountant and adviser, had received a telephone call from Mr. Keena on Thursday evening, the 9th of January. The Tribunal was also informed that Mr. Keena had left a message on Mr. Lowry's telephone and that he had raised certain questions in the telephone message in connection with the Doncaster Rovers transaction.

And the letter is as follows:

"Dear Mr. Davis" 10th January, 2003

"I refer to previous correspondence.

"On Friday afternoon 10th inst. at approximately 2.15pm, I telephoned your office and was advised that you were away from the office until Monday next.

"I was telephoning to advise that at approximately 7pm on Thursday 9th inst., Mr. Lowry's accountant, Denis O'Connor, received a telephone call from Mr. Colm Keena of The Irish Times. Mr. Keena advised Mr. O'Connor that he wished to put a question to him and, in effect, inquired if Mr. O'Connor ever had sight of a letter of either 1998 or

1999 from Christopher Vaughan to Michael Lowry in connection with a purchase of Doncaster Rovers stadium.

Mr. O'Connor informed Colm Keena that he had never received any such letter, and Mr. Keena then put it to Mr. O'Connor that he, Mr. Keena, had been told that Mr. O'Connor had received such a letter sometime last year." Referring, presumably, to 2002. "Mr. O'Connor asked Mr. Keena to identify the party who had advised him of this and Mr. Keena immediately declined, citing journalistic privilege.

"Mr. O'Connor advised Mr. Keena that it was most unfair to make such an allegation and then not be prepared to disclose the source.

"Michael Lowry is presently out of the country. And sometime later on Thursday evening, the 9th inst., Mr. Keena left a message on Mr. Lowry's mobile phone and was phrasing questions to Mr. Lowry in relation to the matter earlier raised with Mr. O'Connor."

I think perhaps that should read "and was raising questions".

"The writer recalls that the question of Doncaster Rovers was raised some several years ago and Mr. Lowry informed the Tribunal that he had no involvement whatsoever with the transaction. We are concerned as to the manner in which this transaction has again now been raised, and Mr. O'Connor is particularly concerned with the allegation made by Mr. Keena to the effect that Mr. O'Connor had in

his possession for some time past a letter which was relevant to this matter. This is particularly so in view of the fact that, when challenged in relation to the matter, Mr. Keena immediately claimed journalistic privilege, so that whilst feeling free to make the allegation, he was not prepared to answer any question in relation thereto.

"We are advising you of the foregoing at the earliest opportunity as it seems to us reasonable to assume that Mr. Keena is preparing to make some journalistic comment in relation to the matter and, in this regard, we would repeat the question posed by Mr. Donal O'Donnell, SC, at the public sitting of the Tribunal on Friday the 20th December, and we quote '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?'"

And I think that may have been a reference to what I'll call the long form/short form letters I mentioned a moment ago.

On Saturday morning, January 11th, 2003, The Irish Times published a number of articles dealing with the Doncaster Rovers transaction. The articles referred to a letter dated 25th September, 1998, from Mr. Christopher Vaughan, solicitor to Mr. Michael Lowry, and published the text of the letter.

What I now propose to refer to is an office copy of the

letter provided to the Tribunal by Mr. Christopher Vaughan on foot of inquiries raised by the Tribunal. In the course of these hearings, reference will be made to a copy of the actual original or top copy of the letter.

"To Mr. Michael Lowry, Abbey Road, Thurles, County Tipperary, Eire. 25th September, 1998.

"Dear Michael,

"Re: Doncaster Rovers Football Club,

"I was very pleased to meet you on the 24th and 25th September, 1998.

"My apologies for getting you to Leicester a few minutes late for your BUPA appointment. I hope that all went well and that you eventually returned to Ireland.

"I am enclosing:

"1. Copies of my letters of the 23rd and 235th September, 1998, to Aidan Phelan. You did take a copy of the letter of the 23rd with you on the 24th. However, you will recall that two of the figures were wrong on the Completion Statement, and those have now been amended, and I would be grateful if you would destroy the incorrect copy and substitute this one.

"2. I had not appreciated your total involvement in the Doncaster Rovers transaction and I am therefore enclosing a copy of my Completion Letter which was sent to Kevin Phelan, Paul May and Aidan Phelan on completion.

"You will see that in that letter I make reference to the divesting by Westferry of all its assets. This is a matter

that I discussed with you on the 24th September and it is absolutely vital that this process is initiated urgently.

"It is not an issue that I can deal with as a solicitor, as I think that there is a possible conflict of interest with my involvement with Doncaster Rovers.

"I think it would be best for Aidan Phelan to arrange for the matter to be dealt with via Anglo Irish Bank and either their solicitors in London, Theodore Goddard, or Messrs. Simcocks in the Isle of Man, who dealt with the other Westferry matters prior to the acquisition of the shares in Doncaster Rovers.

"I have absolutely no doubt in my mind that if Mr. Richardson, who was the controller of Dinard Trading and Shelter Trust Anstalt, does not receive his  $\text{€}1/2250,000$  on the 31st December, 1998, a lot of expensive, unnecessary and embarrassing litigation will ensue, which will not be to anyone's benefit."

Then I think this is a heading.

"Agreement Game Plan International Limited and Bryan Phelan.

"I have heard nothing from Kevin since the document was faxed through to him.

"Doncaster Rovers/Westferry/Paul May.

"I am preparing a draft agreement and I am discussing this with Paul at the moment in respect of his  $\text{€}1/2120,000$  and the transfer of the shares to the new Chairman.

"I understand that you are trying to organise a meeting

between myself and Aidan Phelan.

"Obviously one of the matters to be discussed is the question of my outstanding costs as an enormous amount of work has gone into the Doncaster Rovers acquisition and only half of my fees have been paid.

"Likewise, I believe that there is an amount outstanding due to Grant Thornton which needs to be paid as we still need their financial input producing a balance sheet as at the closing date of the 18th August, 1998, to enable the retention funds to be accessed.

"Kind regards,

Yours sincerely."

I think in the original of the document, or the top copy, the first numbered paragraph, in fact, reads: "Copies of my letters of the 23rd and 25th September."

In the letter I have just opened, Mr. Vaughan states that he was enclosing copies of other letters. In a subsequent letter to the Tribunal, Mr. Vaughan explained that it would appear that the letters enclosed with the letter of the 25th September, 1998, are as follows: A letter of the 23rd September, 1998, addressed to Mr. Aidan Phelan. That letter is as follows, and it's by fax:

"Mr. Aidan Phelan, Messrs Bryan Phelan & Company, Orchard House, Clonskeagh, Dublin 14, Ireland.

"23rd September, 1998.

"Dear Aidan,

"Perhaps you could let me know the arrangements for the

meeting tomorrow, 24th September, 1998? I am available on"  
gives phone number "after 6 p.m. today and otherwise  
the usual office numbers.

"In the meantime, I enclose a brief agenda of topics that I  
would like to cover.

"I also enclose revised completion and financial statements  
for your consideration.

"The most important issue is returning Westferry Limited  
into a 'shell company' with no assets as soon as possible  
in accordance with paragraph 5 of my letter of the 23rd  
August, 1998.

"I look forward to speaking with you."

Then on the next page of that document is a document headed

"Agenda, 24th September.

"1. Westferry: Doncaster Rovers."

Then a number of items to be attended to. A lot of it is  
reflected in the letter of the 25th September. And then  
after that, "Item number 2, Beachwild, Luton."

The next document is the Completion Statement which refers  
to the various sums of money that Mr. Vaughan received to  
enable him to process the transaction, what disbursements  
he made, what expenses he incurred, and so forth, leaving a  
balance due of 16,000, and so on.

In his letter of the 25th September, Mr. Vaughan stated  
that Mr. Lowry had, on the 24th August, at the meeting with  
Mr. Vaughan, taken with him a copy of what is described as  
the letter of the 23rd. From Mr. Vaughan's subsequent

correspondence with the Tribunal, this appears to be a reference to a letter of the 23rd August, 1998. This letter is a lengthy document and sets out the then state of play concerning the overall Doncaster Rovers purchase, the state of the relationship between the vendors and the purchasers, the matters which were then to be attended to and dealt with, including a number of extremely important strategic steps to be taken to protect the interests of the purchasers. As this is an extremely long letter, I don't propose to read it out at this stage.

As I have already indicated, Mr. O'Brien's solicitors have refuted any suggestion that Mr. Lowry was involved in the Doncaster Rovers transaction, and Mr. Lowry's solicitors have intimated as much in their letter, the one I mentioned a moment ago from Messrs Kelly Noone. And in a subsequent letter of the 28th January of 2003, Mr. Lowry indicated that the suggestion that he was involved in the Doncaster Rovers transaction was erroneous.

Around this time, and in order to progress its inquiries, the Tribunal wrote to Mr. Christopher Vaughan concerning the newspaper articles concerning the responses he made to Mr. Colm Keena and the content of the letter of the 25th September, 1998.

I think at this stage it will suffice to refer to Mr. Vaughan's reply, which was received on the 6th March. Mr. Vaughan, writing to Mr. John Davis, Solicitor to the Tribunal, stated:



"Dear Mr. Davis,

"I refer to your letters of the 13th and 16th January, 2003, concerning articles which appeared in The Irish Times on Saturday, 11th January, 2003.

"I am now in a position to review my files in connection with the acquisition of the Doncaster Rovers Football Club Limited. The letter quoted in The Irish Times and dated the 25th September, 1998, was drafted by me (there are one or two small discrepancies in the letter). I attach a copy of the letter which I have taken from my file. You will also note that the top copy did not have a typing error as to a date in the first line of the paragraph numbered 1, which has not been amended on my file copy.

"A man who introduced himself as Colm Keena telephoned me on my mobile phone at about 6.30pm on 9th January, 2003, whilst I was at Newport Pagnell Service Station on the M1 motorway, paying for some fuel. He spoke to me for a fairly short period of time, and I think what you have set out in paragraph 2 of your letter of the 13th January, 2003, represents the total extent of our conversation.

"The completion of the acquisition of DRFC was on the 18th August, 1998, and, following that completion, I had been pressing Kevin Phelan to arrange a meeting with Aidan Phelan and myself in connection with a number of outstanding issues. Therefore, when Kevin Phelan arranged the meeting for the 24th September, 1998, I initially assumed that it was in connection with Doncaster Rovers

Football Club and that Aidan Phelan would attend.

"Accordingly, I wrote to Aidan Phelan on the 23rd September, 1998, enclosing an agenda of the items I wished to discuss at that meeting. I attempted to fax the letter to Aidan Phelan the day before the proposed meeting, but was unable to do so. The letter was posted to Aidan Phelan with the enclosures referred to at a later date.

"Subsequently, it transpired that the meeting was not to be in connection with DRFC, but in respect of the purchase of the land at Hilltop Farm, Mansfield (the Mansfield property) by Michael Lowry.

"I met Kevin Phelan and Michael Lowry on the 24th September. We had a general discussion about the Mansfield property. I believe that Kevin Phelan broadened the discussion by raising the queries on other projects which he was involved in. I would have certainly raised with Kevin Phelan the issue as to the outstanding matters in DRFC and the need to have a meeting with Aidan Phelan to consider those matters, and I gave him a copy of my letter dated 23rd September, 1998, which I had unsuccessfully attempted to fax to Aidan Phelan the previous day.

"Michael Lowry was present throughout the whole of those discussions and I formed what I subsequently discovered to be a totally incorrect view, that because of the frank manner in which Kevin Phelan was discussing the outstanding issues relating to DRFC, Michael Lowry was somehow involved in the DRFC project.

"Michael Lowry and Kevin Phelan then wanted to go on to have a meal somewhere, but I returned to my home. It was arranged for Michael Lowry to come to my office the following day to finalise some of the details relating to the Mansfield property and for me to speak to the vendor's solicitor in respect of the property.

"Michael Lowry was brought to my office early in the morning of the 25th September, presumably by Kevin Phelan, but I have no note or recollection of meeting Kevin Phelan on that day. It had been arranged that a car would come to my office and collect Michael Lowry during the course of the morning and take him to Leicester for an appointment at the BUPA hospital. The car failed to arrive (I cannot recall what went wrong) and I then offered to take Michael Lowry in my car to the BUPA hospital in Leicester, which is about 30 miles north up the M1 motorway from my office.

"Following Michael Lowry arriving at my office on the morning of the 25th September, we examined the Mansfield property file. I contacted the vendor's solicitors as to issues that had arisen from our discussions as to the purchase of that property.

"No one else travelled in my car to Leicester other than myself and Michael Lowry.

"So far as I can recall, the discussion in the car related to the general property market in England, sport and Irish politics.

"Based on my incorrect assumption from the previous day's

meeting, the outstanding issues relating to DRFC were again touched on again by me. It is my recollection that Michael Lowry offered to assist me in resolving those outstanding issues by agreeing to try to arrange a meeting with Aidan Phelan, whom he led me to believe he knew.

"I have found no handwritten notes on the DRFC file in relation to the meeting on the 24th September or the discussion in the car the following day, which is not surprising as Michael Lowry had come to Northampton to discuss the Mansfield property.

"In hindsight, it does seem unusual that I believed Michael Lowry to be involved in DRFC, as throughout the whole of the discussions and negotiations relating to the acquisition of DRFC over a period of some nine months, I had never heard Michael Lowry's name mentioned nor met him with Aidan Phelan or any other person in connection with the acquisition of DRFC.

"When I returned to my office in the afternoon of the 25th September, in an attempt to try and move matters along (as can be seen from the tenor of my letter) I wrote the letter of the 25th September to Michael Lowry.

"Over the course of the next days (which was the weekend), I spoke to Kevin Phelan, who inquired of me as to how my journey to Leicester with Michael Lowry had gone. I outlined to Kevin Phelan that we had discussed the purchase of commercial property in England in general, and the Mansfield property in particular, which I understood had

been Michael's main purpose in visiting me in Northampton.

"I must also have told Kevin Phelan that I thought that Michael Lowry could assist in resolving the outstanding issues in DRFC and that I had written the letter of the 25th September to Michael Lowry. I had also written a letter to Aidan Phelan advising him that I considered that Michael Lowry could arrange a meeting.

"Kevin Phelan then informed me that Michael Lowry was not connected in any way whatsoever to the DRFC project and that it would be very embarrassing for him if Aidan Phelan had been informed by me that any documentation had been sent to a third party (Michael Lowry).

"Kevin Phelan asked me to write to Aidan Phelan to clarify the situation and it was at this stage that I informed Kevin Phelan that, although the letter had been dictated and typed, it had not gone through my fax machine, neither had it been posted, and a copy of that letter, which has a line through it, still exists on my file. The top copy I assume was destroyed by me.

"As regards the involvement of Paul May, he was brought into the DRFC project by Kevin Phelan to be responsible for the day-to-day management of the football club. I do not believe that Michael Lowry had any involvement with Paul May or with the management of the club.

"As part of the agreement to purchase the shares in DRFC, Westferry Limited had agreed to pay an additional sum of  $\text{€}1\frac{1}{2}250,000$  upon the production of an extension to the lease

between Doncaster Metropolitan Borough Council, as landlord, and DRFC, as tenant, in respect of the car-park adjoining the football stadium.

"It subsequently transpired that the vendors of the shares in DRFC (a Mr. Richardson and a company and a trust associated with him) had totally misrepresented the situation, as, in fact, the lease extension was already in place and within the ownership of DRFC. This was perceived to be an extremely embarrassing situation, that there was in existence an extension to the lease, but that fact had been missed when a due-diligence examination of the documentation relating to DRFC was carried out prior to the exchange of contracts by the purchasers.

"I can categorically confirm that I never acted for or had any dealings with Mr. Richardson (a man whom I have never met or even spoken to) or his companies, trusts or nominees. The reference in my letter to 'conflict of interest' does not relate to Mr. Richardson and his associates, but it relates to my concern that if a dispute arose or even an allegation of negligence was made between or by Westferry, DRFC and/or its directors, I could have been placed in a difficult position which could have given rise to an allegation of conflict of interest, especially as by this time I was the Company Secretary of DRFC."

The Tribunal has been provided with what appears to be most of the material documents relating to this Doncaster Rovers transaction. On the face of it, these, as I said, I'll

call them official documents, contain no references whatsoever to Michael Lowry. Of course, they do not contain any references, for that matter, to the individuals behind the corporate purchaser, Westferry, but the Tribunal has been informed that Westferry held its interest for the benefit of an entity known as Wellington Trust, a trust benefiting the O'Brien family, and that effectively the O'Brien family interests were the purchasers of the property.

I think, as we will find out from other documentation in due course, I gather that Mr. Vaughan was not aware of the O'Brien family connection, either, at the time of the purchase.

Following the completion of the sale, there were, as I have already indicated, a number of outstanding issues. There were difficulties in resolving these issues, and eventually those issues resulted in a dispute between the vendors and the purchasers. This dispute led to litigation. Efforts were made to compromise or settle the litigation.

Eventually, the parties, in anticipation of going to court and having, I think, at that stage, fixed a date for a court hearing, nevertheless agreed to embark on a formal alternative dispute-resolution procedure, a mediation process. Separate solicitors were engaged by the purchasers, Westferry, to deal with the litigation and the mediation process. The solicitors involved were the well-known London firm of Messrs Peter Carter-Ruck. The

solicitor actually dealing with the matter was a Ms. Ruth Collard, an experienced solicitor and at that time a partner in the firm. From documentation made available to the Tribunal by Ms. Ruth Collard, with the consent of Westferry, it would appear that, in the course of dealing with the litigation and the mediation of the dispute between the vendors and the purchasers, Mr. Denis O'Connor, Mr. Lowry's accountant, became involved.

It would appear from documents made available to the Tribunal, and I won't go into them in detail in the course of this Opening Statement, it would appear that a meeting had been arranged between Mr. O'Connor and Ms. Collard and a Mr. Craig Tallents, an accountant advising Westferry and the O'Brien family interests, in order to progress the dispute concerning the retention issue. From Ms. Collard's files, it would appear that Mr. John Ryal, who was working for the O'Brien interests in Dublin, authorised her to attend a meeting with Mr. O'Connor with a view to discussing matters in relation to the disputed items and with a view to briefing Mr. O'Connor to enable him to intervene in the dispute.

The meeting was fixed for the 10th September, 2002.

Ms. Collard kept an attendance note of the meeting, and this is what she recorded.

"Attendance note.

Fee Earner: Ruth Collard.

Date: 10th September, 2002.



Subject: Doncaster Rovers Football Club Contract

Dispute."

Then some identification reference number.

"RC attending meeting with Craig Tallents and Denis O'Connor, discussing the position in the litigation generally with Craig Tallents prior to Denis O'Connor's arrival.

"Denis O'Connor said he would explain how he had become involved in the matter. He had been trying to sort out, on Denis O'Brien's behalf, the position with Kevin Phelan. Denis O'Connor had represented someone who had been in partnership with Kevin Phelan and Kevin Phelan had made trouble for him at the same time. In discussions with Kevin Phelan, he had mentioned the litigation and the position with the retention fund. At one point, Kevin Phelan had told him that he had spoken to Mark Weaver who had said he would drop the  $\text{€}250,000$  claim if Westferry handed over the retention fund and dropped the payroll claim. He would do this for an 'uplift' of  $\text{€}25,000$  and in return for an opportunity to sell the stadium at Doncaster. RC asked what was meant by an 'uplift', and Denis O'Connor said he had no idea.

"D'O'C said he was also representing a member of the Irish parliament, Michael Lowry. He was being investigated as part of the Moriarty Tribunal proceedings in Dublin. Kevin Phelan had made various threats to cause trouble for Michael Lowry.

"Denis O'Connor said he had discussed the position with Denis O'Brien" and I think that is a reference to Mr. Denis O'Brien Senior "and learned about the mediation which was to take place. Denis O'Brien Senior" and I think in all of this attendance note, the references to Denis O'Brien are to Mr. O'Brien Senior.

"Denis O'Brien Senior had said to Denis O'Connor that the mediator would impose a binding agreement on the parties. Denis O'Connor said when he had said this to Kevin Phelan, Kevin Phelan had said this was not correct and had telephoned Mark Weaver, who had sent a fax through of part of the mediation documents. Denis O'Connor said it was clear from this that the mediator would not impose his decision. Ruth Collard said this was correct and was the essence of mediation. She was surprised that Denis O'Brien Senior had apparently not understood this, as it had been made clear to Aidan Phelan on several occasions.

"Denis O'Connor said the upshot of all his discussions with Denis O'Brien Senior and Kevin Phelan had been that he had been asked if he would be prepared to meet Ken Richardson and Mark Weaver, and, at DOB's request, a meeting had been arranged, first in Manchester and then in Dublin. Denis O'Connor said from all he had heard, if his discussions with Ken Richardson and Mark Weaver to settle the matter were not successful and it went to mediation, the mediation would fail. He said that the other side were laughing at us and that they would ensure that the mediation did not

succeed and would then take the matter to court. They wanted to cause the maximum embarrassment for Denis O'Brien Senior and for others, including Michael Lowry. Ruth Collard asked how they could cause any embarrassment to Michael Lowry, as, so far as she was aware, he had no connection to the proceedings. Denis O'Connor said that Michael Lowry did have a connection and that he had been in the room when discussions had taken place between Kevin Phelan and Ken Richardson regarding the lease. Ruth Collard said no one had ever suggested that to her previously.

"Ruth Collard said that the position was that we had been trying to talk to them about a settlement for nearly a year. Ruth Collard said that their legal advisers, Reg Ashworth, and their counsel, seemed keen to talk about a settlement, but Reg Ashworth had always said to her that his clients would not settle. We had seen their agreement to the mediation as a major step forward. Ruth Collard said that Denis O'Connor might say they were laughing at us in relation to this, but her experience of mediations was that they often did achieve settlements and Ken Richardson and Mark Weaver would find that they came under a lot of pressure from their lawyers and from the mediator to settle if a reasonable deal was put to them.

"If they did not settle, Ruth Collard did not regard their threats to expose various matters in court particularly seriously. If the mediation failed and the case went

forward, we would be making a substantial payment into court at an early stage. If they wanted, they could go on after this, but if our payment was well-judged, it would put enormous pressure on them and it would be very expensive if they failed to beat the sum paid in. Ruth Collard said she was telling Denis O'Connor this so that he should not be too impressed by what Kevin Phelan was telling him. The fact was that there were merits in their claim and vulnerabilities in our case, but they also had vulnerabilities and we were not without resources. Ruth Collard said it was very important that we did not appear desperate to settle.

"Denis O'Connor said he understood this. He said it would be helpful if he could have an outline of the factual matters. Ruth Collard said she would ask Craig Tallents to explain the background to the litigation, as he could explain the accountancy details. Craig Tallents then ran through the background, dividing the matter into three issues: the retention fund, the claim in respect of the lease and our claim in respect of the payroll warranty.

Denis O'Connor said he now began to appreciate that the issues were extremely complex. He wondered how he would be fully briefed prior to the meeting taking place, agreeing that Denis O'Connor needed a further briefing and that Ruth Collard would prepare a file for him consisting of Craig Tallents' original briefing documents and the pleadings.

"At the conclusion of the meeting, Ruth Collard reiterated

that Denis O'Connor should not be too impressed by the threats he had heard. If the mediation did not work, then that would be a pity, but we would move on. Denis O'Connor said that one good thing was that Kevin Phelan would now be a witness for us. Ruth Collard said it might be helpful that he would not be available to the other side, but he would be a much discredited witness and she was far from sure we would want to use him.

"Finally, impressing on Denis O'Connor that it was essential that any meeting took place 'without prejudice' Denis O'Connor said he understood that. Ruth Collard said she could not emphasise too highly how important this was, otherwise Denis O'Connor might make some concessions on behalf of Denis O'Brien Senior which, if the matter did not settle, would prove extremely difficult for us to cope with in the ongoing proceedings."

Time taken, and so on.

I suppose it's of some significance that the meeting and some preliminary work took over two hours.

Mr. Denis O'Connor has informed the Tribunal, and details of his response to the Tribunal queries will be referred to later, but he has indicated, in general terms, that Ms. Collard is wholly mistaken in suggesting that he in any way implicated Mr. Lowry in any aspect of the Doncaster Rovers transaction.

Now, the Sole Member's determination to pursue his inquiries into this matter in public was, in the main,

prompted by the following considerations:

Firstly, that the official documents, as I have called them, relating to the Doncaster transaction, make no reference to Mr. Lowry.

Secondly, Mr. Christopher Vaughan, the solicitor acting for the purchaser in the transaction, i.e. for Mr. O'Brien's interests, refers to Mr. Lowry as having a total involvement. Of course, Mr. Vaughan has qualified that statement in a subsequent letter, but the fact remains that the letter presumably reflects his state of mind at the relevant time in September of 1998. And at a later point I will be referring to Mr. Vaughan's own description of his state of mind at that time in a letter which came to hand in the course of inquiries conducted while the litigation was proceeding.

Now, Mr. Vaughan, of course, had no interest, in September of 1998, to damage Mr. O'Brien's interests or Mr. Lowry's interests, and it doesn't appear that he has any interest at this time to damage their interests, and as far as the Tribunal can ascertain, he has never at any time sought to damage or to injure in any way Mr. O'Brien or Mr. Lowry.

Mr. Vaughan, at the relevant time in September 1998, was also acting for Mr. Lowry in another transaction. Ms. Ruth Collard of Carter-Ruck, Solicitors, was, in September of 2002, acting as the solicitor for the O'Brien interests in connection with the litigation and mediation of the dispute surrounding the Doncaster Rovers transaction. Again, she

had no interest then, and, as far as the Tribunal can ascertain, has no interest now, or had any interest at any time, to damage or in any way to injure either Mr. Lowry or Mr. O'Brien.

The position, therefore, at least in September 2004, was that while there was no reference to Mr. Lowry in the contractual documents, two experienced and responsible solicitors dealing with these matters recorded at two different points in the progress of the overall transaction their understanding that Mr. Lowry was involved.

Now, a further factor of relevance is that it is clear that Mr. O'Connor, Mr. Lowry's adviser, was involved in the transaction at a critical time in the dispute between the vendors and the purchasers. What is unclear, at this stage, is the precise capacity in which he was involved in the transaction, and this is something that will require to be examined in the course of these hearings.

1. Now, prior to September or prior to September 2004, as I have already said, the Tribunal had received a considerable quantity of documents dealing with the transaction, and, on foot of those, the Tribunal raised a number of queries with individuals involved in the transaction. And while at that stage the Tribunal had not received comprehensive or narrative responses from all the people involved, and indeed to date is still lacking a number of narrative responses, the Tribunal books did contain, and at this stage still contain, comprehensive and

narrative responses from Mr. Aidan Phelan, and responses which are at least partially complete from Mr. Denis O'Connor and Mr. Michael Lowry.

The Tribunal has, since its last adjourned hearing, obtained, in addition to documentation from Ms. Ruth Collard, has obtained access to statements she prepared to assist the Tribunal. Those statements had, in fact, been prepared prior to September 2004, but only came to hand in the course of correspondence between the Tribunal and solicitors for Westferry after proceedings were instituted.

It will be recalled that Ms. Collard was on the point of giving evidence around the time of the adjournment of these proceedings. Arrangements are now being made to endeavour to take Ms. Collard's evidence on a different basis due to health considerations, which I won't go into in detail in this Opening Statement.

The Tribunal has obtained written responses from Mr. Christopher Vaughan, the ones I have outlined in this Opening Statement, and had also, prior to the September adjourned hearing, had a useful private meeting with him.

At that time, the Tribunal had failed to persuade him to attend to give evidence, but, as I think I said at the time, had not given up hope that he would make himself available to give evidence. He has now informed the Tribunal that he is minded to give evidence and arrangements with his solicitors over representation fees and expenses have been completed, and hopefully I will be



in a position in the near future to be more precise as to his availability.

The Tribunal, notwithstanding efforts made both before and since September 2004, has not been able to secure a commitment from Mr. Kevin Phelan to give evidence. He resides outside and carries on his business, in the main, outside the jurisdiction, and therefore, cannot be compelled to attend. The Tribunal does not anticipate that the two individuals associated with the vendor of the Doncaster Rovers shares, namely Mr. Ken Richardson and Mr. Mark Weaver, will be attending. They have been in contact with the Tribunal and the Tribunal has endeavoured to engage with them but has received little or no cooperation from them.

This transaction was overseen in the main by two individuals on behalf of Mr. O'Brien. They are Mr. Aidan Phelan and Mr. Denis O'Brien Senior. Mr. Denis O'Brien Senior, as we know, is Mr. Denis O'Brien's father, and he appears to have taken over a supervisory role, on behalf of the O'Brien interests, in the latter stages of the transaction. In the Tribunal's dealings with Mr. Denis O'Brien in relation to this matter, the Tribunal was referred to his father, Mr. O'Brien Senior, and eventually, separate solicitors acting for Mr. O'Brien Senior furnished the Tribunal with an amount of documentary material connected with the transaction. From that documentation provided by Mr. O'Brien Senior, and from documentation

provided by Mr. Christopher Vaughan, the main aspects of the transaction appear to have been as follows:

The project was originally handled by Mr. Aidan Phelan and Mr. Kevin Phelan. Mr. Aidan Phelan had, in fact, "fronted" the project. As I have already indicated, this was for understandable commercial reasons of no interest to the Tribunal to keep Mr. O'Brien's name out of the picture.

Mr. Aidan Phelan apparently ceased to be centrally involved at least, from in or around June of 2002, and, from that time, the overall management of the project passed into the hands of Mr. Denis O'Brien Senior.

Mr. Denis O'Connor appears to have played a role at various times in relation to this transaction, at least in relation to the issues that arose following the formal completion of the share transfer. He has informed the Tribunal that he became aware of the Doncaster Rovers project in 2001, probably in July or August of that year, and that this arose from conversations with Mr. Kevin Phelan. As we know from previous evidence, he would have been aware of Mr. Kevin Phelan's dealings with Mr. Lowry in connection with English properties, namely the Cheadle, Mansfield and Vineacre properties. He did not, however, become aware of any of these property transactions until March 2001, and this has, of course, already been mentioned in evidence. He has informed the Tribunal that prior to 2001 he knew Mr. Kevin Phelan, and that Mr. Kevin Phelan knew that he (Mr. O'Connor) had clients who were involved in the UK

property market. The knowledge that Mr. O'Connor acquired in July or August of 2001 concerning the Doncaster Rovers project arose from general conversations with Mr. Kevin Phelan.

Mr. O'Connor has informed the Tribunal that around the time he first became aware of the transaction, he formed the impression that Mr. Aidan Phelan was exclusively in charge of and managing the project, and at that time he assumed, in fact, that Mr. Aidan Phelan was the beneficial owner.

He formed the impression that Mr. Kevin Phelan had sourced the site; that the vendors were a Mr. Ken Richardson and a Mr. Mark Weaver; that the purchase had not completed fully, and that there was a continuing dispute in connection with monies retained following formal completion; that that dispute had become acrimonious, and that Mr. Kevin Phelan was due monies out of the deal, including a success bonus.

It appears that sometime in 2001, Mr. O'Connor travelled, on behalf of Mr. Michael Lowry, to Manchester, specifically to meet Mr. Kevin Phelan with a view to examining the Mansfield site, the Vineacre site, which was in Wigan, and the then potential possibility of a deal on the Cheadle site. This was for the purpose of inspecting the properties and forming a clearer picture of the Mansfield deal. This was apparently after Mr. O'Connor first became aware of Mr. Lowry's English property interests. Although his visit to England was with a view to examining only those properties with which Mr. Lowry was connected, or

likely to be connected, Mr. Kevin Phelan, in the course of the visit, suggested that he and Mr. O'Connor would also examine the Doncaster Rovers site.

Mr. O'Connor has informed the Tribunal that, though the project was not of much interest to him, while at the Doncaster Rovers site Mr. Phelan referred extensively to the completion dispute with the vendors. Again, Mr. O'Connor has stated that, although the matter was of no particular significance so far as he was concerned, he believes that he would have commented that the matter should be easily resolved as the issue related to specific items. Mr. Phelan conveyed other information to Mr. O'Connor concerning the background to the project and the personalities involved which Mr. O'Connor considered to be interesting in itself but of no particular interest to him. He has informed the Tribunal that, subsequent to the visit, he would have reported to Mr. Michael Lowry as to what he had seen and his impressions in relation to the various properties shown to him. Mr. Lowry has informed the Tribunal that, subsequent to Mr. O'Connor's visit, he recalls some general discussion with Mr. O'Connor, and his recollection is that nothing of significance had arisen in relation to the visit.

From the information made available to the Tribunal by Mr. O'Connor, it appears that he first became aware of any suggestion, whether correct or incorrect, that Mr. Lowry may have been involved in the Doncaster Rovers transaction,

in late 2001/early 2002. He recalls that, in or around that time, a journalist queried Mr. Lowry's solicitor whether he believed Mr. Lowry was involved in the Doncaster Rovers project. Mr. O'Connor recalls that he discussed the matter with Mr. Lowry's solicitor and that he subsequently discussed it further with Mr. Lowry. He formed the view that the story was groundless and that the queries were prompted by some third parties seeking to create mischief. Sometime later in 2002, probably in May or June, Mr. O'Brien Senior telephoned Mr. O'Connor and Mr. O'Connor has informed the Tribunal that, in the course of what he described as a general conversation, Mr. O'Brien Senior asked Mr. O'Connor how familiar he was with the Doncaster Rovers project. Mr. O'Connor's reply was that he was not familiar with it, to which Mr. O'Brien Senior responded that he just wanted Mr. O'Connor to know, that he, Mr. O'Brien Senior, was absolutely dealing with the project, or words to that effect. He went on to ask Mr. O'Connor whether he had heard rumours about a connection between Mr. Lowry and the Doncaster project, to which Mr. O'Connor replied that he had heard the rumours, but that, to his knowledge and belief, Mr. Lowry had no involvement in the project. He had further contact with Mr. O'Brien Senior in or around August of 2002, when Mr. O'Brien telephoned him inviting him to a meeting at his, Mr. O'Brien's offices. Mr. O'Connor's recollection was that he met Mr. O'Brien in his office in the Malt

House, and that, once again, in the course of a general conversation, Mr. O'Brien Senior asked Mr. O'Connor what he knew about the roles of Mr. Kevin Phelan, Mr. Richardson and Mr. Weaver in the continuing dispute regarding retention monies in relation to the Doncaster Rovers project. In the course of confirming that he had no knowledge apart from what he had learned from Mr. Kevin Phelan, Mr. O'Connor inquired as to what the dispute was all about. He then learned from Mr. O'Brien Senior that a mediation or arbitration meeting had been scheduled for September or October and that if this failed to achieve a resolution, a date had been fixed for a hearing of the dispute between the parties in the English High Court in 2003.

Mr. O'Connor has informed the Tribunal that Mr. O'Brien Senior indicated to him that he felt that enormous pressure was being exerted by Mr. Richardson, who was seeking to recover in excess of the sum held in the retention fund, and that Mr. O'Brien Senior made a definite point that he would not be blackmailed or bullied on this.

Mr. O'Connor's view was that, even though the matter was not of concern to him, he could not understand how it appeared that, what he characterised as a simple arithmetical issue, could not be resolved, or substantially resolved, and he offered any assistance that he could provide.

Sometime shortly after, Mr. O'Brien Senior again invited

Mr. O'Connor to meet with him. Mr. O'Connor informed the Tribunal that when he called to Mr. O'Brien Senior's office. Mr. O'Brien Senior asked him to look at some figures relating to the DRFC dispute, but when Mr. O'Brien Senior went to get the figures, it transpired that they were with his London solicitors. Mr. O'Connor, conscious of the fact that he was due to travel to the UK in connection with the business affairs of another client, offered to review the figures on his next visit. Some time later, it appears that Mr. O'Brien Senior contacted Mr. O'Connor again and arrangements were made for Mr. O'Connor, on his planned visit to London, to meet with the firm of Carter-Ruck, Solicitors, the solicitors handling the O'Brien interests in the dispute concerning the Doncaster Rovers project.

Mr. O'Connor has informed the Tribunal that he travelled to London on the 10th of September, 2002, and that, sometime after midday, he attended at the offices of Carter-Ruck, where he had a meeting with Ruth Collard and Mr. Craig Tallents. Mr. O'Connor's recollection is that he would have outlined his meeting Mr. Kevin Phelan, visiting the site and discussing the retention issues, together with the arbitration scenario with Mr. Denis O'Brien Senior. He also recalls that his representation of Mr. Michael Lowry would have come up, as would what he believed to be the mischievous attempt to bring him, Mr. Lowry, into the equation. There was some discussion on the retention

issue, with Mr. O'Connor saying that he would like to go through the figures in detail. Ms. Collard arranged to have the documents made available to him and he left the office, returning an hour later to collect the relevant material.

Mr. O'Connor has had an opportunity to examine the attendance note of Ms. Ruth Collard recording her meeting with him, and he has informed the Tribunal that there is considerable misunderstanding on Ms. Collard's part and he has stated that he believes that he would not have made the statement suggesting that Mr. Lowry did have a connection with the proceedings as he never understood that Mr. Lowry had any involvement with Doncaster, and furthermore, does not believe that Mr. Lowry was ever present at any meeting between Mr. Kevin Phelan and Mr. Ken Richardson. He has, however, stated, by way of comment, on the contents of Ms. Collard's note, and in particular her references to Mr. Lowry's connection with the Doncaster transaction, that, in the course of discussion with Ms. Collard and Mr. Tallents, he would have mentioned that there was always the possibility of persons with vested interests seeking to involve his client in the transaction in an improper way. He has also stated that the reference in the note to an involvement of Mr. Michael Lowry was due to a misunderstanding, and that, if he stated that Mr. Lowry had an involvement, Mr. O'Connor was making such a comment solely with reference to the ongoing Tribunal hearings and



the suspicion that attempts were being made by third parties to convey the impression that Mr. Lowry had an involvement.

Mr. O'Connor has stated that this, in itself, was viewed by him as an involvement, and that this was all he was seeking to convey, and that he never understood or believed that Mr. Lowry had any legal or financial involvement with the Doncaster Rovers project.

With reference to the note made by Ms. Collard to the effect that he, Mr. O'Connor, had stated that Mr. Lowry had been in a room when discussions had taken place between Mr. Kevin Phelan and Mr. Ken Richardson regarding a lease, Mr. O'Connor says that he cannot explain this reference to Mr. Lowry, and that his view is that he could not have made such a statement as he'd no knowledge of the matter and that it had always been his understanding that Michael Lowry had never spoken to or met with Mr. Ken Richardson.

With regard to the suggestion that Mr. O'Connor would be briefed to enable him to take part in the settlement negotiations, Mr. O'Connor states that in the course of a general discussion as to how a settlement could be achieved, it may well be that an impression was created that he, Mr. O'Connor, if requested, would meet with the parties involved on the other side with a view to endeavouring to resolve the matter. He is certainly prepared to accept that Ms. Collard and Mr. Tallents were aware that he could possibly be viewed as someone who could

liaise, if not with the other side, at least with Mr. Kevin Phelan.

Mr. O'Connor did work on the material provided to him by Ms. Collard and reported to her with his findings. So far as the question of the meeting with the representatives of the vendors is concerned, Mr. O'Connor states that any contemplated meeting never took place and was never arranged, and his understanding is that the matter was finally resolved between the parties and that he was so informed by Mr. O'Brien Senior sometime shortly after the conclusion of his dealings with Ms. Collard and Mr. Tallents.

While Mr. O'Connor has made the foregoing comments concerning his meetings with Ms. Ruth Collard, and in particular her attendance note, he has also informed the Tribunal that sometime in or around August or September of 2002, Mr. Kevin Phelan contacted him by telephone and mentioned that he had met with Mr. Ken Richardson, who had told him that the retention issue was becoming a big issue and that Mr. O'Connor believed that Mr. Phelan was seeking to establish that Mr. O'Connor could intervene; that he, Mr. O'Connor, indicated that he would be prepared to do so but that such intervention was outside the scope of his authority, but he suggested that Mr. Phelan contact Mr. Denis O'Brien Senior.

From documents made available to the Tribunal by Mr. O'Brien Senior, it would appear that Mr. O'Brien Senior

informed the City of London Police that in the week prior to the mediation on the 27th September, 2002, he was faxed a copy of the letter from Mr. Christopher Vaughan to Mr. Michael Lowry dated the 25th September, 1998. He made a statement to the City of London Police in which he complained that he and his family were being blackmailed. He acknowledges that the letter suggests that Mr. Lowry was connected with the Doncaster Rovers transaction, but states that this was untrue. He states that the confusion regarding Michael Lowry's involvement in the Doncaster Rovers transaction may have arisen by reason of the fact that the property agent, Kevin Phelan, who brought the transaction to the O'Brien interests, was also involved in introducing property transactions in England to Michael Lowry, and that, in addition, Mr. Aidan Phelan, who had acted as a financial consultant to his son, was also involved in transactions for Mr. Michael Lowry.

From this material made available by Mr. O'Brien Senior, it would appear that he stated to the English police that he had received a message via Mr. Lowry's accountant, Mr. Denis O'Connor, which we are told originated from the representatives of Dinard, Mr. Ken Richardson and Mr. Mark Weaver, advising him that a copy of Mr. Vaughan's letter to Mr. Lowry was in their possession and that it would be in his family's best interest to settle the litigation in a friendly and generous manner, and that, otherwise, a copy of the letter would find its way to the Tribunal or to the

newspapers, and that the information concerning this matter had come from Kevin Phelan.

It appears that in a later statement to the English police, Mr. O'Brien Senior may have qualified or revised this statement.

When Mr. O'Connor was made aware of the statement, he informed the Tribunal that the suggestion that he conveyed a message originating from Dinard advising that it was in the O'Brien family's best interest to settle the litigation in a friendly and generous manner, was simply not true. He has informed the Tribunal that around September of 2002, his receptionist informed him that Mr. Mark Weaver was on the telephone and that he wished to speak to him.

Mr. O'Connor refused to take the call and indicated that he would not be taking calls from Mr. Weaver, either then or at any future time. There were a number of further telephone calls from Mr. Weaver to Mr. O'Connor's office, including one in which Mr. Weaver informed Mr. O'Connor's receptionist that he was sending through a fax and to arrange for the fax to be received by Mr. O'Connor.

Mr. O'Connor informed his receptionist that he did not wish to see anything from Mr. Weaver and that the fax should be forwarded to Mr. O'Brien Senior. It would appear that at some point in September 2002, a fax was received in Mr. O'Connor's office from Mr. Weaver, and while Mr. O'Connor did not see the fax, he believes this was a copy of the letter dated 25th September, 1998, from

Mr. Vaughan addressed to Mr. Lowry.

Mr. Lowry has informed the Tribunal that he has no recall of ever having had sight of the letter of the 25th September, 1998, and he feels that, if he had received such a letter, he certainly would have recalled the content, as he never had any beneficial, legal or material interest in the Doncaster Rovers property.

Mr. Lowry agrees that he travelled to the UK in September 1998, but that the primary purpose of his visit was to attend for medical examination at a BUPA medical centre, an appointment having been made for him through Mr. Kevin Phelan. He was collected from Birmingham airport by Mr. Phelan and, by arrangement, they went to a hotel premises in Northampton where they had a meeting with Mr. Christopher Vaughan. Mr. Lowry says that the meeting was a social one and that, over drinks, there was a wide-ranging discussion, including a general chat, as he puts it, on the Mansfield property. As it had been arranged to have a specific meeting in Mr. Vaughan's office the following morning on Mansfield, Mr. Phelan took the opportunity to review his other ongoing dealings with Mr. Vaughan. Mr. Lowry has informed the Tribunal that if Mr. Kevin Phelan created the impression with Mr. Vaughan, or if Mr. Christopher Vaughan made the assumption that Mr. Lowry had some involvement with Doncaster Rovers, then this was erroneous. On the following morning, Mr. Lowry and Mr. Vaughan had a detailed discussion in Mr. Vaughan's

offices in relation to the Mansfield property.

Subsequently, Mr. Vaughan drove Mr. Lowry to the prearranged BUPA appointment in Leicester. There were only two people in the vehicle in the course of the trip from Northampton to Leicester, namely Mr. Vaughan and Mr. Lowry himself. Mr. Lowry has also informed the Tribunal that on the 24th September, 1998, that is to say in the course of the first meeting with Mr. Vaughan in Northampton, he neither took nor received any documentation or correspondence from Mr. Vaughan.

Mr. Lowry, in a subsequent letter now, has indicated, at the very least, Mr. Vaughan is completely inaccurate in his dating of these events, even if any of them did, in fact, occur.

Mr. O'Connor has informed the Tribunal that at no time did he make Mr. Lowry aware of any of his dealings with Mr. Denis O'Brien Senior or with Ms. Ruth Collard in relation to Doncaster Rovers. Mr. Lowry has indicated that he is at a total loss as to what was going on, and he has further informed the Tribunal that he had no knowledge of any matters resulting in the complaint to the City of London Police.

Mr. Aidan Phelan has informed the Tribunal that he was contacted by telephone by Mr. Denis O'Brien Senior in relation to the letter of the 25th September, 1998, at sometime in September 2002, and that, at that time, he spoke to Mr. Vaughan about the letter. Mr. Vaughan

explained to him that there had been a misunderstanding, and that what he was informed by Mr. Vaughan at that time accords with what Mr. Vaughan explained to the Tribunal in his letter of the 6th March, 2003. Mr. Vaughan confirmed to Mr. Phelan that in September 1998 he had been attempting to set up a meeting with Mr. Phelan to follow up on issues arising from the Doncaster Rovers deal which had closed in August 1998; that when Mr. Kevin Phelan, therefore, contacted him, Mr. Vaughan, with a view to setting up a meeting with Mr. Lowry for the purpose of discussing the Mansfield project, Mr. Vaughan assumed that Mr. Aidan Phelan would be attending the meeting arranged by Mr. Kevin Phelan.

Mr. Vaughan informed Mr. Kevin Phelan that he had attempted to fax a copy of the agenda of the meeting to Mr. Aidan Phelan, but that he had directed the fax to the wrong number. Mr. Aidan Phelan, accordingly, had no idea that the meeting was taking place. Mr. Vaughan further informed Mr. Aidan Phelan that, during the course of the meeting, Mr. Vaughan raised some Doncaster Rovers issues with Mr. Kevin Phelan and that Mr. Lowry gave the impression erroneously that he was involved; that on that basis, Christopher Vaughan wrote to him on the 25th September; that when Mr. Kevin Phelan saw the terms of the 25th September letter, he informed Mr. Christopher Vaughan that Michael Lowry had misrepresented the position regarding his involvement in Doncaster Rovers, and that he, Mr. Kevin

Phelan, confirmed that Mr. Lowry had no such involvement.

Mr. Aidan Phelan has also informed the Tribunal, when this matter was brought to his attention, that Mr. Denis O'Brien informed him that Messrs Richardson and Weaver, having obtained a copy of the letter of the 25th September, attempted to use it during the course of the mediation with Westferry. Mr. Phelan's understanding is that Mr. O'Connor persuaded Mr. O'Brien Senior that he was in a position to sort out the dispute between Westferry and Richardson and that Mr. O'Brien Senior agreed with this offer of assistance.

In summary, therefore, while the information provided to the Tribunal is, in many respects, conflicting, the Tribunal has, nevertheless, obtained information suggesting that Mr. Lowry may have been involved in the Doncaster Rovers transaction.

In September 2004, the Tribunal envisaged embarking on examining that material, the material I have just mentioned. Now, as I have said, since that date the Tribunal has obtained further material, and as I have said, while I don't intend to refer to all of that material or all of the documents or all of the information the Tribunal has obtained, I do intend to refer to a number of documents or a number of sets of documents. And the first set of documents to which I wish to refer concerns Mr. Kevin Phelan and his relationship with Westferry and the potential involvement of Mr. Michael Lowry in that



relationship in connection with the Doncaster transaction.

Now, as I have mentioned, Mr. Kevin Phelan's initial role in the Doncaster transaction was a fairly substantial one.

He was, after all, the person who appears to have identified the commercial opportunity, but, as time moved on, his role appeared to diminish, up to the point where he appears to have fallen out with the Westferry/O'Brien interests. He appears to have parted company with the Westferry/O'Brien interests sometime in either 2001 or 2002. During 2002, there were negotiations between Mr. Kevin Phelan and the Westferry/O'Brien interests with a view to terminating his relationship with the transaction.

There were negotiations both between individuals involved in the project and between the two main sets of solicitors involved, namely Messrs Woodcock & Sons of Bury in Lancashire on behalf of Mr. Kevin Phelan, and Messrs William Fry on behalf of Westferry and the O'Brien interests.

Now, in due course, reference may be made to Westferry in the context of letters and correspondence being handled by Messrs LK Shields, Solicitors, but at this time, in 2002, the Westferry interests were represented by Messrs William Fry, and it is only subsequently that Messrs LK Shields took over the handling of their legal affairs, at least so far as aspects of the Doncaster transactions and the company's dealings with this inquiry are concerned.

In the course of terminating Mr. Kevin Phelan's

relationship with Westferry, Westferry, through its solicitors, agreed to pay him the sum of  $\frac{1}{2}$ 150,000 sterling.

This payment was made in consideration of a number of matters, of which the main one appears to have been the disposal of his claim for outstanding fees in respect of the Doncaster project, but also included was the requirement, insisted on by Westferry, that Mr. Kevin Phelan provide a narrative account of his role in the negotiations leading up to the conclusion of the Doncaster deal and the subsequent ongoing dispute with Dinard, the vendors or sellers of the Doncaster club.

In a letter of the 24th June of 2002 from Messrs William Fry to Messrs Woodcock & Sons, re Westferry Limited, Messrs William Fry wrote.

"Dear Sirs,

"We refer to previous correspondence and enclose a draft of a letter our client is prepared to authorise for issue, subject to our first receiving a narrative account of your client's position regarding the negotiations leading up to the conclusion of a deal and the subsequent and ongoing dispute with Dinard Trading.

"We look forward to hearing from you as soon as possible."

Now, as should be clear from what I have said already, the dispute at that stage had reached the point of litigation, although attempts were being made, or it was being suggested that attempts were being made to proceed to mediation so as to avoid litigation.

Now, either in place of that request for a narrative, or allied to it, is not entirely clear, Messrs Woodcock & Sons, on behalf of Mr. Kevin Phelan, supplied a number of documents to Messrs William Fry, and included in these documents was a fax transmission dated 11th August, 1999, from Mr. Kevin Phelan to Mr. Aidan Phelan, who was then effectively in overall control of the Doncaster transaction.

Now, the fax transmission, as a whole, appeared to relate to a re-ordering of responsibilities, or at least areas of responsibility between Mr. Kevin Phelan and Mr. Aidan Phelan in respect of the conduct of the Doncaster project and other possibly-related projects.

The fax, which is on the fax notepaper of Game Plan International, which is one of Mr. Kevin Phelan's vehicles, is addressed to Mr. Aidan Phelan from Kevin Phelan.

It is headed "Doncaster Project". It then refers to a meeting between the two Messrs Phelan and purports to be a note to confirm their discussions and also to deal with correspondence which had taken place up to that date between McAlpine, presumably a developer, and Westferry, represented by Kevin Phelan.

The document is as follows:

"Doncaster Project:

"Following our meeting on Monday 9th August, this is a note to confirm our discussions and also detail the correspondence which has taken place to date between

McAlpine (Stephen Barker, Andy White) and Westferry (Kevin Phelan.)

"1. Joint venture:

"Aidan Phelan will now deal directly with Andy White in all matters involving Asda, B&Q and the Council relating to the development at Belle Vue and additional land which will be made available by Doncaster Council.

"Kevin Phelan will continue to correspond directly with the Board of the football club, and, in particular, determine all grant aid available for the project. Kevin Phelan will also endeavour to establish the stadium specification and the cost of the construction of the stadium.

"2. McAlpine/Westferry list of correspondence.

"McAlpine to Westferry (Kevin Phelan).

"A) Letter 14th June, 1999, detailing way forward, including stadium costs.

"B) Copy draft programme received from Stephen Barker, 22nd June, 1999.

"Westferry (Kevin Phelan) to McAlpine (Stephen Barker).

"A) Fax 16th June confirming meeting/agenda copied to David Pritchard and Barry Needham.

"B) Fax 24th June, minutes of meeting.

"C) Fax 9th July regarding plan/appraisal preparations.

"D) Fax 24th July regarding minutes of meeting.

"E) Fax 24th July regarding plans from David Lyons & Associates.

"3. Retention Fund.

"Christopher Vaughan and Craig Tallents will meet with Reg Ashworth on Thursday 12th August to discuss the accounts which have been produced.

"4. Outstanding Expenses.

"Aidan Phelan will make payment this week of the two invoices received. All invoices received by Aidan Phelan will be for his records only.

"5. Altrincham.

"Kevin Phelan to prepare a report on this project for Aidan Phelan.

"6. Luton.

"Kevin Phelan to prepare a final report on this project.

"7. ML.

"Kevin Phelan to refer all queries regarding Doncaster to Aidan Phelan.

"It is agreed to continue holding regular meetings on the Doncaster project. It has been taken on board our shared concern regarding McAlpine and in particular the other site which McAlpine has in Doncaster and also conflicts regarding construction, costings and appointment of their own professional contacts."

As I have said, the document under the main heading of Doncaster consist of a number of subheadings, some of which, in fact, appear to relate to matters other than Doncaster, although listed as subheadings.

The fifth heading, for instance, refers to Altrincham, another project apparently involving Mr. Aidan Phelan and

Mr. Kevin Phelan. Number six refers to Luton, a project variously described in the course of inquiries carried out by the Tribunal as Luton or Beach Wild, and, if that is the same project, then it appears to be one that involved Aidan Phelan and possibly Mr. Denis O'Brien, although in a context which may be of no concern to the Tribunal.

The seventh or last heading is the one to which I wish to refer, that is the heading "ML". And the text "Kevin Phelan to refer all queries regarding Doncaster to Aidan Phelan."

Messrs William Fry, Solicitors, when they examined this document, recognised that this portion of the document could involve a reference to Michael Lowry, and that, connected with the Doncaster project, it could be relevant to the inquiries being conducted by this Tribunal.

Now, at that time, at the time that this document had been made available, that is to say in July of 2002, the Tribunal was then engaged in inquiries concerning the Cheadle transaction, but it had had no reason to doubt what had already been stated in evidence at an earlier stage, namely that there was no connection between Mr. Michael Lowry and the Doncaster transaction. It appears that Mr. Denis O'Connor played some role in resolving certain issues concerning the termination of the relationship between Mr. Kevin Phelan and Westferry, and, from documents produced by Messrs William Fry, he appears to have been involved in resolving difficulties concerning the

appearance of these initials on this August 1999 fax.

According to documents provided by Messrs William Fry, it would appear that Mr. O'Connor had suggested that the initials "ML" were a reference to a Mr. Mike Lloyd. If this were correct, then obviously there was no question of the document having any relevance, at least on the face of it, to the inquiries being conducted by the Tribunal. In other words, although there was a clear reference to Doncaster both in the document and in the subheading, the proposition that queries from Mike Lloyd or queries connected with Mike Lloyd were to be referred to Aidan Phelan couldn't give rise to any question of relevance to the inquiries being conducted by the Tribunal.

It would appear, however, that there were difficulties in establishing the meaning of the initials "ML" and difficulties in establishing that they referred to Mike Lloyd, which would, of course, have given rise to no difficulty. Understandably, Messrs William Fry persisted in seeking an explanation, and wrote, in a very pointed way, to Messrs Woodcock & Sons, by letter of the 29th July, requesting an explanation.

This is a fax letter, 29th July, William Fry to Woodcock & Sons, re Westferry Limited.

"Dear Sirs,

"We refer to recent correspondence.

"As confirmed to you by telephone on Friday, our client is serious about concluding the settlement. Some time ago, in

place of the narrative requested by our clients, you sent us certain past correspondence related to the Doncaster Rovers matter. One of the letters contained a reference to an "ML" in apparent connection with the matter, and you must appreciate that this reference caused some concern.

"We understand that our respective clients have been in contact and that your client is prepared to give an explanation for that reference (as to its referring to someone other than Michael Lowry or to some other matter) and/or to confirm in any event that Mr. Lowry had and has no interest in or connection to the Doncaster Rovers matter.

"We confirm that our client will complete the terms of settlement on receipt.

"We await hearing from you.

"Yours faithfully," etc.

Messrs Woodcock & Sons replied to Messrs William Fry's letter on the 30th July. In that letter, which seems to have been sent by fax from Woodcock's to Messrs William Fry, 30th July, 2002:

"Re Westferry Limited Project".

"Dear Sirs,

"We refer to correspondence between us of last week and also to your fax received yesterday.

"It is our view that our client has done everything that is possible to agree satisfaction re terms. You will be aware that our client is in negotiations with your firm on behalf



of Westferry Limited, LK Shields, Solicitors, on behalf of Bryan Phelan, together with Bryan Phelan & Company and also Denis O'Connor on behalf of his client, Michael Lowry.

There are also issues concerning Aidan Phelan and Craig Tallents (an English registered accountant). The writer is liaising with Denis O'Connor in relation to these two individuals.

"Last Thursday, the writer, together with Kevin Phelan, met with Denis O'Connor. Previously, draft correspondence had been proposed by our client in relation to all parties and also a draft agreement in relation to Michael Lowry had been supplied. The terms of the draft letters and draft agreement were not satisfactory to Michael Lowry and Denis O'Connor. The key amendments to the agreements were amendments that Michael Lowry/Denis O'Connor required to protect themselves in relation to future claims.

"As a result of this, the same day, correspondence was sent to Denis O'Connor for approval. As of Thursday afternoon, therefore, it is our client's view that he had done all that was reasonably possible to agree terms of settlement in relation to all the parties that our client is in dispute with.

"There was further correspondence that was sent, as you appreciate, by our firm, on Friday, in an attempt to progress matters. Matters, however, were not progressed.

"Our client now finds himself in a position where this matter is being further delayed in his mind for no good

reason, and he finds himself being asked now to provide the impossible, which he is not prepared to do.

"Our client is extremely disappointed that, despite him doing everything that was lawfully possible to agree satisfactory terms of settlement, your client and those other parties associated to the above venture have not been prepared to crystallise terms of settlement. At this very late stage, your client now appears to be imposing an unreasonable condition. Due to the very serious implications of the request that is now being made by your client, we have been specifically instructed by our client to terminate (underlined) negotiations.

"As previously stated, there are currently no concluded terms of settlement and, in those circumstances, our client will now review all options that are open to him and decide how best to proceed.

"We are further instructed by our client to make it clear that he was always prepared to proceed with settlement in the terms that had previously been discussed in outline, but that, as a result of terms of settlement failing to be reached today and in the light of your most recent correspondence, he feels that he has no choice but to draw a line under the negotiations and move on in a way that is beneficial to him.

"All future communications (if any) should be directed to ourselves and not our client."

One of the statements in that letter to which I think I

should draw attention is Messrs Woodcock's statement that

"At this very late stage your client" referring to Messrs Fry's client "now appears to be imposing an unreasonable condition. Due to the very serious implications of the request that is now being made by our client, we have been specifically instructed by our client to terminate negotiations."

And the Tribunal would wish to inquire whether this statement by Messrs Woodcock's is in relation to an imposition of a condition by Westferry that, before the termination payment of £150,000 would be made, potential references to Michael Lowry would have to be explained.

Notwithstanding the strong line apparently taken by Messrs Woodcock's on the 30th July, it would appear that, eventually, but only after an interval of some 20 days or so, Mr. Kevin Phelan was prepared to provide an explanation. Through his solicitors, the explanation provided around the 19th August or 20th August, 2002, was to the effect that the reference to "ML" was to Michael Lowry, but that it related to a project in Mansfield in which Michael Lowry was a shareholder. Westferry solicitors, Messrs William Fry, appear to have accepted this explanation and to have sought no indication as to the basis for or reasoning behind it. They do not appear to have insisted on the statement that Michael Lowry had no connection with the Doncaster transaction.

One of the other statements in that letter that may

require that will require further inquiry is the statement by Messrs Woodcock & Sons that their client was extremely disappointed that despite, as they put it, him doing everything that was lawfully possible to agree satisfactory terms of settlement, "your client and those other parties associated to the above venture have not been prepared to crystallise terms of settlement."

This reference to a failure to crystallise terms of settlement appears to be a reference to Mr. Michael Lowry and Mr. Denis O'Connor, and the question which obviously arises is as to what association they could have had, and, in particular, what association Mr. Michael Lowry could have had with the Doncaster transaction in light of evidence that has been already given. Or in any dispute between Westferry and Kevin Phelan.

The Tribunal has endeavoured to obtain the documents referred to in Messrs Woodcock's letter in connection with Mr. Michael Lowry and Mr. Denis O'Connor, but has been informed that apparently Mr. Michael Lowry has no documents Mr. Michael Lowry now has no documents concerning the matter and any documents retained by Mr. O'Connor concerning the matter have been delivered by him to Mr. Kevin Phelan.

I think before lunch I was about to refer to material generated by or on behalf of Mr. Kevin Phelan. Now, in due course, the Tribunal may be referring to a substantial amount of documents and other material generated, as I

said, either by or on behalf of Mr. Phelan, but at this stage I wish to refer to only two matters, and indeed to two further letters from Mr. Kevin Phelan.

The first is a letter of the 30th August, 2000, from Mr. Kevin Phelan to Mr. Aidan Phelan; in other words, about one year after the fax of August 1999.

What the Tribunal has is an office copy of this document.

It appears to have been furnished to Messrs William Fry in the course of their dealings with Mr. Kevin Phelan.

It says: "Mr. Aidan Phelan, AP Consulting, 16 Clanwilliam Terrace, Grand Canal Quay, Dublin 2.

30th August, 2000.

"Dear Aidan,

"re: Doncaster, Altrincham/Luton projects.

"Futher to our discussion with Christopher Vaughan and Michael Lowry following your 17th August, 2000, meeting, we have now had time to reflect on those discussions and also consider the letter received from Christopher Vaughan dated 18th August, 2000.

"We are extremely disappointed that you have failed to reply to our recent correspondence or make any contact with Gameplan. You agreed to keep us informed on progress regarding the Doncaster project. We are concerned, but not surprised, that our so-called 'development partners' are describing the Doncaster property as a 'pup', which is what is expected from people who have a serious conflict of interest and have ulterior motives. At a meeting in your

office on the 11th April, 2000, the chairman of Stannifer, a reputable property developer, described the site as 'the best site in Doncaster', and Gameplan agrees with his assertion.

"In our opinion, the Doncaster project remains an extremely good opportunity. However, since Gameplan were requested to allow others to manage the project, little progress has been achieved. In the period since others have taken control, Westferry have managed to lose credibility by not continuing the momentum which Gameplan had established over the previous period. At this point, we are unwilling to accept the current position and request payment of our previously agreed fees and costs or, alternatively, allow Gameplan to take back the management of the project. Gameplan have worked extremely hard on the projects listed above in good faith and we believe we have been treated very unfairly.

"We enclose an invoice for the fees agreed for the Luton Project at our meeting on the 9th of February, 1999, together with a schedule of our involvement. We enclose an invoice for the Altrincham Project and a schedule of our involvement. We believe the fee for this project is reasonable, considering the time and effort involved.

"We trust you clearly understand our position."

The significance of this letter, and what the Tribunal would wish to pursue in relation to it, is the fact that, of the three projects mentioned at the top of the letter,

one is Doncaster, and the letter appears to refer to discussions between Christopher Vaughan and Michael Lowry and Kevin Phelan and Aidan Phelan with respect to that project.

The second of the letters to which I intend to refer was apparently sent by Mr. Phelan to the Secretary of the Institute of Chartered Accountants in Ireland on the 4th March, 2000, by way of complaint against Messrs. Bryan Phelan & Co, a firm of accountants, and in particular Mr. Bryan Phelan, accountant, and Mr. Aidan Phelan, accountant. Notwithstanding what was stated by Messrs Woodcock's on behalf of their client in connection with the ML reference and the implication that Mr. Lowry had nothing to do with the Doncaster transaction, the contents of this letter will warrant some further inquiry, although subject to a number of qualifications, to which I will refer in a moment.

The letter is as follows:

It's from Gameplan International, an entity controlled by Mr. Kevin Phelan, 106 Gillygooley Road, Omagh, Northern Ireland, to the Secretary of the Institute of Chartered Accountants, CA House, 87-89 Pembroke Road, Dublin 4, 4th March, 2002.

"Strictly private and confidential.

"Re: Bryan Phelan & Co., Auditors and Accountants, Orchard House, Clonskeagh Square, Dublin 14, Ireland.

"We wish to register a formal complaint against the above

firm of accountants, in particular Mr. Bryan Phelan and Mr. Aidan Phelan who gave undertakings to our firm, which were relied upon, which which were not honoured, despite numerous requests.

"We have been instructed in the past on two projects by the above firm. We have also had instructions from the firm through Mr. Aidan Phelan who confirmed that he was acting as agent for Mr. Denis O'Brien and another in respect of four other projects, Mansfield site, Handforth site, Altrincham Football Club and Doncaster Rovers Football Club. We were informed that fees in relation to the four projects outlined above would be discharged. Agreements to confirm this position were signed in September 2001. Bryan Phelan & Co. has failed to make payments of outstanding fees in relation to the two other projects, despite undertakings to discharge our account and despite being furnished with invoices and statements.

"We believe that the failure to make payment of our fees is directly related to our correspondence with Mr. Aidan Phelan regarding his evidence to the Moriarty Tribunal and the fact that we have questioned the accuracy of his evidence. We further believe that the failure to make payment of our fees relates to our many requests for the return of our files. The files requested are necessary for us to fully cooperate with the Moriarty Tribunal. We have corresponded with Mr. Aidan Phelan of Bryan Phelan & Co. on a number of occasions. Mr. Bryan Phelan has acknowledged



the correspondence in a letter dated September 17, 2001.

In Mr. Bryan Phelan's letter of September 17, 2001, he attempts to distance himself from Mr. Aidan Phelan.

However, we have documentary evidence that Mr. Aidan Phelan operated from Orchard House, and indeed his name appeared on the firm's notepaper in September 2001. In any event, Mr. Aidan Phelan, in past correspondence, has held himself out to be completely involved with the above firm.

"We have been informed that Mr. Aidan Phelan has suddenly 'gone'. We firmly believe that Bryan Phelan & Co. has a legal obligation to return our files so as to allow us cooperate with the Moriarty Tribunal. We further believe that this firm should discharge our account in full in accordance with their undertakings and commitments to our company.

"We would request an early response concerning the conduct of your members."

Now, the second paragraph of this letter suggests that Mr. Kevin Phelan, through his company, Gameplan Limited, had been instructed through Mr. Aidan Phelan, acting as agent for Mr. Denis O'Brien and another individual in respect of four named projects.

Evidence has already been given at this Inquiry in connection with the Mansfield site and the evidence was that Mr. Lowry had a 10% interest and Mr. Aidan Phelan had a 90% interest, although it may be of significance that the funding for that property appears to have come from an

account of Mr. Denis O'Brien. The Handforth site is another term used on occasion to describe the property transaction referred to in the course of the Tribunal's hearings as the Cheadle site. This was originally described to the Tribunal as an exclusively Michael Lowry transaction, although one which was subsequently taken over, apparently, by Mr. Aidan Phelan to become an exclusively Aidan Phelan transaction.

It was, however, described in the course of the evidence at this Inquiry by an official of Investec Bank, by whom the funding for the transaction was provided, as a transaction involving Mr. Denis O'Brien. The Tribunal knows nothing about the Altrincham Football transaction, but assumes it involves a similar property transaction to that underlying the Doncaster Rovers Football Club transaction. On at least one reasonable interpretation of this paragraph, Mr. Aidan Phelan is referred to as acting as agent for Mr. Denis O'Brien and Mr. Michael Lowry implicitly in respect of at least the Mansfield transaction, in the first instance. If that is so, it must follow that, on a reasonable interpretation, Mr. Aidan Phelan is also referred to as acting as agent for Mr. Denis O'Brien and Mr. Michael Lowry in respect of the Handforth, Altrincham and Doncaster Rovers projects.

Now, the qualifications to which I referred a moment ago warrants making a number of remarks at this stage. In the first place, this complaint was targetted at Messrs Bryan

Phelan & Co. on the assumption contended for by Mr. Kevin Phelan, that Mr. Aidan Phelan was a member of the firm, when it would appear the complaint he was making was against Mr. Aidan Phelan.

The complaint has been described by Messrs Brian Phelan & Associates, Accountants, as a frivolous and vexatious one.

It was not proceeded with ultimately and all complaints against Mr. Aidan Phelan and Mr. Bryan Phelan's firm were formally withdrawn by Mr. Kevin Phelan. The Tribunal is not concerned with the complaint itself. Indeed, had the complaint not been withdrawn, the gravamen of the complaint, such as it was, would have been of no interest to the Tribunal. What is of relevance in the context of the Tribunal's inquiry is the factual context in which the complaint is made and the reference to the projects to which it is deemed to relate. The reference in the letter to the need this is the second remark which I think should be made in the context of the complaint against Mr. Bryan Phelan's firm.

The reference in the letter to the need on Mr. Kevin Phelan's part to obtain documentation so as to enable him to cooperate with the Moriarty Tribunal appears to be somewhat far-fetched in view of the fact that the Tribunal has enjoyed little or no cooperation to date from Mr. Kevin Phelan. Moreover, it perhaps should also be mentioned that Mr. Kevin Phelan, although clearly willing to institute a complaint involving the implication of an agency in this

State against an accountant practicing in the State, has not seen fit to make himself available to give evidence to the Inquiry.

A further point to be made about this letter is that it was written in the course of a dispute with Mr. Aidan Phelan connected with his role in Westferry and possibly related to other dealings he had with Mr. Kevin Phelan. It may be that Mr. Kevin Phelan hoped to gain an advantage in those disputes by writing to the Institute of Chartered Accountants with a complaint against Mr. Aidan Phelan. A distinction ought to be made between this letter, written in the course of what ultimately transpired to be a dispute between Mr. Kevin Phelan, on the one hand, and entities with which Mr. Aidan Phelan was associated, on the other, and documents generated by Mr. Kevin Phelan at a time when he does not appear to have been in dispute with Mr. Aidan Phelan, such as the document I have already mentioned of August 2000, and, perhaps more importantly, the document of the 11th August, 1999, containing the reference to the initials "ML" in a context which, on the face of it, was connected to Doncaster.

Now, it will also appear in due course in the evidence that Mr. Denis O'Connor seems to be involved in the resolution of this particular dispute between Mr. Kevin Phelan and Mr. Aidan Phelan and Mr. Bryan Phelan.

The next set of documents to which I wish to refer concerns dealings between Mr. Christopher Vaughan and a Mr. Peter

Vanderpump. Mr. Vaughan, as we know, was the solicitor to Westferry involved in the purchase of the Doncaster Rovers club. It would appear that the company used to purchase the shares in the club, Westferry, was set up or established by Mr. Kevin Phelan specifically for the purpose of the purchase, and the shares in Westferry appear to have been held by a trust called the Glebe Trust, with which he was associated, or, if not held by that trust, beneficially owned by that trust, although ultimately transferred to a trust representing the interests of the O'Brien family.

Mr. Vanderpump, who was an official of Westferry, wrote to Mr. Vaughan on the 17th August, 2002, seeking documentation concerning a suggestion that had been made in the course of the mediation with Dinard Trading, that Mr. Michael Lowry had an interest in Westferry or that he was involved in the Doncaster project. If I said that Mr. Vanderpump wrote seeking documentation, I should have said that he wrote seeking information - in fact, a response to a query. In his letter from Westferry Limited, 66-67 Athol Street, Douglas, Isle of Man, to Mr. Christopher Vaughan at his offices at Northampton, it states:

"Re: Westferry Limited/Doncaster Rovers Football Club Limited."

This is a document which the Tribunal obtained, as I have already indicated, since the proceedings were instituted after the adjournment of the Tribunal's last hearings on

this topic.

It says "Dear Mr. Vaughan,

"We refer to the above matter.

"It has come to our attention during the mediation of the dispute between Dinard Trading Limited and Shelter Trust Anstalt that certain correspondence from your office suggested that Mr. Michael Lowry had or has a shareholding in Westferry Limited or indeed was involved in the negotiations on the completion of the purchase of Doncaster Rovers Football Club Limited.

"We wish to advise you that that the sole shareholder in Westferry Limited is Walbrook Trustees (Isle of Man) Limited in its capacity as the Trustees of the Wellington Trust. The beneficiaries of the Wellington Trust are Mr. Denis O'Brien and his family and no other party was or is involved.

"We would be grateful if you will confirm in writing that this is also your full and complete understanding of the matter.

"We look forward to hearing from you."

Mr. Vaughan prepared two letters in response to that request; one was dated the 21st October, 2002, and the other was dated the 23rd October, 2002. It would appear that only the letter of the 23rd October, 2002, was actually sent to Mr. Vanderpump. However, Mr. Vaughan, in correspondence with the Tribunal, has not resiled from the content of the letter of the 21st October, 2002. In fact,

the two letters, as will appear, do not contradict one another, but rather, contain two different sets of information concerning Mr. Vaughan's knowledge of the Doncaster Project.

The letter of the 23rd October is as follows:

It's addressed to Mr. Vanderpump in the Isle of Man. There is some manuscript on the side. It seems to say I am not sure who it's addressed to, perhaps Mr. Craig Tallents.

"Please send a copy to Mr. John Ryal ASAP."

"Dear Mr. Vanderpump,

"Thank you very much for your letter of the 17th October.

I completely understand what you are saying as to the beneficial ownership of Westferry Limited.

"As you are aware, I do not have any documentation in my possession relating to the acquisition of Doncaster Rovers Football Club by Westferry Limited, as all this paperwork is with Peter Carter-Ruck and Partners. I do have the original lease of the football ground and copies of various other property-related documents, to which I will refer later on in this letter.

"Therefore, my comments in the next paragraph are purely from my memory.

"I am quite convinced that, during the course of the acquisition of DRFC by Westferry, Kevin Phelan maintained to me that he was the beneficial owner of a trust called 'Glebe Trust', and also that he had a beneficial interest in Westferry. I am also sure that he made representations

to me to the effect that Michael Lowry was also involved in Glebe Trust.

"I have to say that at no time during the acquisition of DRFC by Westferry did Michael Lowry have any input into that process, nor later following completion. I do not know if you are aware, but shortly after completion I was sacked by Kevin Phelan, who then took the whole matter to Betesh Fox in Manchester. At a later date, I was re-engaged to try and sort out the retentions.

"As you are probably aware from Kate McMillan of Peter Carter-Ruck and Partners, I have been visited by Mr. Weaver, and I enclose herewith a copy of a letter dated 25th September, 1998, and a copy of my file note of Friday 18th October and a copy of an earlier letter of the 19th February, 2002.

"The future of DRFC:

"As mentioned above, I am holding the original lease of the football ground and a certified copy of the lease of the car park area the original lease was never available on completion but a certified copy from the landlords, Doncaster Metropolitan Borough Council, was made available.

"I would reiterate that I do not have any of the documentation relating to DRFC and I do not know what plans Westferry have for DRFC.

"I am writing to alert you on the situation relating to the football ground and the car-parking area.

"Both these properties are leasehold properties. It is,



therefore, absolutely essential that the rent on them is kept up-to-date to Doncaster Metropolitan Borough Council, otherwise they may take steps to forfeit the leases.

"The main lease in respect of the football ground is dated 5th August, 1965, and runs for a period of 99 years from 1st September, 1965.

"The car-park lease is dated 12th August, 1965, and initially ran for a period of 20 years from the 19th August, 1965. That term was later extended and the lease expires on the 19th August, 2005.

"It is, therefore, absolutely essential that at the appropriate time an extension of that lease is sought under the 1954 Landlord and Tenant Act legislation.

"I do not know who is now acting as accountant to Doncaster Rovers Football Club Limited. There are two officers of that company, Aidan Phelan as a Director and myself as a Secretary. That is a breach of the Memorandum and Articles of Association which specifies that there must be at least four directors, all with a minimum shareholding. This needs to be regularised as soon as possible with the relevant forms being lodged at Companies House.

"There is an agreement between Westferry Limited (1) DRFC (2) Patienceform Limited (3) and Format Option Limited (4) in respect of the sale and purchase of the undertaking assets of DRFC which gives John Ryan the owner of both Patienceform Limited and Format Option Limited certain rights to play on the DRFC ground.

"However, I have never seen the completed agreement.

Various drafts were prepared by me and I am aware that various meetings took place between John Ryan and Aidan Phelan and Kevin Phelan and I believe that an agreement was finalised and signed, but I do not have the original of that document nor have I ever seen a copy of it.

"I mention this agreement with Patienceform and Format Option because this obviously has an impact on your future development for DRFC as they have certain rights on the football ground which may or may not be the same as in the draft documents that I have.

"If there is any[sic] further I can do to assist, please do not hesitate to contact me."

Now, Mr. Vaughan, with that document, enclosed a file note of his of Friday the 18th October, 2002, in which he says:

"A client was leaving my office following a 9am appointment, and it was about 2 or 3 minutes before 10am.

I took the client through the office to the front door and said good-bye to him.

"Whilst walking through the reception area, there was a small man sitting on one of the blue seats who said hello to me, and I could see that he had a piece of paper in his hand. Jean, the receptionist, then said that, as I was walking past her showing the client to the door, that that person had come to see me.

"I did not recognise him at all but because he had a piece of paper in his hand I thought he was probably a client I

had seen for a notarial appointment and had come back for some other to be prepared.

"After the client had left I went up to him and asked if I could help him and he said 'I have got this letter for you to look at'. I then obviously looked somewhat confused, and he then said to me, 'You remember me, Mark Weaver?'

"I then said yes, of course I remembered him. He said could he just talk to me for a couple of minutes. I said yes, but also said that I had another client who was due at 10am.

"He came into my office and he then produced to me a letter dated 25th September, 1998, from me to Michael Lowry, which was on heat-sensitive fax-paper. I took a photocopy of it when he was leaving 15 minutes later.

"I had previously met Mark Weaver I think about a year ago there is a detailed file note about it which I sent to Aidan Phelan other than that one occasion, I had never met him before.

"Mark Weaver is a nervous little man who smells of tobacco and he is an extremely person to understand or pin down as to what he is trying to say.

"This note is obviously not going to be a verbatim report of what he said, but the main points are:

"1. He did not know what to do with the letter. It had been sent to him by fax anonymously a little after midnight on the 26th July last I pointed out to him that you can alter the dates and times on a fax machine, so this,

therefore, cannot be relied upon. He said the fax had gone to his home address. I have not tried the number at the top of the fax.

"2. He said that he was being rung constantly by Callum Keenum of The Irish Times, who kept on saying to him, 'You have a letter in your possession, can you tell me what it is?' He indicated that Callum Keenum seemed to be able to track him down wherever he was and had the ability to find out his telephone number.

"3. Mark Weaver said that Callum Keenum also said that he, Mark Weaver, and I could go to the Tribunal and then the matter would be sorted out once and for all.

"4. I explained to Mark Weaver that I had absolutely no involvement in this matter any longer, I had not interest in it. I did comment to him that I was surprised by the letter because I had not thought that Michael Lowry had had any involvement in the DRFC transaction either. Mark Weaver agreed with that. He knew the whole substance of the DRFC agreement because he was Richardson's "runner" while Richardson was in prison and Mark Weaver confirmed that he had never had any dealings or come across Michael Lowry at all in the DRFC deal. This is rather confirmed by my letter of the 25th September which is after the completion of the purchase of DRFC when in paragraph 2 I state that I had not appreciated that Michael was involved in DRFC.

"5. I asked Mark Weaver who had sent him. He did not directly answer the question but said he was employed by

Dinard Trading and not by Richardson, and Dinard's solicitors in Zurich had had an approach from a third party to purchase from them all the documents they had in their possession about DRFC.

"I then repeated to Mark Weaver that throughout the whole of the negotiations of DRFC and afterwards I do not recall Michael Lowry ever being involved at all.

"He then said to me several times what should he do with the letter and again, several times, I said to him I had not a clue because I was no longer involved in this matter at all. I suggested that he took advice from Reg Ashworth, who was Richardson's solicitors.

"Before Mark Weaver left I took a copy of the letter. I made a comment to him that I almost certainly did not have a copy as it would have been with the DRFC files which were with other solicitors Peter Carter-Ruck.

"My thoughts after Mark Weaver had left were:

"1. Why did he come, bearing in mind he lives presumably somewhere near Doncaster, which is 80 to 100 miles away?

"2. Am I just being used as a conduit to facilitate some form of blackmail? It occurs to me that Denis O'Brien is the only person in this whole business with money. Am I supposed to contact Michael Lowry through his solicitors or Denis O'Connor, his accountant, to make him aware of the situation?

"3. Is Mark Weaver acting alone trying to get some of Denis O'Brien's money?

"4. Who is my next telephone call going to be from

Callum Keenum or?

"5. I had never met Michael Lowry before the 24th

September and it was arranged by Kevin Phelan for Michael

Lowry to meet me on the 24th September to discuss his

purchase of the property in Mansfield. He also had an

appointment in Leicester later on in the day.

"Within 20 minutes of Mark Weaver leaving, Denis O'Connor

telephoned me and he mentioned that there was a 'letter

floating about' which had been produced outside the

mediation hearing last month.

"I said that I had seen Mark Weaver shortly before and told

him what had happened. Denis O'Connor wants to come and

see me. I have no particular problem in that, but there is

little I can say to him other than is set out in this note.

"Putting it bluntly, I am getting extremely fed up with the

whole issue, especially at having my name plastered all

over various Irish papers.

"In particular, at the UK notarial forum meeting last

month, the Irish notary representatives produced one of the

newspapers, and although it was in a fairly 'friendly 'way,

I did have to try and explain myself in front of the forum

committee consisting of 12 senior notaries from the UK.

Mark Weaver's phone number is " and so on.

The other document he enclosed was a letter of the 19th

February, 2002, which he, Mr. Vaughan, had written to

Mr. Aidan Phelan.

It's "Aidan Phelan, AP Consulting, 16 Clanwilliam Terrace,  
Grand Canal Quay, Dublin 2, Ireland,

"19 February, 2002.

"Dear Aidan,

"Re: Doncaster Rovers.

"On Monday lunchtime 18th February at 1:45pm our  
receptionist telephoned me to say that a person called Mark  
Weaver was in our reception, and if I had a few minutes to  
spare him, he would like to talk to me. She then added it  
was Mark Weaver formerly of Doncaster Rovers Football Club.

"He had no appointment and I had neither met or spoken to  
him before, but I thought it would be interesting to speak  
to him.

"I then spoke to Mark Weaver for about 20 minutes alone.

"He wanted to talk about Doncaster Rovers Football Club,  
the current court action between Westferry and Richardson  
and Kevin Phelan.

"At the end of the meeting, I discovered that he was  
apparently en route to Milton Keynes to talk to someone  
called Kerry Dixon who I think used to play for Chelsea,  
about football in Milton Keynes. It would appear,  
therefore, that he had not made a special journey to come  
and see me.

"Even as I dictate this letter, I am not totally sure why  
he did come and see me, save that I think he wants to try  
and arrange for a meeting between what he refers to as 'his  
side' of the court action relating to the  $\frac{1}{2}$ 250,000

retention money, to take place with your side to see if there is any way that this matter can be resolved, as the costs are becoming unrealistic.

"I explained to him that I no longer had any involvement in the court action whatsoever and had no knowledge of it at all, other than that Peter Carter Ruck & Partners were acting on behalf of Westferry.

"I said that, so far as I was aware, Craig Tallents was the right person to discuss this proposal with, to which he replied that he had met Craig at Leicester Forest East Service Station once and Craig had a totally unrealistic view of what the claim was all about and the instructions that Craig had received were totally wrong and misguided, and in any way, Craig had been sacked (apparently?).

"Mark Weaver then produced to me a letter dated 23rd August, 1998, which was written by me to Paul May and Kevin Phelan, with a copy to yourself, setting out the situation after the completion of the purchase of DRFC by Westferry. That letter also contains the paragraph from me suggesting that Westferry reduce itself to a shell so as to avoid having to pay £250,000 to Mr. Richardson. That paragraph had been highlighted in the letter with ink crosses in the margins.

"I asked Mark Weaver where the letter had come from and he told me that it had been sent to him anonymously, together with another letter which he was not prepared to show me. He said it was up to me to form my own conclusions as to



who had sent the letters to him. I said that this was a confidential letter to my clients and he should not have a copy of it at all.

"He then said that he assumed that the two letters had come from Kevin Phelan. He then went on to explain that he did not know on whose side Kevin Phelan was in the court action. Apparently, Peter Carter-Ruck and Partners have named him as a witness for Westferry, but then he hinted that Kevin Phelan had been assisting them with the court case.

"He then said that he must have met Kevin Phelan 200-plus times during the last three years and always found him very difficult to follow as to whether he was telling the truth or not about a particular set of facts.

"I then asked him to confirm that he had not been sent to talk to me by Kevin Phelan and he said that he quite definitely had not.

"Up to that point, I felt that Mark Weaver's reasons to come to see me were quite genuine and that he wanted to see some form of meaningful dialogue to resolve the current court proceedings between Richardson and Westferry, which both sides were finding difficult because of the presence of Kevin Phelan, and the escalating costs.

"Mark Weaver then went on to say some things which then made me wonder whether he had actually been sent to see me by Kevin Phelan to try and put some pressure on you and your colleagues in Ireland. The points that he mentioned

were as follows:

"1. He told me that he had only received a copy of my letter of the 23rd August, 1998, on Monday last, 11th February, 2002, yet he then told me that he had shown it to Reg Ashworth who had told him that it was interesting to read but it was actually inadmissible as evidence. I am not a litigation lawyer, but I had assumed that it would be inadmissible as it is a private letter from me to my clients.

"He then went on to say that their barrister had looked at the letter and said that Richardson could launch a private prosecution against Paul May and Kevin Phelan because they had suggested in the letter a fraud to deprive Richardson of the  $\frac{1}{2}$ 250,000 which was rightfully his. This statement simply did not ring true. I had previously stressed to him that I had no involvement whatsoever in the Westferry/Richardson court case.

"However, he seemed to know that I still acted for Paul May, and now I wonder whether the statement about their barrister stating that a private prosecution for fraud could be launched was meant to send me off to Paul May, who is a current client of mine, to ask him to put some sort of pressure on?

"I have not spoken to or discussed this matter with Paul May and currently have no intention of so doing.

"He then said that a reporter from The Irish Times called Callum Keena had recently tracked him down to his home in

Stockport and asked him a lot of questions about Michael Lowry. Mark Weaver told me that he told this reporter that he had never ever heard of Michael Lowry, and that, so far as he was aware, Michael Lowry had absolutely nothing to do with DRFC.

"He then went on to say the same reporter had also spoken to Reg Ashworth, who apparently was non-committal.

"Mark Weaver then went on to talk about the other letter that had also been sent to him anonymously, and which he would not show me, but which, apparently, was written by me, and indicated that Michael Lowry was involved in DRFC, and that both letters, the one of the 23rd August, 1998, and the one that I did not see, were in the possession of Callum Keena, amongst other documents, and that the reporter was trying to make out some sort of case to prove that Michael Lowry had lied on oath at the Tribunal about his involvement in DRFC.

"3. He then said that Callum Keena had told him about the Walbrook Trust (a name I have never heard before) which apparently connected Michael Lowry to DRFC. There was no comment I could make on this as I simply had no knowledge.

"It seemed to me that Mark Weaver, whom I had always understood to be a football manager of rather modest ability and Mr. Richardson's 'chief runner', had suddenly become incredibly well-informed about the Moriarty Tribunal. He also spoke about Denis O'Brien and the fact that he now knew that he was the owner of DRFC and that he

would not want to be involved in any form of litigation.

"We then talked a little more about the £250,000, which was, of course, payment for the missing car-park lease. He said that there was no underhand dealing whatsoever by Richardson. It was the Council who had hidden the existence of the lease, which I found rather hard to believe.

"He obviously finds Kevin Phelan an extremely difficult person to get on with, who was very volatile in his views and behaviour and, interestingly enough, told me that Kevin had telephoned him no less than four times on Christmas Eve ranting and raving about not being paid by Richardson.

"I did not tell him that he had also tried to telephone me on Christmas Eve.

"I do not really know what you are going to do with the information contained in this letter, but obviously I have to report it to you.

"My initial thoughts were that Mark Weaver was a perfectly genuine individual who was trying to help Richardson in the court action and happened to be passing through Northampton at lunchtime and thought it would be a good idea to come and find me with a view to suggesting some sort of meeting between the two sides in the litigation over the £250,000.

"On the other hand, I found his knowledge of the Moriarty Tribunal and the veiled threats to Michael Lowry in that Callum Keena had a lot of information which the tribunal would be interested in and suggesting that there could be

some form of private prosecution against Paul May to be slightly threatening.

"On balance, I think it is more than likely that Kevin Phelan was somehow behind this visit than not."

Now, in the letter that Mr. Vaughan wrote to Mr. Vanderpump of the 23rd, he states, and this was at a time when the issues concerning Mr. Lowry's potential connection, or at least reference to his potential connection to the Doncaster transaction were in profile, that Mr. Kevin Phelan maintained to him, or had maintained to him that he was the beneficial owner of a trust called Glebe Trust, and also, that he had a beneficial interest in Westferry.

There seems to be no doubt that he was the owner of Westferry at the time, inasmuch as ultimately, in the conclusion of the acquisition of the Doncaster premises by Westferry, he transmitted the ownership of Westferry from Glebe Trust to the O'Brien interests. The important part of this letter, insofar as inquiries need to be pursued by the Tribunal are concerned, is Mr. Vaughan's clear statement that he was sure that Mr. Kevin Phelan had made representations to him to the effect that Michael Lowry was involved in the Glebe Trust.

Now, the second letter, which apparently was not sent but from which Mr. Vaughan it appears does not resile, is in the following terms, and I say it's the second letter in fact, it's an earlier letter in date. It's dated the 21st October, 2002.

It's as follows:

"Dear Mr. Vanderpump,

"Re: Westferry Limited/Doncaster Rovers Football Club Limited.

"Thank you for your letter of the 17th October. I now fully understand the structure of Westferry Limited as set out in your letter.

"You should be aware that I do not have any of the documentation relating to the acquisition of DRFC by Westferry save for the original lease and and some copies of various property documentation. However, I am quite positive in my mind that Kevin Phelan represented himself on a number of occasions as having an interest in Westferry Limited, and you will no doubt recall that he was maintaining that situation in August 2001. I now understand that Kevin Phelan did not have any interest in Westferry whatsoever.

"I do, however, enclose a copy of a letter from me to Michael Lowry dated 25th September, 1998, together with a file note as to how that letter came into my possession.

"What I can state quite categorically is that before I met Michael Lowry for the first time on the 24th September, I had absolutely no knowledge that he might have been involved in the acquisition of DRFC, and you will see that in that letter I explained to him some of the future problems facing the acquisition of the club, and with the thought that he might have some influence, I set them out

in that letter. Suffice it to say that none of these matters were resolved by Michael Lowry.

"I do not think that I misunderstood his comments to me that he was involved in DRFC, but, in hindsight, I must put it down to some sort of political ego that he was trying to attach his name to what appeared to be a successful venture.

"I would, however, reiterate that, so far as I was aware, throughout the whole of the negotiations with the DRFC acquisition, Michael Lowry was never ever involved in giving me any instructions.

"I am not sure whether you are aware, but in October/November 1998 I was sacked by Kevin Phelan from having any further involvement in the matter, as he had instructed other solicitors, Messrs Betesh Fox in Manchester.

"At a later date, sometime in early 1999, I was reinstructed to try and sort out various matters as Betesh Fox and Kevin Phelan had fallen out.

"I hope this explains my position."

The only really significant passage in that letter, and one that would warrant further inquiry, is Mr. Vaughan's statement concerning his state of mind in September of 1998, where he states that he did not misunderstand the comments made to him to the effect that Mr. Lowry was involved in the Doncaster Rovers project. And we know from other documentation, to which I won't refer in detail, that

he has reiterated that position, saying that the impression he formed in 1998 was based on what he was then told, and his subsequent view that Mr. Lowry was not involved was based on subsequent instructions from his clients.

The last document I want to refer to was made available to the Tribunal from the file of Mr. Christopher Vaughan and contains a draft with his own manuscript annotation of a draft witness statement prepared for him by Messrs Peter Carter-Ruck, Solicitors, in connection with their handling of a complaint by Mr. Denis O'Brien Senior to the City of London Police containing a complaint of blackmail against Messrs Mark Weaver and Ken Richardson.

The complaint essentially was that Messrs Richardson and Weaver had threatened to release to the Irish press, to this Tribunal and to certain telephone companies concerned in a legal action against the Irish Government, information prejudicial to Mr. Denis O'Brien Senior and his son. I don't intend to refer to this draft statement in full, but merely to one or two portions of it.

In his statement, Mr. Vaughan referred to a visit he had received from Mr. Mark Weaver in October 2002, I think the visit that I referred to a moment ago when I opened Mr. Vaughan's memorandum of his dealings with Mr. Mark Weaver on that day in October 2002.

At paragraph 37, he states: "I find Mark Weaver generally extremely hard to understand, and this was particularly true on this occasion. It was very difficult to pin down



exactly what he was trying to say." I think this is reflected to some extent in Mr. Vaughan's own memorandum.

Paragraph 38: "He came into my office and then produced to me a fax copy on heat-sensitive fax-paper of a letter from myself to Michael Lowry dated 25 September, 1998. A photocopy of the fax copy is the document which I have exhibited already at pages 10 to 11 of Exhibit CJV1. I took a photocopy of the letter on the 18 October, 2002, before Mark Weaver left the office with the fax copy.

"39. He said that this letter had been sent to him by fax anonymously a little after midnight on the 26th July, 2002, at his home address.

Mr. Vaughan, later on in his statement at paragraphs 44, 45 and 46, refers to a telephone call he received from Mr. Denis O'Connor.

He says at paragraph 45: "Twenty minutes after Mark Weaver left, I received a telephone call from Denis O'Connor, Michael Lowry's accountant, who mentioned that there was 'a letter floating about' which had been produced outside the mediation hearing last month.

"46. I told Denis O'Connor that Mark Weaver had been to see me shortly before Denis O'Connor's telephone call and about what had happened. Denis O'Connor then said that he wanted to come and see me. This meeting took place on Wednesday, 23 October, 2002. I gave Denis O'Connor copies of my file note of my meeting with Mark Weaver on Friday, 18 October, 2002, and of the photocopy I had taken of the

faxed copy of my letter to Michael Lowry of 25th September, 1998. A copy of my file note appears at pages 17 to 20 of C, JV1."

If what is contained in Mr. Vaughan's draft statement is correct, and the annotations on that last paragraph in which the paragraph is ticked seems to suggest that he has no difficulty with the content of the paragraph, it would seem to follow that Mr. Denis O'Connor must have had a copy of Mr. Vaughan's letter of the 25th September, 1998, at the very latest by the 23rd October, 2002, which would be some considerable time in advance of the statements he made at the time of the publication of The Irish Times article by Mr. Colm Keena at the beginning of January 2003.

It would also appear that he was in possession, at that stage, of Mr. Vaughan's memorandum of his meeting with Mr. Mark Weaver, and, as far as the Tribunal is aware, no attempt has been made, or had been made, to make any of those documents available to the Tribunal in advance of The Irish Times article or at least in advance of Mr. Keena's telephone call which was made some day or days before he published his article.

As I mentioned at the conclusion of the Opening Statement I made in September 2004, one of the matters the Tribunal will wish to understand or to examine is the role of and the extent of the role of Mr. Denis O'Connor in matters which appear to involve Westferry and Mr. Kevin Phelan, and also, to some degree, Messrs Weaver and Richardson, and to

what extent, if Messrs Woodcock's letter is a correct account of events, if any, Mr. Michael Lowry himself may be involved in some of those events.

The Tribunal will also wish to ascertain from the various individuals connected with the documents which I have mentioned, their knowledge of the role of Mr. Lowry, if any, or of Mr. Denis O'Connor, if any, in connection with the matters referred to in those documents, and they would include, obviously, Mr. Aidan Phelan, Mr. Vanderpump, Mr. O'Connor himself, Mr. Lowry himself, Mr. Christopher Vaughan, Ms. Ruth Collard.

There is one further matter that the Tribunal is still in the course of examining, and that concerns material sought by the Tribunal in the course of the litigation that I have mentioned earlier, concerning the handling by Peter Carter Ruck of a complaint to the City of London Police. That litigation was, as I have already stated, instituted in the High Court initially, and while those High Court proceedings were in train, and I think partly while Supreme Court proceedings by way of appeal from the High Court were in train, the Tribunal was endeavouring to obtain access to documentation, but this was resisted on the grounds that documentation connected with the complaint should not be provided to the Tribunal on the grounds that the solicitors handling the complaint felt that the complaint could be prejudiced, and this the Tribunal accepted.

As time wore on, the Tribunal, for reasons which I won't go

into in detail at this stage, sought access to this documentation, and was again informed that the English solicitors handling the complaint had a concern that if the documentation was made available, this could be to the prejudice of the complaint and, what is more, that the concern of the English solicitors was shared by the City of London Police. And, again, the Tribunal accepted that view, not wishing to interfere with a police matter. Subsequently, the Tribunal's own inquiries with the police disclosed that the police appeared to have no such concern, and, since then, the Tribunal has been endeavouring to establish how a suggestion, or how a statement could have been made to the effect that the City of London Police had a concern concerning the disclosure of documents which did ultimately prove to be of assistance to the Tribunal in conducting its inquiries and which are still being provided, I may add, on foot of further correspondence.

The first witness will be tomorrow, sir. That concludes the Opening Statement.

CHAIRMAN: Eleven o'clock. Very good. Thank you very much.

THE TRIBUNAL ADJOURNED UNTIL THE FOLLOWING DAY, THE 1ST OF MARCH, 2007, AT 11 A.M.