

THE TRIBUNAL RESUMED ON THE 16TH MARCH, 2007, AS FOLLOWS:

MR. HEALY: Mr. Denis O'Connor, please.

DENIS O'CONNOR, PREVIOUSLY SWORN, WAS EXAMINED BY MR. HEALY
AS FOLLOWS:

Q. MR. HEALY: Thank you, Mr. O'Connor. I see that you have
two books with you. Are they similar to the books I have?

A. I presume they are, Mr. Healy. They are books 28207/82/81,
documents 140 to 145.

Q. Do you have Book 62? You probably have a book you have
two books of documents with no statements in them; is that
right?

A. That's correct, yes.

Q. Well, you will recall from your previous experience in the
witness box, that what I would propose to do is to go
through the memoranda of information you have provided and
then we'll look at the documents.

A. That's correct.

Q. I'll just get you a copy of them so you can follow me as I
am going through the Memorandum of Information.

Q. So I am at Book 62, Leaf 6A.

A. Correct.

Q. And have you got that? And the first document I want to
refer to, then, is a Memorandum of Information provided by
Mr. Denis O'Connor, dated 17th June, 2004. You have
provided the Tribunal with the following information in
response to queries raised by the Tribunal. And the way
it's laid out is the queries are set out first and then the

responses are set out afterwards in bolded type.

Number 1, and the heading is: "Visit of Mr. O'Connor to the UK in late summer 2001."

Question 1. The purpose for which you visited the UK in late summer 2001 and met with Mr. Kevin Phelan.

Question 1B: The person by whom the visit was suggested.

Question 1C. The person who arranged the visit.

Question 1D: The individuals with whom you met in the course of the visit.

And the answer to questions 1A, B, C and D is as follows:

In the course of some general discussion with Michael Lowry, you suggested to Mr. Lowry that it would be a useful exercise for him to carry out an inspection of the property interests of himself, Mr. Lowry, in the UK, and Mr. Lowry readily agreed. Mr. Lowry put you in contact with Kevin Phelan and, as a result, on the day of the visit, you met with Kevin Phelan at Manchester Airport. Kevin Phelan would have been aware that you represented clients other than Michael Lowry who had extensive property interests in the UK and it was understood by Kevin Phelan, and indeed by you, that matters during the visit were not solely in relation to Michael Lowry's affairs, but was more in the nature of a fact-finding mission in relation to property generally in the UK.

Subsequent to the visit, you would have reported to Michael Lowry as to what you had seen and your impressions in relation to the various properties shown to you.

Number 2, and the heading is "Your involvement in relation to the dispute between Dinard Limited and Westferry Limited in August/September 2002."

And again, this is broken down into separate queries, A to F.

A: Details of any dealings you had with Mr. Craig Tallents or any other person prior to 4th September, 2002, leading to the arrangements for a meeting at the offices of Peter Carter-Ruck & Partners fixed for 2 p.m. on the 10th September, 2002.

B: The person by whom the meeting was requested.

C: The person to whom the request for the meeting was addressed.

D: Whether Mr. Michael Lowry was aware that you were proposing to attend such a meeting.

E: Details of your understanding of the purpose of the meeting.

F: Whether, to your knowledge, Mr. Lowry was aware of the purpose for which you were attending the meeting.

And you answer your answer is a composite answer to A, B, C, D, E, F.

And your recall is that you did not have any dealings with Mr. Tallents prior to the meeting. Your recall is that the meeting was requested by Denis O'Brien Senior who authorised the meeting and effectively arranged for the parties to meet. Mr. Lowry would not have been aware of the meeting and had no involvement. Your understanding of

the purpose of the meeting was to examine the facts in relation to a dispute over retention funds and see what might best be done to resolve an impasse which had arisen.

Then question 2G: A full account of your dealings with Mr. John Ryall or any other person in connection with the matters referred to in an email from Mr. Ryall to Ms. Ruth Collard of Peter Carter-Ruck, Solicitors, dated the 3rd September, 2002.

And just so that the question will be clear, perhaps I should read out the email which is contained in book it's in the same book at sub-divider B. It's on the monitor, as well; it might be just as easy to follow.

A. I have found it, Mr. Healy.

Q. It's from John Ryall at Communicorp to Ruth Collard, Peter Carter-Ruck, dated 3rd September, 2002, roughly half past one.

"Meeting with Craig Tallents and Denis O'Connor."

"Dear Ruth,

"I understand from Craig that he has scheduled a meeting for next Tuesday between Denis O'Connor, you and Craig with a view to progressing the retention issue. Denis O'Connor is not representing either Westferry or Dinard but may be able to assist in resolving matters. I have requested the directors of Westferry to authorise you to attend the meeting with Mr. O'Connor and to discuss matters in relation to the retention amounts. You should receive this authorisation either later this afternoon or first thing

tomorrow."

And your response is that you did not know Mr. Ryall at the relevant time and did not know about the email referred to, and your recall is that you would not have informed Mr. Lowry of these matters.

Next heading is heading 3, and it's as follows:

"Attendance of Ms. Ruth Collard on Mr. O'Connor and Mr. Craig Tallents dated 10th September 2002."

There are two questions, A and B.

A: Whether Mr. O'Connor agrees that the extract from the attendance that 'he had been trying to sort out on Denis O'Brien's behalf the position with Kevin Phelan' is a correct note of what Mr. O'Connor said or the effect of what he intimated to Ms. Collard, and if so, please indicate whether the reference to 'Denis O'Brien' is a reference to Mr. Denis O'Brien Senior or to his son, Mr. Denis O'Brien.

B: Details of what is meant by Mr. O'Connor's 'trying to sort out on Denis O'Brien's behalf the position with Kevin Phelan'.

And the answer to items 3A and B is as follows:

Mr. O'Connor has informed the Tribunal that there clearly is a misunderstanding as to certain matters recorded in the attendance note of Ruth Collard. The reference to Denis O'Brien is at all times Denis O'Brien Senior. You were generally aware that there was some friction between Denis O'Brien Senior and Kevin Phelan in relation to fees, but

you had no direct involvement other than that you were aware of a situation.

Question C is the next question, and it's as follows:

Whether you agree that the extract which follows from Ms. Collard's attendance is a correct note of what you said or of the effect of what you intimated to Ms. Collard, that is to say 'DOC had represented someone who had been in partnership with KP and KP had made trouble for him at the same time. In discussions with KP, he had mentioned the litigation and the position with the retention fund. At one point KP had told him that he had spoken to Mark Weaver who had said that 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 DOC said he had no idea. DOC 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. KP had made various threats to cause trouble for Michael Lowry.'

And your response at C is that you have informed the Tribunal that there was an overall discussion which was in general terms and various matters were raised. Your recall is that the conversation was not very specific but dealt generally with various matters.

Then the queries go on. In relation to the above extract,

the Tribunal requested certain specific information:

1: The identity of the individual who had been in partnership with Kevin Phelan and the subject matter of the partnership.

And your response is that your understanding and assumption is that this is a reference to Vineacre.

And I take it that are you suggesting that Michael Lowry was the person that was in partnership then? I am not quite clear on that.

A. In that particular in the response to that question?

Q. Yeah, the identity of the individual who had been in partnership with Kevin Phelan and the subject matter of the partnership, and you say your understanding and assumption, that this is a reference to Vineacre. Do you want to go back to the actual passage itself, do you?

A. No, I actually because I looked at the passage. The reference in Ms. Collard's note to Kevin or KP, or whatever, in partnership, that reference doesn't ring true to me because, like, KP, to my knowledge, was never really in partnership with anyone. That throws me a bit, that reference.

Q. All right. Well, when you refer to Vineacre, that's a property that Michael Lowry had an interest in, isn't that right, and that Kevin Phelan was had sourced for him; isn't that right?

A. Yeah, with the addition that there was somebody else involved.

Q. That's correct. There were other people involved. So Michael Lowry was in partnership with other people in relation to Vineacre?

A. Correct.

Q. And that is probably what you are referring to, is that right, if you mentioned it?

A. That's the very important point: If I mentioned it. I am having difficulty with it as I read it there as an extract from Ms. Collard's notes. It wouldn't be something that would be significant to me. In other words, "partnership," that's the word that throws me.

Q. Okay. The next query is a full account of what was meant by the suggestion that "Mr. KP had made trouble" for that individual. And you say you have no idea as to what that means.

The next query is Query Number 3, a detailed account of what "discussions with KP" took place, including the precise date or the approximate date of and full details of any such discussion.

And you say or the response is "Mr. O'Connor is not clear as to what Ruth Collard is referring to, but accepts that he would have had such a discussion with Kevin Phelan during the course of his investigative trip to properties with Kevin Phelan in the UK."

Next query is number 4: Full details of "the various threats" made to Kevin Phelan to cause trouble for Mr. Michael Lowry, indicating to whom the threats were

made, the nature of the threats and the precise or approximate dates on which the threats were made.

And your response is: Mr. O'Connor is not sure what the author is referring to and feels that there must be some misunderstanding.

Query 3D: Please indicate whether Mr. O'Connor agrees that the following extract from Ms. Collard's attendance is a correct note of what he said or of the effect of what he intimated to Ms. Collard.

"DOC said he had discussed the position with DOB and learned about the mediation which was to take place. DOB said to Denis O'Connor that the Mediator would impose a binding agreement on the parties. DOC said, when he had said this to KP, KP had said this was not correct and had telephoned MW, who had sent a fax through of part of the mediation document. Denis O'Connor said it was clear from this that the Mediator would not impose this decision, RC said this was correct and was the essence of mediation."

The answer to 3D is as follows: "Mr. O'Connor's recall is that the above extract does not accurately reflect the position. Mr. O'Connor knew that Denis O'Brien Senior had explained the process to Mr. O'Connor in an earlier conversation and also accepts that Kevin Phelan had mentioned his understanding of the matter and it may well be that Mr. O'Connor recounted some of these observations."

The memorandum goes on: In relation to the above extract, the Tribunal has sought the following information:

1. Full details of the discussions Mr. O'Connor had with Mr. O'Brien in which he apparently discussed the position and learned about the mediation.

And the response to A3D1 is: "Mr. O'Connor recalls meeting with Denis O'Brien Senior at Mr. O'Brien's office and having a general discussion in the course of which Mr. O'Brien would have mentioned the details referred to."

Next, you were asked for details of Mr. O'Connor's discussions with Kevin Phelan, including the occasion of such discussions.

And your response is: "Mr. O'Connor has not spoken to Kevin Phelan since 2002. If such discussion happened, he cannot recall the details and his understanding is that the fax reference could be to a fax being received by Kevin Phelan."

The next query is as follows:

Query 3: Whether Mr. O'Connor agrees that the following extract from Ms. Collard's attendance is a correct note of what he said or of the effect of what he intimated to Ms. Collard, that is to say "DOC said the upshot of all his discussions" I am sorry "DOC said the upshot of all his discussions with DOB and KP 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. DOC said, from all he had heard, if his discussions with KR and MW 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 DOB and for others, including ML. RC asked how they could cause any embarrassment to ML as, so far as she was aware, he had no connection with the proceedings. DOC said that ML did have a connection and that he had been in the room when discussions had taken place between KP and KR regarding the lease. RC said no one had ever suggested that to her previously."

And the response to the query is: "Mr. O'Connor has informed the Tribunal that there clearly is a considerable misunderstanding. He believes that he would not have made the statement recorded attributed to him as he never understood that Michael Lowry had any involvement with Doncaster and, furthermore, he does not believe that Mr. Lowry was ever present at any meeting as between Kevin Phelan and Ken Richardson and, indeed, Michael Lowry has, on more than one occasion, has confirmed to Denis O'Connor that he has never even met Ken Richardson."

In relation to the above extract, the Tribunal sought specific information. Firstly, full details of the discussions between Mr. O'Connor and Mr. Denis O'Brien and Mr. Kevin Phelan, indicating precisely who had requested that he meet with Ken Richardson and Mark Weaver.

And your response is: "Mr. O'Connor's recall is that Kevin

Phelan had requested such a meeting."

2. Full details of the statement that they, i.e. Ken Richardson and Mark Weaver, wanted to cause maximum embarrassment for Denis O'Brien and others, naming the others, including Michael Lowry.

And your response is: "It is Mr. O'Connor's understanding that there was ongoing commercial dispute which had become very bitter and that some of the parties were prepared to go to any lengths to achieve their objectives."

The next query is as follows: A full explanation of Mr. Lowry's apparent connection to the proceedings and specifically provide a detailed account of the statement that Mr. Lowry had apparently been in the room when discussions had taken place between Kevin Phelan and Ken Richardson regarding the lease and specifically

1. The nature of the discussions and the identity of each and every person present; the place at which the discussions took place; the circumstances in which the discussions took place and by whom the meeting was arranged and for what purpose; whether Mr. Michael Lowry was aware of all of Mr. O'Connor's discussions with Mr. Denis O'Brien and Mr. Kevin Phelan; and of his arrangements to meet and of his meetings with Mr. Ken Richardson and Mr. Mark Weaver, and, if not aware of all of them, the identity of those of which he was aware; lastly, whether Mr. Lowry was provided with a report of the result of any of these discussions.

And your response is: Mr. O'Connor has informed the Tribunal that this is simply not correct or accurate and that it is your belief and understanding that the matters suggested are simply not true.

The next query is: Whether the following extract from the attendance of Ms. Collard is a correct note of what Mr. O'Connor said to Ms. Collard or of the effect of what he intimated to Ms. Collard. That's to say, 'DOC said that one good thing was that KP could now be a witness for us'.

"In relation to the above extract, a full explanation of what was meant by this statement and how Mr. O'Connor came to be aware that Mr. Phelan would be a witness for the purchasers, Westferry Limited."

And the response is: "Mr. O'Connor has informed the Tribunal that he has no idea as to what this is about."

The next item the next heading is heading 4:

"Letter from Ms. Ruth Collard to Mr. John Ryall dated 17th September, 2002." It's Tab D at 62/6. So it's 62/6D.

It's on the monitor, as well.

It's from Peter Carter-Ruck, dated 17th September, 2002, addressed to Mr. John Ryall, 6th Floor, Grand Canal, Dublin 2, Ireland.

Now, this letter has been read out a few times. I am going to read it quickly. If you want me to slow down, tell me.

"Dear John,

"Westferry Limited versus Dinard Trading Limited.

"I write further to our telephone conversation yesterday

evening.

"As you are aware, I was extremely concerned about what you told me regarding Denis O'Connor. I had understood from you that Mr. O'Connor was acting in negotiations with the claimants as your representative. This is the basis upon which both Craig Tallents and I went into the meeting with Mr. O'Connor and I am sure Craig would agree with me that, during the meeting, Mr. O'Connor also represented his position in this way. Given this, to learn that he is not in fact your representative and that, indeed, you do not know what 'he is getting out of this' causes me to have grave doubts about allowing him to go forward to a discussion with the claimants.

"Craig and I were both candid with Mr. O'Connor regarding the issues and your prospects of success. While I made clear to him that what I told him was confidential and not to be disclosed to the other side, I now wonder whether I should doubt his reassurances in this regard. Some of the information would undoubtedly be damaging tactically if disclosed to the other side, for example that we have previously discussed making a payment into court and that we are likely to discuss this again after the mediation.

If this comes to the claimants' attention after the mediation, it will reduce their incentive to settle then as they may consider that they would be better off waiting to see what level of payment in might be made afterwards. If I was representing them, I might well advise them in this

way.

"The other concern which I have about the proposed meeting is that it should take place under the protection of 'without prejudice' negotiations. I raised this with Mr. O'Connor at our meeting and also in an email yesterday. Attached to this letter are copies of a fax he sent me last week and our subsequent exchange of email. As you will see, I believe that it should be agreed in writing before the meeting that it will take place on a 'without prejudice' basis. The importance of this is that what is said at the meeting cannot then be used against you in the future in the litigation. This protection would apply to the mediation and is designed to encourage parties to be as open as possible during negotiations. If negotiations take place without this in place, any concession suggested by Mr. O'Connor could then be used against you and we could find ourselves with an application to strike out various parts of your Defence. There is a further difficulty with this, however, in that if Mr. O'Connor is not in fact acting as your representative, it is questionable whether the protection of without prejudice can in fact apply to negotiations when these are not between the parties to the litigation.

"In the circumstances, my preference would be for the proposed meeting involving Denis O'Connor not to go ahead due to the concerns I have outlined above. If you wish it to continue, I would advise the following:

"1. That steps are taken to clarify with Mr. O'Connor precisely what he sees as his role and what he hopes to attain himself as a result.

"2. That he undertakes not to disclose to the defendants any confidential information or make any concessions whatever purportedly on your behalf regarding the litigation. His role would be simply to find out what the other side might be prepared to settle for. I would suggest that such an undertaking should be in writing.

"3. That he agrees with the claimants in writing before the meeting that this is to be on a without prejudice basis.

"I am sorry to be so negative about the position with Mr. O'Connor as he may be a person through whom a settlement can be achieved. As you know, this is something which I have considered is desirable since the inception of the litigation, but it is only recently, despite previous efforts, that we have been able to progress in relation to this by setting up the mediation. I am, however, concerned by recent developments as set out above.

"If there is anything you would like to discuss arising out of the above, please do not hesitate to telephone me."

And your response is the question, rather, is: Details of all discussions between you and Mr. Ryall as apparently referred to in the letter.

And you say that you have informed the Tribunal that you had not at that point in time even heard of or met

Mr. Ryall. In later times, you heard his name.

The next item is headed "Attendance of Ms. Ruth Collard on John Ryall. Dated 16th September, 2002."

This is Tab F. I don't think I need read out the entire document, which is an attendance note of Ruth Collard on a call she had received from Craig Tallents who was at that time in Dublin Airport on his way back to the UK. In that, in the first paragraph of that attendance note, referring to Craig Tallents, he says or she says: "He needed to speak to Ruth Collard about Denis O'Connor. He had learned that Denis O'Connor was not, as he and Ruth Collard had understood, acting for the O'Briens. In fact, the clients had asked him what he thought Denis O'Connor was trying to get out of the whole thing. Craig Tallents said his response had been to the effect that he presumed they were paying Denis O'Connor and they had said that they were not."

And your response: That you have no idea what this is about.

The next heading refers to a copy fax from you to Ms. Ruth Collard and Mr. Craig Tallents. It's in the book in the second of the two large books of documents at Leaf 110. I don't think I need to go into the whole document in detail at this point. It refers to a meeting you had had on the previous day with Ruth Collard and Craig Tallents and it encloses a lot of calculations, a lot of workings on various figures connected with Doncaster Rovers club and

the sale of the premises.

You say "Many thanks for meeting me on Tuesday afternoon.

As you will appreciate, I only examined the file for the first time on Tuesday night.

"Without doubt, the purchase agreement is difficult to follow as regards the lease payment. What I am having difficulty with is the apportionment of retention of $\frac{1}{2}$ 250,000 in the 3 funds and how it is meant to either flow from it or be lost.

"If it is in order, I am going to telephone Ruth to try and go through it again.

"Also, the whole position of the balance sheet is not easily followed.

"Either way, I attach various notes, comments and queries. Please don't take exception to any but any response would be welcome."

The query is:

A: Details of your meeting with either Ms. Collard and/or Mr. Tallents on the previous Tuesday afternoon as referred to in the fax.

B: The identity of all persons present at the meeting.

C: At whose initiative the meeting was set up.

D: Whether Mr. Michael Lowry was aware of the meeting, and, if so, from whom.

E: Whether Mr. Lowry was aware of the purpose of the meetings.

F: Whether reports of the meeting were made available to

Mr. Lowry.

And your response is a composite one to Query Number 6A, B, C, D, E, F, and it's as follows:

"Mr. O'Connor called in the afternoon and had a brief discussion on the dispute and stated that he would merely check the figures and comment on them. Ms. Collard and Mr. Tallents were present. The meeting was set up at the initiative of Mr. Denis O'Brien Senior. Mr. Lowry would not have been aware of the meeting or its purpose" and the matter was not reported on by you to Mr. Lowry.

Do you recall I might just try and clarify this point at this stage how long, in total, you were in Ruth Collard's office that afternoon?

A. I don't recall, but if you want me to take a guess at it, if it's of assistance, I will.

Q. Have a guess if you want, yes.

A. I would say that, when I arrived, I was left waiting for, kind of, ten minutes in reception and my guess would be 30, 40 minutes after that, and then, as I explained to you previously, I went for a coffee while they copied the file, and I returned and got that, but that literally took a minute, because it was in reception.

Q. Right. That's so, in total, you were in a meeting with Ruth Collard and Craig Tallents, you think, just working backwards, is that right, 30 to 40 minutes?

A. It's very hard to recall six years ago, but that's the way it has always rung to me, as a very brief meeting, yeah.

Q. It's four years ago, isn't it?

A. Is it four years ago?

Q. At the time that you were writing this, it was two years before the time that you wrote this response.

A. But you are asking me about something that happened I think in 2002, which, in fact, is five years ago, nearly. Sorry about that

Q. But at the time that you wrote this, this response that you provided the Tribunal was in June 2004, which is about 20 months afterwards. And you just called it a brief discussion. I was just wondering

A. Sorry, my memory recall of it is not crystal clear, but I have given you my best estimate of it.

Q. Thank you. The next item is headed "Letters of the 4th September 2002 and the 11th September 2002, part of which have been sent by Mr. Mark Weaver to you."

And your response: That you had no recollection of receiving such letters.

The next item is a number of general queries.

Item 8: "Details of all dealings which you had with any of the following individuals in connection with your involvement in the Doncaster Rovers Football Club project:

1. Mr. Denis O'Brien.
2. Mr. Denis O'Brien Senior."

And I think the next, your response is "Only to the extent outlined, which was a narrow period of spring 2002 to, say, September 2002."

"3. Mr. David Sykes."

You are not aware who this person is.

"4. Mr. John Ryall."

"None."

"5: Mr. Paul May."

"None."

"6. Mr. Christopher Vaughan."

"None."

"7. Mr. Aidan Phelan."

"None."

"8. Mr. Kevin Phelan."

And your response is: "As outlined previously, the first reference would be on the trip to the UK when inspecting various properties when you were brought to the site. The last reference would have been in the summer of 2002."

The ninth individual mentioned is Ms. Helen Malone, to which your response is "None."

And "Any other party involved in the transaction."

And your response is "None."

If you go on now to 6B, which is a supplemental Memorandum of Information which you provided on the 17th June, 2004.

It begins as follows:

"Mr. Denis O'Connor has provided the Tribunal with the following information in response to queries raised by the Tribunal regarding the following matters:

"Events in September of 1998."

You were asked for your knowledge, direct or indirect, of

Mr. Michael Lowry's visit to the UK or of meetings, contacts or dealings between Mr. Lowry and Mr. Christopher Vaughan and/or Mr. Kevin Phelan in September of 1998.

And your response is "none," no knowledge.

Next question is: If you were aware of such visit or any such meetings, contacts or dealings, either at that time or subsequently, details of your understanding of the purpose of such visit, meetings, contacts or dealings.

And your response is "None".

Next query is a request for details of all dealings between you and any person whatsoever in relation to Mr. Lowry's visit to the UK or any matter arising from that visit.

And your response is "None".

The next heading is "Dispute between Mr. Kevin Phelan and Westferry Limited and/or its representatives."

And you were asked for details of the dispute between Westferry Limited and Mr. Kevin Phelan, to include when the dispute arose and to what it related.

And your response is: "Mr. O'Connor was aware in a general way from Kevin Phelan that he had a fees dispute in relation to expenses and time spent on Doncaster."

And the next query is, requests details of your knowledge of when the dispute was resolved and the terms on which it was resolved.

And your answer is "None".

You were then asked, or you were queried for your knowledge of the dispute and whether, if the dispute if the

resolution of the dispute involved the making of any payment or compensation to or for the benefit of Mr. Kevin Phelan, the amount of such payment or compensation, the manner in which it was paid and the source or sources of funds which were utilised.

And your answer is "None".

You were then asked for details of your knowledge, direct or indirect, of the identity of the 'intermediary' to whom Mr. Denis O'Brien Senior apparently referred in his conversation with Ms. Ruth Collard on the 20th June 2002 as recorded in Ms. Collard's attendance of that date.

And your response is "None".

You were asked for details of the identity of all representatives of Westferry or persons in whatsoever capacity who were involved, directly or indirectly, in the resolution of the dispute with Mr. Kevin Phelan.

And your response is "None".

You were asked for details of your role, if any, in the resolution of the dispute.

And your response is "None".

And then you were asked in each instance, you were asked to identify the source or sources of your knowledge. And, of course, the answer, you have put it down here on this basis, is "not applicable".

Next, you were asked for details of dealings between you and Mr. Christopher Vaughan. And the first query is for details of all meetings, dealings or contacts between you

and Mr. Christopher Vaughan at any time.

And your response is: "Mr. O'Connor first met Mr. Vaughan in April 2001 at the Regency Hotel in Dublin Airport, as previously outlined to the Tribunal. He next met him in Manchester in late summer 2001. This was an attempt to get Mr. Vaughan to come to Dublin and give evidence to the Tribunal, which he declined. Mr. O'Connor, during the period referred to by the Tribunal, would have had telephone conversations with Mr. Vaughan and certainly recalls telephoning Mr. Vaughan around the Peter Carter-Ruck visit to ascertain some details on the lease issue."

The next question is as to the purpose of all such meetings, dealings or contacts. And the following query is as to the outcome of all such meetings, dealings or contacts.

And your response to each of them is to refer to the passage I have just read out when you have detailed your dealings with Mr. Vaughan.

The next query is as follows: In particular, whether Mr. O'Connor met Mr. Vaughan subsequent to 18th October, 2002, arising from a telephone conversation which Mr. Vaughan apparently had with Mr. O'Connor on that date, and, if so, the date of such meeting, the purpose of such meeting, the matters discussed, the result of the meeting and the details of any steps taken by Mr. O'Connor following such meeting."

And the answer is "No," meaning, presumably, no details, or none.

The next memorandum is in Leaf 6C, 62/6C. It's headed "Memorandum of Information provided by Mr. Denis O'Connor, dated 30th July, 2004."

"Mr. O'Connor has provided the Tribunal with the following information:

"1. Mr. O'Connor was never aware of any UK property transactions involving Mr. Michael Lowry until March 2001.

Until then, he had never met or heard of Mr. Christopher Vaughan or known anything about Cheadle, Mansfield or Vineacre Limited.

"2. Mr. O'Connor knew Mr. Kevin Phelan prior to 2001 in the context of UK property transactions, and Mr. Kevin Phelan knew of Mr. O'Connor's contacts who were involved in the UK property market.

"3. During 2001, probably in July or August, Mr. O'Connor became aware from Mr. Kevin Phelan on separate occasions of the Doncaster Rovers Football Club (DRFC) site. This knowledge arose through general chat and would have been limited to the following broad issues:

"(a) Mr. Aidan Phelan was exclusively in charge of and managing the project. At that time, Mr. O'Connor assumed that Mr. Aidan Phelan was the beneficial owner but never sought to clarify the issue.

(b) Mr. Kevin Phelan had sourced the site.

(c) The vendors were a Mr. Ken Richardson and a Mr. Mark

Weaver.

(d) The purchase was not completed fully in that there was a dispute and monies were held in retention at completion.

(e) The dispute had been acrimonious.

(f) Mr. Kevin Phelan was due monies, including a success bonus.

"4. Sometime subsequently in late summer, Mr. O'Connor travelled on behalf of Michael Lowry to Manchester specifically to meet Mr. Kevin Phelan as the latter had all the knowledge, specifications and potential on the Mansfield site, a Vineacre site in Wigan and possibly Cheadle for the purposes of physically inspecting and obtaining a clearer picture on Mansfield and where it was going.

"5. Mr. Kevin Phelan met Mr. O'Connor on his arrival and, on Mr. Phelan's suggestion, brought him initially to Cheadle, which he recalls is near Manchester Airport, and then to Mansfield. They spent some time looking at the Mansfield site and the nearby town. On the way to Wigan, Mr. Kevin Phelan suggested showing the DRFC site to Mr. O'Connor and explained the proposed relocation. The project was not of much interest to Mr. O'Connor.

Mr. O'Connor did not meet anyone else when viewing the DRFC site. They then proceeded to Wigan and spent a considerable time viewing that project.

"6. While at the DRFC site, Mr. Kevin Phelan referred extensively to the completion dispute with the vendors and

how it had created a poor impression locally. None of this was of particular significance to Mr. O'Connor, although he believes that he would have commented that the matter should be easily resolved if the issue related to specific items. Mr. Kevin Phelan also informed Mr. O'Connor that a stand in the football stadium had burnt to the ground, that somebody's mobile phone had been found at the scene and that someone had been convicted and jailed in connection with the incident. Mr. O'Connor considered all of this information interesting, but it was of little interest to him. During this meeting, Mr. Kevin Phelan outlined the roles of John Ryan, Chairman of the Football Club, Mark Weaver and Ken Richardson. Other names were mentioned which Mr. O'Connor cannot recall, and Mr. Kevin Phelan also reiterated that he was on a fee and success bonus.

Mr. O'Connor cannot recall the detail, but Mr. Phelan was very focused on it.

"7. Mr. Kevin Phelan gave Mr. O'Connor details of other UK properties which he appeared to be knowledgeable about, although he was not necessarily involved in those transactions. He was particularly anxious to pass on details of one site on the south coast of England to Mr. O'Connor's contacts. Mr. O'Connor cannot recall, but believes he may have been shown another site by Mr. Kevin Phelan.

"8. Mr. O'Connor recalls that perhaps in late 2001 or early 2002 a particular journalist asked Mr. Lowry's

solicitor whether he believed that Mr. Lowry was involved in the DRFC project. Mr. O'Connor can recall that he and Mr. Lowry's solicitor discussed the matter and then discussed it further with Mr. Lowry. They were both satisfied that the story was groundless and that some third party was seeking to create mischief.

"9. Mr. O'Connor first met Mr. Denis O'Brien Senior briefly at a social function in May 2000. He did not meet him again until the public sittings of the Tribunal when they would have chatted generally.

"10. Sometime in 2002, probably May or June, Mr. O'Brien Senior telephoned Mr. O'Connor, and, in the course of general conversation, he asked Mr. O'Connor how familiar he was with the DRFC project. Mr. O'Connor replied that he was not familiar with it and Mr. O'Brien Senior stated that 'I just want you to know that I am absolutely dealing with the Doncaster Rovers project', or words to that effect, and asked Mr. O'Connor whether he had heard rumours about a connection between Mr. Lowry and Doncaster. Mr. O'Connor replied that he had heard these rumours, but, to his knowledge and belief, Mr. Lowry had no involvement in the DRFC project. Mr. O'Connor's sense of the conversation was that there had been a disagreement between Mr. Aidan Phelan and the O'Briens, and that Mr. O'Brien Senior was annoyed at the rumours which had been circulating regarding Mr. Lowry's involvement.

"11. The next contact Mr. O'Connor had with Denis O'Brien

Senior was, he believes, in August 2002, although they could have met at public sittings of the Tribunal."

Then referring to August of 2002, you go on, "When Mr. O'Brien Senior telephoned him and asked him to meet him at his office. Mr. O'Connor's recollection is that he met Mr. O'Brien Senior in his office in the Malt House, and in the course of a general chat, 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 retention dispute. In the course of confirming that he had no such knowledge, apart from what he learned from Mr. Kevin Phelan, Mr. O'Connor inquired as to what the dispute was all about. Mr. O'Brien Senior told Mr. O'Connor that there was either a mediation or arbitration meeting scheduled for September or October, and that if it failed to achieve a resolution, a date had been fixed for a hearing in the High Court in 2003. Mr. O'Brien Senior informed Mr. O'Connor that he felt that enormous pressure was being exerted by Mr. Richardson or his solicitors, who were seeking to recover in excess of the sum held in the retention fund. Mr. O'Brien Senior made a definite point that he would not be blackmailed or bullied on this.

"12. Even though the matter was not of concern to Mr. O'Connor, he told Mr. O'Brien Senior that he could not understand how it appeared that a 'simple arithmetical issue' could not be resolved or substantially resolved. Mr. O'Connor offered any assistance that he could provide,

but it was his impression that Mr. O'Brien Senior was, at that stage, still gathering facts and figures regarding the dispute.

"13. Sometime shortly thereafter, Mr. O'Brien Senior again asked Mr. O'Connor to meet him. Mr. O'Connor called to Mr. O'Brien Senior's office and Mr. O'Brien Senior asked him to look at some of the figures relating to the DRFC dispute. When Mr. O'Brien Senior went to get the figures, he returned saying they were with his London solicitor.

"14. Mr. O'Connor frequently travelled to the UK in connection with the business affairs of another client, and he offered to review the figures on his next visit, which was imminent and prearranged. Mr. O'Connor's recollection is that, a short time later, Mr. O'Brien Senior contacted him with the name of the English firm of solicitors, and Mr. O'Connor arranged to attend a meeting with them, which he did, on the next occasion that he was in the UK. The meeting took place at solicitors' offices in London.

Mr. O'Connor travelled to London around midday on the 10th September, 2002, when he called to the solicitors' offices and he overnights in Gatwick and worked for his own client the following day. He does recall he met a lady solicitor, Ms. Ruth Collard, and Mr. Craig Tallents, accountant.

There was general chit-chat and Mr. O'Connor believes he would have outlined meeting Mr. Kevin Phelan, visiting the site and discussing the retention issue/arbitration scenario with Mr. Denis O'Brien Senior. Mr. O'Connor also

believes his representation of Michael Lowry would have come up, as would the mischievous attempt to bring him (Mr. Lowry) into the equation. There was a general discussion of the retention issues and Mr. O'Connor said he would like to go through the items in detail that night if possible. Ms. Collard asked Mr. O'Connor to leave and said she would have the relevant documents copied in around an hour. When Mr. O'Connor returned, the file was waiting for him in reception. Mr. O'Connor has been shown attendance note of Ms. Ruth Collard by the Tribunal and has been invited to comment on the same."

You say your comments are as follows:

"Mr. O'Connor's general impression was that Mr. Kevin Phelan was of the view that he (Kevin Phelan) was due certain fees out of the DRFC transaction and was seeking to resolve the matters between the parties so as to enable whatever fees were outstanding to be discharged.

Mr. O'Connor attended the office of Ruth Collard on the 10th September 2002 on the invitation of and as a result of discussions with Mr. Denis O'Brien Senior. The visit had nothing whatsoever to do with Michael Lowry. Mr. O'Connor accepts that in the course of discussion with Ms. Ruth Collard and Mr. Craig Tallents, Mr. O'Connor would have mentioned that there always was the possibility of parties with vested interests seeking to involve his client, Michael Lowry, with the transaction, as they might thereby be under the impression that in some way such suggested

involvement could be utilised to achieve a result to their satisfaction.

"Mr. O'Connor accepts that there was a general discussion at the meeting of the 10th September as to how a settlement could be achieved and it may be that an impression had arisen that Mr. O'Connor, if requested, would meet with parties involved in endeavouring to resolve the matter.

Mr. O'Connor certainly accepts that the parties at the meeting were aware that he could possibly be viewed as someone who could liaise with Mr. Kevin Phelan. The reference in the attendance note of Ms. Ruth Collard as to a connection with the proceedings and involvement of Michael Lowry is being misunderstood. If, in stating that Michael Lowry had an involvement, Mr. O'Connor was making such 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. The foregoing was, of itself, viewed by Mr. O'Connor as an involvement, and this was all he was seeking to convey.

"Mr. O'Connor has never understood or believed that Michael Lowry had any legal or financial involvement with DRFC.

Mr. O'Connor cannot explain the reference to Michael Lowry having been in a room when discussions had taken place between Mr. Kevin Phelan and Mr. Ken Richardson regarding a lease. Mr. O'Connor's view is that he could not have said this as he simply had no knowledge of the matter, and he

always understood that Michael Lowry had never spoken to or met with Mr. Ken Richardson.

"15. Mr. O'Connor worked on the file overnight and it appeared to him that most of the issues were relatively simple and involved disputes on the apportionment of rates, insurance, wages, players, and so forth. Mr. O'Connor recalls that following a comprehensive consideration of the issues, he arrived at a final figure which he felt was a reasonable figure and represented the true value of the claim in his own opinion. Mr. O'Connor recalls having a problem in relation to a particular item and he contacted the English solicitor again on the following evening who told him that the problem was the kernel of the dispute.

On the night of the 10th September, Mr. O'Connor wrote his report and faxed it to his office. Then they typed it and faxed it or emailed to Ms. Ruth Collard.

"16. Shortly thereafter, Mr. O'Connor recalls that he received a telephone call from Mr. O'Brien Senior who thanked him for his input and informed him that the mediation or arbitration was proceeding, and that if it failed, the dispute would go to court.

"17. The next occasion on which Mr. O'Connor had any dealings in relation to the DRFC project was when he received a further telephone call from Mr. O'Brien Senior who informed him that the dispute had been settled.

Mr. O'Connor's recollection is that this would have been shortly after the mediation arbitration. Mr. O'Connor

inquired as to whether Mr. O'Brien Senior may have an interest in any party who might be interested in purchasing the site and Mr. O'Connor offered to make inquiries.

Around this time, maybe in this conversation, Mr. Denis O'Brien requested the original file back, which Mr. O'Connor arranged.

"18. Mr. O'Connor made contact with a party who he thought might be interested or be aware of interested parties, and his recollection is that a professional advisor inspected the site. Mr. O'Connor understood that the party was interested in the site and he informed him that they should contact Mr. O'Brien Senior directly.

"19. Also, around August or September 2002, Mr. Kevin Phelan telephoned Mr. O'Connor and mentioned that he had met with Mr. Ken Richardson who had told him that the retention issue was becoming a big issue. It is Mr. O'Connor's belief that Mr. Kevin Phelan was seeking to establish if Mr. O'Connor could intervene. He indicated that he would be prepared to do so, but that such intervention was outside the scope of his authority.

Mr. Kevin Phelan also asked Mr. O'Connor if he would meet with Mr. Richardson and Mr. Weaver, and Mr. O'Connor responded that he could not consider it, but suggested that Mr. Kevin Phelan contact Mr. O'Brien Senior.

"20. Also, around September, 2002, Mr. O'Connor's receptionist informed him that Mr. Mark Weaver was on the telephone and wished to speak to him. Mr. O'Connor

explained that he would not be taking any call from

Mr. Weaver either at that time or in the future.

Mr. O'Connor's recollection is that Mr. Weaver telephoned

his office on a number of further occasions, leaving

messages along the lines that Mr. O'Connor should contact

him and that it was in Mr. O'Connor's interest to do so.

Around that time, Mr. Weaver rang Mr. O'Connor's

receptionist and indicated that he was sending through a

fax and to make sure that the fax was received by

Mr. O'Connor. Mr. O'Connor told his receptionist that he

did not wish to see anything from Mr. Weaver, and to

forward the fax to Mr. O'Brien Senior. Mr. O'Connor

recalls being informed that Mr. Weaver attempted to fax a

document through to his office, but that all that was

received was a plain copy. Mr. O'Connor now knows, from

the Tribunal, that a fax was received in his office in

September 2002, Mr. Weaver having telephoned in advance,

and Mr. O'Connor now believes that this was a copy of the

letter dated 25th September 1998 from Mr. Christopher

Vaughan addressed to Mr. Michael Lowry. Mr. O'Connor did

not see it.

"21. Mr. O'Connor has not met Mr. O'Brien Senior since

before the mediation/arbitration hearing in September 2002.

He last spoke to Mr. O'Brien Senior around that time, when

Mr. O'Brien Senior informed Mr. O'Connor that the issue had

been resolved. Mr. O'Brien has never met or spoken to

Mr. Weaver or Mr. Richardson. He only visited Doncaster on

one occasion, as referred to above.

"22. The first time that Mr. O'Connor became aware of a statement provided by Mr. O'Brien to the Metropolitan Police was on the 6th May, 2003. And the first time that he saw a copy of the statement was when it was sent to him by the Tribunal on the 14th May, 2003. The allegation in the statement that he conveyed a message originating from Dinard advising that it was in Mr. O'Brien's family's best interest to settle the litigation in a friendly and generous manner, is simply not true."

Could I just firstly clarify, to begin with, your knowledge of some of the individuals that have been mentioned, both in your statement and in some of the evidence we have already heard.

You obviously know Mr. Kevin Phelan and you have met him and you have had some dealings with him. Were you aware of his company called Game Plan International?

A. Certainly, when I first met him on that's the brief reference to when I would have met him previously in the UK in relation to another client of mine unconnected to this, certainly not then. I would have just known him as a Kevin Phelan. The first time I would have heard of the name 'Gameplan', I just, when I was reviewing this file, it's possibly in that meeting I had with him in June '01. Were any of those letterheads 'Gameplan'? If they were, that was the first time, if there were. If not, if not, it was after that sometime, I couldn't tell you, but I would

imagine, if those invoices attached to that

Q. And can you tell me, do you have any knowledge of an entity called M&P Associates?

A. I have heard the name, but I have no knowledge of it.

Q. I think Mr. Aidan Phelan informed the Tribunal that M&P stands for Maher and Phelan. Do you know well, you know who that's presumably Mr. Kevin Phelan. The Mr. Maher referred to appears to be some individual with an address from which M&P Associates, but who appears to be connected with the businessman who gave evidence or who gave assistance to the Tribunal concerning payments made to Mr. Lowry in England in connection with some refrigeration business. Do you remember that name?

A. I was just about to say, this was the refrigeration thing in London, or somewhere, yeah. The question is?

Q. Do you know that man

A. No.

Q. Mr. Maher?

A. No, I never met him in my life.

Q. You are aware of him, because at that time you were assisting Mr. Lowry in the evidence he gave to the Tribunal concerning payments from Mr. Maher, isn't that right? You are aware of him to that extent?

A. That's the only extent to which I am aware of him.

Q. I think is he not also a Tipperary man?

A. I recall he came from Thurles. That came up in evidence, I believe.

Q. I appreciate that you may not know much about Gameplan or M&P apart from the fact you have heard of the names. And apart from Mr. Maher, are you aware of any other individuals associated with Mr. Kevin Phelan in his business?

A. I certainly wasn't aware that Mr. Maher was involved with him in his business. That, I didn't know. So now, am I aware of anyone else? Just give me a second, I am just running my mind back over years here now. No. In fact, as I think about it, I would have looked on him as kind of operating alone. I think that would have been my general impression of him. Although, when I think about it, when I met him the first time, do you remember, unrelated to this?

Q. Yes.

A. And he was trying to convey some deal to a different client of mine, I think he may I think I just may have met him with whoever, whatever project he was trying to, if you like, sell on to my client, but I wouldn't even remember their name, and certainly that's, you know, I would have regarded them as not in business with him, but as him trying to pass on their project, if you like. But, no, the answer would be no, I am not aware of anyone.

Q. Could you tell me when did you first come into contact with him? And even if you can't remember the year, you might be able to remember it in terms of the number of years prior to you getting involved with him in connection with the visit you paid to England in 2001?

A. Okay. This is difficult, but if I was in my office I'd probably get a better handle on it, and maybe I can get it for you sometime. But what I have to think back to is when the other client commenced his operations in the UK. And my kind of recollection of that, sitting here, that it would have been that it was this is what, 2007 it was probably this is a total guess, but something in my mind tells me that operation is in existence eight to ten years, or something like that.

Q. It was in existence eight to ten years, or is in existence?

A. No, is in existence. So, when it started, it is, and was, a very successful operation in Ireland, but it was it was a greenfield start-up in England, so the particular client and myself spent quite a bit of time there trying to get startup things in play, including landbanks. But I can tell you that, I can tell you that later on, or at worst on Tuesday morning.

Q. On the basis of your current speculation, and I accept this is helpful speculation, it's sometime possibly '99, thereabouts?

A. That actually is what strikes me as, sitting here, the commencement date of that particular thing.

Q. And up to then, you had never had any contact with Kevin Phelan or heard about him?

A. Never heard of him, knew him, or anything.

Q. After that time, after '99, you said yourself, I think, and your client spent a lot of time in England; is that right?

A. That's correct, yeah.

Q. And how much contact would you have had with Mr. Kevin Phelan in connection with that project in which you first came into contact with him?

A. None, because my client wasn't interested in the particular thing that he was proposing. I can't recall what it was, but I remember discussing it with my client and it was just shot down straightaway.

Q. So how many dealings did you have with him?

A. Prior to what we are discussing here?

Q. Yes.

A. One.

Q. You just met him?

A. One, that's it.

Q. And what did that mean? That you met him for an hour, you met him for what?

A. I probably met him with a client somewhere in the UK for 30 minutes. He didn't show us any sites. I mean, they were mainly, if you can appreciate, meetings in hotels and whatnots, and, I mean, my client would be a successful property man and he would evaluate the potential of a site in his sleep, type of thing, you know, and that would have been the way. We met lots of people, bankers, everyone.

Q. Who made the contact with your client? Was it Kevin Phelan made the contact with your client directly or did he make it with you?

A. Oh, not with me. You see, to set up that thing at that

time, my client, as part of the start-up process, actually appointed the chief executive first in the UK, a UK-based guy, and that guy, if you like, was paid and operated for 12 to 18 months without having an operation in place. That period was spent sourcing sites, getting set-ups, like National House Building, so on and so on, so I would imagine that Kevin Phelan got to my client through that guy that was working full-time in the UK and was a UK resident based over there, and still is chief executive of that same building company today.

Q. So, if you like, it was your client and his UK chief executive who first brought you into contact with Kevin Phelan?

A. That's a fair summary.

Q. And you think you met him you mentioned meetings in hotels. I just want to clarify this, is it one meeting or several meetings?

A. With Kevin Phelan?

Q. Yes.

A. One.

Q. One meeting with Kevin Phelan?

A. Yeah.

Q. And you were present, your client was present, his UK chief executive was present and Kevin Phelan was present?

A. I couldn't be sure that the UK-based representative was, because he was doing all the trawling and he would set it up, but it was up to my client to make the decisions then.

Like, it was his money, his decision. So it's possible that the guy, let's call him, in UK, Terry, that he set up the meeting, and that my client and me sometimes would have met this Terry guy, and sometimes wouldn't, but he was a full-time employee, if you understand what I mean?

Q. I follow. Can you remember where it was you met Kevin Phelan? If you can't, don't worry.

A. I know we spent a lot of time in the midlands of the UK and sorry, that's just pure speculation as to where. I mean, most of the building operations ended up south of London, bar one. So, at the same time, I do recall flying into Birmingham and Manchester with my client, but I just don't know, sorry.

Q. That client of yours is Irish based, not UK based?

A. Correct.

Q. So Kevin Phelan knew, when he met you, that he was meeting two people who had flown over from Ireland, his Irish client with a UK operation and his Irish client's accountant coming from Ireland?

A. Sorry, I presume he did, yeah. I mean sorry, he wouldn't want to be he wouldn't need to be he wouldn't need to be super intelligent to work out that the other person he was meeting, not me, you know, my client, was a hugely successful person on the Irish scene. That would be easy to check. And I am sure, during the meeting, he knew straightaway that I was just this guy's accountant.

Q. That's what I mean, but you would have just been brought

along as the numbers man to look after your own client's interests at that stage. He was doing the your client was making the running with Kevin Phelan?

A. Sorry, we are nearly delving too deeply. I wouldn't have been brought as the numbers man; I would have been over with my client because we would have been setting up banking arrangements, bonding schemes, insurance, all that

Q. I am not trying to diminish your role. I'm saying your client was making the running at the meeting, or would I be right in saying that your client had been making the running? You mightn't have been there if you were doing other things?

A. Correct, I would have had no input, yeah.

Q. So it was virtually a by-the-way contact you had with Kevin Phelan?

A. Along with probably 10, 20 other people in that year in the UK, trying to get landbanks.

Q. But you would have been introduced to him, he would have known your name, and so on?

A. Absolutely, because when he turned up later on, I recall straightaway that I had met this guy before.

Q. And when you say when it turned up later on, what are you referring to?

A. The meeting in the Regency Airport Hotel.

Q. That meeting took place in March of 2001, isn't that right?

A. I think it was April, but, you know, I can't recall, but I

just, reading these files, I thought I saw April mentioned somewhere.

Q. I have an impression that it's March, but we can I think it's March, but we can clarify.

A. Fair enough.

Q. That meeting was before the sittings of the Tribunal at which, for the first time, reference was made to a number of English property transactions, isn't that right?

A. That's correct.

Q. And those sittings of the Tribunal were based on, initially, information which the Tribunal obtained following, I think it was, an article published by a journalist, Matt Cooper, concerning a \$50,000 payment to Fine Gael, on the one hand, and, on the other hand, it arose from inquiries made by the Tribunal following Investec Bank bringing information to the Tribunal about a property known as Cheadle, and following your bringing, on Michael Lowry's behalf, information to the Tribunal concerning Mansfield; isn't that right?

A. Yeah, I don't think the sequence is exactly right there. I understood that Investec brought it to the Central Bank, I think, and I think they were directed, either I don't know, either the Central Bank brought it

Q. You may be right about that, but it came to the Tribunal from Investec.

A. Initially from Investec, that would be my understanding, yes.

Q. That's Cheadle, the Cheadle transaction?

A. Correct.

Q. As I recall, it was from you, acting for Mr. Michael Lowry, that the Mansfield transaction was brought to the Tribunal?

A. If I remember correctly, that was ventilated in public hearings here. I came back from America and telephoned the Solicitor for the Tribunal, if I remember correctly, and explained, sorry, Mansfield, and, if I am not mistaken, the Vineacre one as well, I think, I think.

Q. And the Carysfort transaction, insofar as the bank account Mr. Lowry had in the Isle of Man was connected with it, was also ventilated from that time onwards; isn't that right?

A. I don't

Q. It hadn't been ventilated before then?

A. The point I was going to make to you, I didn't see it connected. I don't think it came in, if you like, to the Tribunal, in the context of a connection with the UK property.

Q. I'm not suggesting that at all.

A. Sorry, around that time it did, yes, I agree with you.

Q. I am simply clarifying what matters were not or had not formed part of the Tribunal's inquiries, public or private, prior to that date, but which did become part of both its public and private inquiries following in or about that date.

A. Correct.

CHAIRMAN: Well, Carysfort hadn't come up in 1999, I think,

in the course of your own evidence, but in relation to the particular aspects of it that you then assisted the Tribunal on?

A. That's correct, Mr. Chairman. The reference this is something that slightly concerns me lately as regards my own position, in that what came up in 1999 was the reference to the fact that there was a mortgage got from the Irish Nationwide Building Society, I think, and just for clarity sake, I don't know what way the Tribunal feel about this, but I was not aware, when I gave evidence in 1999, of the fact that Mr. Lowry/the David Austin

Q. MR. HEALY: I appreciate that. You have given evidence.

A. There is a little bit of confusion and stuff that happened afterwards about, if you like, my role or my evidence in '99, and I am just making it crystal clear that I did not know about the David Austin money, I did not know about Irish Nationwide stuff. I was, in general terms, aware, and that was the evidence I gave in '99, but to think that I either withheld evidence relating to that, or anything, in '99. You know, there is something that happened that we can go into it again that just concerns me about things being portrayed about that. I did not know about those

Q. I understood your evidence in '99 to be that you knew nothing about any of those matters.

A. I knew about the mortgage, as the Chairman said, but it was limited, more or less and the fact that he bought a house, and whatever, and he sold it subsequently a few

months later. That, generally, is what my knowledge was limited to, but just the way something has happened subsequently has bothered me.

Q. Maybe we should just clarify it. You knew nothing about the Isle of Man account?

A. Correct.

Q. You knew nothing about the David Austin money?

A. Correct.

Q. You knew about the Carysfort matter insofar as evidence had been given about it at earlier sittings of the Tribunal without any reference being made to the Isle of Man or the David Austin money?

A. Correct, and there was a reference, as the Chairman said, to the Irish Nationwide, but it was limited to the fact that there was a mortgage, and that was my only knowledge about all of that.

Q. Can I put it this way: an onshore mortgage in Ireland?

A. No problem with that, Mr. Healy.

Q. So, in 2001, there was this meeting in the Regency Airport Hotel. You were present at the meeting, Mr. Christopher Vaughan was present at the meeting, Mr. Aidan Phelan was present at the meeting, Ms. Helen Malone was present at the meeting, and Mr. Kevin Phelan was involved; isn't that right?

A. That's correct.

Q. And as I understood your previous evidence, the purpose of the meeting was to try and get as much information to you

as possible concerning the property transactions involving Investec, the Cheadle property transaction, the property transaction involving Mansfield; isn't that right?

A. Cheadle, Mansfield, correct, yeah.

Q. They were the two items that the people at that meeting could provide you with information about?

A. Yeah, and you are totally correct in that. It's just that, sitting here now, I can't remember was Vineacre discussed at that meeting.

Q. It may have been.

A. Yeah, I can't remember.

Q. Okay. Aidan Phelan certainly wouldn't have known anything about Vineacre, isn't that right?

A. I don't know. Let me think. No, I would imagine he didn't, but I don't actually know.

Q. I see. Now, this is the first time you had met Kevin Phelan again, following your 1999 assuming it was 1999 contacts with him?

A. Correct.

Q. And he was the man who was going to be able to tell you about how these property ventures were put together, isn't that right?

A. With Christopher Vaughan.

Q. With Christopher Vaughan, yes. Do you remember the last time you gave evidence, there was some discussion about whether Mr. Phelan was in the room in which the meeting took place or whether he was in and out of the room but was

in fact spending a lot of time in another room. Can you remember that issue arising before?

A. I can.

Q. Can you throw any more light on it?

A. I suppose what wasn't really ventilated, probably out of a sense of embarrassment, nearly, is that the relationship between Kevin Phelan and Aidan Phelan was just, in effect, nonexistent at that stage, and it had more or less deteriorated, from what I could gauge, to a level of mistrust, whatever. They found it difficult, I remember, to nearly look at one another.

Q. Did you have separate meetings with Kevin Phelan at that point?

A. That day? No.

Q. You didn't?

A. No. I think the reference that you are getting to is that I think, if I remember correctly, when the meeting started, Kevin Phelan wasn't in attendance, but it was because of the kind of tension that existed between Aidan Phelan and Kevin Phelan.

Q. But to get information from him, he came into the room you were in and he provided the information in that room. You didn't have a separate meeting with him, anyway?

A. No, no.

Q. Now, in your Memorandum of Information provided on the 17th June, 2004, you say that in the course of some general discussion with Michael Lowry, you suggested to Mr. Lowry

that it would be would be a useful exercise for you to carry out an inspection of property interests of Mr. Lowry in the UK.

A. That was the first thing I was going to disagree with, when you were finished. I don't actually recall it like that.

And I am trying to recall, sitting here. I wasn't expecting to have to go through it, but I can check this again at lunch hour. My recollection is that, or maybe I am wrong, but my recollection is that when this Memorandum of Information was being provided to the Tribunal, I was abroad, and I was being telephoned - I am not casting any aspersions on our solicitor - I was being telephoned by our solicitor when I was actually on vacation abroad, and there was a lot of, if you like, tension, certainly, from me, about being interrupted about this, and I think the Tribunal was insisting I get it in a hurry. Or when you read that out to me earlier, my recollection is not as forthright as that, that I said to Michael Lowry, "Hello, I think it would be a useful exercise." I think it would be more of a mutual decision. And certainly I would have thought that Michael Lowry was the one that expanded that proposal or suggestion. So, I have to say, sitting here, that's my recollection of it. So I do have a problem with it as it's said there, but I had no problem going.

Q. When did you go?

A. You see, this is what I can't remember, either. Until I started studying those files, it's something that's, if you

like, tingling around in the back of my head, and I saw the letter I sent at the end of June '01. That creates a kind of what I'm trying to get across in my mind, was it before that or after that? Now, I always thought that it was after that, but when I see that, you know, that letter, it's it's somewhere in that 145 documents, the one I wrote to Aidan Phelan after I met Kevin Phelan.

Q. The 18th June, 2001?

A. That that's the one. That has my mind a little bit confused, of the timing. Up to then, I would have said it was July, maybe, or something.

Q. I think you may have informed the Tribunal that it was September?

A. Ah, no, no. You see, this is what has me confused. Like, I think we gave evidence that year, if I am not mistaken, in July. And I am sure I can check this out, but something would have said to me that I would have made the visit before I gave evidence, and that's what's narrowing the gap for me to this June letter. I am trying to work it out. I will try, actually, and see if I can find out some way or another. But it has thrown something in my mind, whether it was before I met him or after it. I just don't know, I am sorry, but I'll try and find out, at worst Tuesday morning session

Q. That's fine.

A. along with the other thing I said I'd find out. In fact, I am sure when I gave evidence before, you know, like

this, did I not say I don't think I said what's there,
that it was my idea, but we can check that. I just
certainly have a doubt in my mind about that. I am sure I
was asked that question previously.

Q. I think this is the first time you have given evidence
about that trip?

A. Is it?

Q. I think so.

A. Then it could have been after July '01. You see, that's
where I am confused. I am sorry, I have certainly
discussed it with the Tribunal before.

Q. What I'll do is, at lunchtime, I'll try and look at the
earlier evidence and I'll try and see if there is a
reference to it and

A. Didn't it come up in the meeting I had with you that was
that the stenographer was present at?

Q. I can try and find out.

A. I am sorry, I am just very unclear about it. It's just
causing

MR. HEALY: In fact, I am going to go on to some documents.
I can find also find that out at lunchtime.

CHAIRMAN: Very well. Two o'clock, Mr. O'Connor, if that
suits you.

THE TRIBUNAL ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AFTER LUNCH AS FOLLOWS:

CONTINUATION OF EXAMINATION OF DENIS O'CONNOR BY MR. HEALY
AS FOLLOWS:

Q. MR. HEALY: Do you remember before lunch we were trying to tease out this question of your visit to England to examine properties following the Regency Airport Hotel meeting, and I appreciate you were going to try and work out something about the timing of it for me for next week.

A. I wasn't able to do it at lunch hour.

Q. I appreciate that. The point you were making before lunch, leaving aside when it happened, is that the Memorandum of Intended Evidence says that it was in the course of general discussion with Michael Lowry that you suggested to Michael Lowry that it would be a useful exercise, and you were suggesting or canvassing whether that was correct. By that, I take it whether the suggestion came from you or from him, is what you were wondering?

A. That's correct.

Q. Now, the information contained in that memorandum dated the 17th June was provided to the Tribunal by your solicitors on the 16th June, and you think you were away on holiday around that time?

A. Yeah, I gave the file back to that gentleman there. You know, the one that I had with the sorry. Sorry, Mr. Healy, yeah.

Q. You were saying that if you look at the bold portion on the first page of 6A. Have you got that?

A. Yes.

Q. That's essentially, I am fairly certain most of that, or rather all of that is taken from a letter written to the

Tribunal by your solicitor. The letter may have contained other things, presumably just normal courtesies, but this is the thrust of what you said in the letter, and you were canvassing before lunch whether you were right in your recollection when you wrote that, or when you instructed your solicitors to write that, and you were saying that you were providing information over the phone while you were on holidays.

A. Again, I will check it, but I am 99.9 percent certain that I was on vacation in central Europe, and I recall being under a lot of pressure from Michael Kelly, who said he was under pressure from the Tribunal to provide a memorandum of evidence, and it was done in that manner, and I will certainly check that over the weekend, but I remember it I am nearly sure it's this one, but I do remember the episode?

Q. Assuming that's the case, I presume that's your explanation for why you are now suggesting that it perhaps needs some slight revision, is that right?

A. Well, I'll put it to you like this: I would never have said that it was my initiative, that's a certainty.

Q. Right.

A. So that's you are right, that's the basis upon which I am changing, if you follow what I mean.

Q. I do. And I assume that the only people who can have discussed it were yourself and Michael Lowry?

A. Correct.

Q. Well, am I right in suggesting, then, that it was from Michael Lowry that the initiative came to go and look at the properties?

A. There is a difference of opinion between myself and Michael Lowry on this, but yes.

Q. In other words, that what you are saying is that the notion that it would be a useful exercise to visit these properties came from him and not from you?

A. The suggestion, I believe, came from him rather than me.

Q. And can you think why he suggested it would be a useful exercise?

A. That in the context of submissions being made to this Tribunal on his behalf and that I would have always assisted him in that matter, and that a physical inspection is much greater than a psychological inspection, if I can put it to you that way.

Q. But there was somebody available who had physically examined those properties and was familiar with them; that was Kevin Phelan, isn't that right?

A. That's correct.

Q. And was there some suggestion that he wouldn't be available to do it?

A. Certainly not at the Regency Airport meeting.

Q. Do you therefore agree with Mr. Aidan Phelan that everyone at that meeting agreed to cooperate?

A. I do sorry, that Mr. Aidan Phelan said that everyone?

Q. Yes.

A. Yeah, I do agree that, yes.

Q. But you were being sent over, if you like, to get information that Kevin Phelan would already have, wouldn't he?

A. That's correct.

Q. So who made the arrangements for you to go then? Did you make them or did Mr. Lowry make them?

A. I made them, because it would have been a question of getting two diaries together, so Mr. Lowry asked me to ring Kevin Phelan and agree the arrangements, I suppose.

Q. Fine. So you went and you met him at Manchester Airport?

A. Correct.

Q. And you say, Kevin Phelan would have been aware that you represented clients other than Michael Lowry who had extensive property interests in the UK. I presume that means one client?

A. Correct.

Q. And you say, it was understood by Kevin Phelan and by you that matters during the visit were not solely in relation to Michael Lowry's affairs, but was more in the nature of a fact finding mission in relation to property generally in the UK. I wonder are you mixing two things up?

A. That's a very broad interpretation. I wouldn't have put that interpretation on the meeting.

Q. So was the purpose of your going to England because Michael Lowry wanted you to provide the Kevin Phelan information about the properties that he was involved in?

A. Correct.

Q. And when you went to England, then, you examined the Mansfield, the Cheadle, the Vineacre property?

A. Correct.

Q. And you also examined the Doncaster property?

A. Correct.

Q. And why did you examine the Doncaster property in view of the fact that here you were trying to do your ordinary work, you were over in England trying to get a grip on information for the benefit of Mr. Lowry so you could give evidence or make submissions, as you put it, to the Tribunal; what was the point in wasting hours going off to the Doncaster property?

A. In short, I would have been booked out on a morning flight, back on an evening flight. Kevin Phelan always had a car, as I understand it, in the UK, so he drove from wherever in the North of Ireland, so he was collecting me at, let's say for argument's sake, 8, 9am, and he was dropping me back at 5, 6, 7pm. So the priority would have been seeing Mansfield, Cheadle and Vineacre. Seeing Doncaster was his suggestion and it made no difference to my timetable.

Q. Can you remember how long you spent in Doncaster?

A. What I can recall is that he drove and parked on a side that faces a racecourse, which I think is a famous racecourse, and I recall that we did not go into the grounds, if you follow what I mean. There was a car-park, if I remember correctly, and there was a golf club at one

side, and again, from recollection, I will say, I hate making recollections about times, but it wasn't of a lengthy time. It was possibly 10, 15 minutes.

Q. What did you examine when you were there?

A. Nothing. He literally showed me the potential of this site. Sorry, there was a supermarket at one end of it, and he was showing me the great location it was, i.e. the racecourse. I can only remember the actual physical area itself, if you follow what I mean.

Q. But you went out of your way some considerable distance just to spend 10 minutes there, so?

A. You asked me how long we spent there.

Q. Yes.

A. He then brought me to where I don't know if that's where they relocated to subsequently, but where they were proposing to relocate the soccer club to at that time, and that was probably 10, 15 minutes as well. But I didn't go out of my way; he went out of his way.

Q. Okay. So you visited the actual Doncaster grounds across from the race track and then you went to either where they now are or where they were proposing, at the time in any case, to relocate the club?

A. Correct.

Q. So he explained to you, as it were, all of the elements of the transaction?

A. I don't know if he explained all of the elements of the transaction.

Q. Well, he went to the trouble of bringing you to the relocation site?

A. Yeah, but, like, to this day, I am not even sure I know all the elements, but he explained in general principle: supermarket, soccer club, location, relocation. He had the vision to see that deal, and he was still involved in that deal. That was the gist of what he told me. And the whole argument, the whole theory he was expounding of that, this was a common scenario in England, United Kingdom, and he actually more or less implied it was one he had done previously. Not necessarily soccer clubs, but sports clubs, that was it.

Q. What I'm trying to get at is, did you not wonder what he was showing you all these things for on a trip where you were supposed to be looking at Michael Lowry's properties?

A. I wouldn't have given it undue thought. Once I was seeing the three sites and getting on the plane home. You know, it wouldn't have been the first time in my life that I was on trips and looked at things outside of the scope of my trip. I am talking about trips both in Ireland and abroad.

Q. This was, I suppose, an extra special trip in that you may recall that when you gave evidence the last time, you discussed the meeting in the Regency Hotel and you mentioned there were two main matters being discussed: One was the properties; and two was the fact that details about the properties hadn't been brought to the Tribunal, or anything like that. Now, it was after that meeting that

you were over in Doncaster and you were now being shown a property which apparently had nothing to do with any of the properties that were mentioned in Dublin, isn't that right?

A. That's correct.

Q. And it didn't occur to you to say to him, "Why are you showing me this? Haven't we enough on our plate?"

A. Well, he answered that by saying to me, "This is the type of work I" he does in the UK. It wasn't the only other property matter that he brought up that day unrelated to, if you want to call them, the UK properties.

Q. I see. But he went to what I'm suggesting to you, that you not only looked at the site that he was trying to market, which is the old Doncaster Rovers Football Club site; he actually showed you the other element of the project as well?

A. Correct.

Q. And what benefit was there in showing you all of that?

A. To me, none.

Q. What benefit was there to him, do you think, in showing you all of that?

A. At the time I felt that he was trying to latch on to the idea that "Here I am, I can source these types of deals.

Perhaps you're a guy who is in the way of putting the other side of the equation together," i.e. the buyer/money, whatever, you know, normal type transactions. I presume that was his purpose.

Q. But I am right in thinking that he was at the meeting in

the Regency Airport Hotel, even if he was only in and out of it?

A. I accept that.

Q. And am I right in thinking that, at that meeting, he was aware, as well, that one of the issues was: what

properties is Michael Lowry involved in? And the other

issue, or the other matter, if you like, being discussed:

how come none of this was brought to the attention of the

Tribunal? Against that background, wouldn't you have

expected some explanation as to why you were being shown

another property?

A. Well, the background, sorry, wasn't about why wasn't this

matter brought in front of the Tribunal; the background was

about bringing the matter in front of the Tribunal.

Q. Right. You went and you looked at another property then,

Vineacre?

A. Correct.

Q. And what did he tell you about that?

A. We spent quite a lot of time there because that was a

complicated site in that it was a wieldy type of site that

required a lot of separate units put together, to put a

whole package together. Now, I remember that it was near a

kind of a motorway roundabout, and that we stopped there

for coffee and he was able to show the general outline of

it from it, but then he brought me around the different

boundaries and connections to it. And there was one in

particular that I remember he was saying had either just

happened or was about to happen, but, to me, the big issue on that side was that the promoters or investors in it were going to have to incur more funds, I think, to acquire more land to link it all together and, in effect, enhance it through, if you like, putting them all together and enhancing a planning permission. That was the gist of it.

Q. And did he tell you that that was or did you know going, that was a proposition or a property proposition that Michael Lowry was engaged in with individuals other than the ones that were being mentioned in connection with the Tribunal at the meeting in the Regency Hotel?

A. I did, yeah. In fact, now that you mention it, as I think about it, the Vineacre thing probably didn't come up in the hotel.

Q. I just want to repeat a question I asked you a moment ago, or I think you corrected me about the impression I had of what happened at the Regency Hotel, and I just want to go back to your earlier evidence on Day 155, and to page 125 of the transcript. Question 206 question 406, sorry.

I think the question is: "I think that somebody has given evidence here and provided very helpful evidence to the Tribunal and has provided assistance to Mr. Lowry over the years, you could you would have seen here you had not just two property transactions, one of which or both of which might have involved a connection between Mr. Michael Lowry and Mr. Denis O'Brien, but you also had the additional issue that the Tribunal knew nothing. So I

presume it was, perhaps, on both fronts that you felt you'd be back, as you put it, in here." Back into the Tribunal.

A. I understand that.

Q. Your answer was: "My view would be always, if in doubt, bring it in here."

So you seem to agree that the issue was not just identifying the property transactions, but also dealing with the question or the additional question that the Tribunal knew nothing about them. That must have been in your mind when you were travelling to England at that time?

A. Well, certainly what was in my mind travelling to England was gathering the information. That's the one thing I can tell you for certain.

Q. And can you see why, at that time, it wouldn't have meant anything to me or anyone else asking a question about this, that you visited Doncaster, but in light of all that has happened since then, can you understand why I would be wondering why you visited Doncaster at that time?

A. Mr. Healy, if I knew what Doncaster was leading to, I'd have jumped out of the car.

Q. Now, if you take I presume the two books there you have are Books 82 and 83, am I right?

A. Correct.

Q. Could I ask you to pick up Book 82. If you could go to Leaf No. 27, please. Do you see that letter on your notepaper, headed notepaper, addressed to Aidan Phelan, AP Consulting, 16 Clanwilliam Terrace, Dublin 2.

It says "Re: Kevin Phelan.

"Dear Aidan,

"Further to Kevin Phelan's fax some time ago, I had arranged to meet him, as you know, in my office last Saturday afternoon.

"When I arrived, the first thing I picked up from my fax was an agenda, and I attach copy of same.

"I then explained to Kevin that I was under time pressure, and we moved on.

"Agenda:

"Copy enclosed.

"Letter, June 15th, addressed to you:

"I was asked to pass on the enclosed to you. You might note that I advised him that:

"A) I knew nothing of the Doncaster site and advised that I could not help on it unless specifically requested.

"B) As to Handforth and Mansfield, I expressed amazement that he purported to be a 40% beneficial owner. Eventually he agreed that he was not the 40% beneficial owner, but rather that he was entitled to 40% of the net profit.

"I told him that this was the first I was aware of same.

However, I did say that my understanding was that either you or Michael wanted to cover costs at this stage as a priority. I outlined the current net cost on the sites

I outlined that the current net cost on the sites was in the order of $\frac{1}{2}$ 525,000 Handforth and $\frac{1}{2}$ 300,000 sterling Mansfield.

"C) I put it to him that he had an obligation to dispose of these sites however, he did not have exclusivity, as time was essential.

"He is to fax me such a proposal by the end of this week.

"Altrincham:

"This means nothing to me (which Kevin agrees) but he is claiming fees of $\frac{1}{2}$ 45,000 sterling. I enclose a raft of correspondence which he gave to me to pass on.

"Doncaster:

"he is claiming fees of $\frac{1}{2}$ 15,200 in relation to same as per enclosed statement plus one fee note.

"Again, (and he accepts this) it is nothing to do with me.

"Fees:

I passed on your cheque to him.

"General:

I am anxious (at Michael Lowry's request) to complete the deals he was involved in I know this is your objective also. I will help in any way I can but Kevin's attitude is of hostility and no remorse for deals which did not materialise.

"If I can help on the other projects, please let me know

I will help if I can. Kevin is now saying he will not talk to you but may deal with me.

"He also discussed this retention problem in Doncaster and agrees that a claim by the vendors $\frac{1}{2}$ 250,000 relating to a lease on a car-park, is spurious. I may be able to progress settling some of this dispute if I knew the

analysis of the purchases claim is £480,000. However, it is up to you.

"I will help in any way I can in what is becoming a hostile and tense atmosphere, but my priority is to:

"A) Get Mansfield sorted.

B) Get Handforth finalised (moral obligation)."

Then it's signed, "Denis O'Connor".

Now, I take it that at this point in June 2001 you hadn't been to Doncaster and Cheadle and Mansfield and Vineacre?

A. As I read that letter, yeah.

Q. So it would seem that you must have gone sometime later?

A. Correct.

Q. In the letter, you say that Kevin Phelan had sent you a fax, or, if he hasn't sent it to you, he had sent it to somebody else. Do you see that? It starts off, "Further to Kevin Phelan's fax some time ago..."

A. I see that, yeah.

Q. Does it follow from that that you got the fax, because it was following a fax that you arranged to meet him in your office?

A. I see what you mean. It's ambiguous. I don't know, is the answer.

Q. Well, you know the Tribunal doesn't have a copy of any such fax?

A. I am conscious of that, yeah. As you read it, it could have been a fax to Aidan Phelan or to me, it's one or the other.

Q. It's likely, looking at it, that it was a fax that both of you were familiar with because you say, "Further to Kevin Phelan's fax some time ago, I arranged to meet him, as you know, in my office last Saturday afternoon." So maybe you told him "I'll meet him"?

A. Told?

Q. Aidan Phelan, that you'll meet Kevin Phelan?

A. But as I look at it now, obviously because there is a reference there which I recall of giving him a cheque from Aidan Phelan. So

Q. Aidan Phelan must have given you a cheque to pass on

A. Correct.

Q. to Kevin Phelan.

A. That's the point. So he knew about the meeting.

Q. So it would appear that following the Regency Airport Hotel meeting, you seemed to have got involved straightaway in the relationship between Kevin Phelan and Aidan Phelan?

A. Straightaway?

Q. Well

A. Between whenever the meeting was and this date, or just prior to this date, yes.

Q. And in your dealings with Kevin Phelan, you seem to have been, so far as this letter goes anyway, dealing with Mansfield, Cheadle, Altrincham and Doncaster. There is no mention of Vineacre, as far as I can see?

A. Yeah, but, as you put it what I'm trying to say is this could well have been the first time I met Kevin Phelan

after the Airport meeting. Because as I read it, that's

how, that's my sense of feeling about it.

Q. Yes, but there had to have been some contact between you, I suppose, there had to have been some phone calls. Do you think he faxed you out of the blue?

A. No, to arrange the meeting, there was a phone call. But I am saying the exchange of contact would have been very limited. That's my recall. It could even have been down to a phone call. I can't it wasn't of activity.

Q. Now, Michael Lowry was kept in the loop about all of this, isn't that right?

A. Yes.

Q. Because the letter is cc'ed to him?

A. Yes. I mean, he would have been kept totally in the loop, yeah.

Q. Now, can you recall why this document wasn't given to the Tribunal as part of its inquiries into the Mansfield and Cheadle transaction?

A. By me?

Q. By you or by Mr. Lowry?

A. Mr. Lowry I can't answer for. As regards myself, I would imagine this was in this would have been in what I would consider Kevin Phelan documents, which I know he got back from me or insisted on taking back from me. Now, that's easy that's my recollection, right? I had actually forgotten about this letter until I saw it in the booklets of information provided by the Tribunal.

Q. Did you build up a file of documents in relation to your dealings with Kevin Phelan?

A. No, I never built up a file in relation to Kevin Phelan.

Q. Well, when you say you gave him back his documents, how did you identify his documents?

A. Well, the documents that I would have had from relating to Kevin Phelan would have been sorry, I may have had what I would call a drop-down file, yes. You know

Q. Explain that to me.

A. Sorry, if you take Michael Lowry, just as we are dealing with him, I have bundles of lever-arch files, whereas for minuscule matters I have what I call drop-down files in a filing cabinet. So I may have had something like that. It wouldn't have been like as in a file that you would have had, like, audit sections and correspondence sections and whatever sections. So I may well have had I can't get the right word, but as in a cardboard folder type of thing and a drop-down grid a twin-lock file.

Q. In terms of your practice, where would the work on this file have been charged to, if you like?

A. It wouldn't have been charged.

Q. It wouldn't have been charged to anyone?

A. No.

Q. Not to Kevin Phelan, Aidan Phelan, Michael Lowry, anyone?

A. No.

Q. And when you gave Aidan Phelan the documents, then, in that - I am using your word now because I can't think of

the other word you used - drop-down file

A. I am not good with the English. When I gave it to who, sorry?

Q. Sorry, I beg your pardon, I think I may have said when you gave Aidan Phelan the documents in that file. When you gave Kevin Phelan the documents in that file, did it include this document?

A. I don't know.

Q. And what prompted you to give him the documents? He wasn't your client.

A. Exactly. He demanded everything back when things got hostile.

Q. But he can only demand what he had given you. This was your document. This is a letter you hadn't written to Aidan Phelan this wasn't a letter you had written to Kevin Phelan. This was a letter you had written to Aidan Phelan. What right did Kevin Phelan have to get that document from you?

A. It concerned Kevin Phelan. That would be my understanding of that document.

Q. That's as may be, but it's your document. It's Mr. Michael Lowry's document. You said yourself at the end of it, "I will help in any way in what is becoming a hostile and tense atmosphere, but my priority is to get Mansfield sorted and to get Handforth finalised (moral obligation)."

Who were you working for when you indicated that those were your priorities?

A. In that scenario, Kevin Phelan had sought to meet me on a Saturday afternoon. I did not know what he wanted, what it was in connection with. Literally, when I turned up at that meeting, it became evident what it was about. And to a certain extent, I find this letter helpful in recalling that I was actually taken aback by what transpired at that meeting and wanted away from it at that time. So, to me, this would have been an isolated incident where I said, "Here is the story. Kevin Phelan is claiming from me, your problem, Aidan Phelan." I would have just walked away from it.

Q. I think what you said, if you look at item C, was, "I put it to him that he had an obligation to dispose of these sites" meaning Handforth and Mansfield "However, he did not have exclusivity as time was essential. He is to fax such a proposal to me by the end of this week."

Now, could I suggest to you that, at least so far as the evidence goes to date, we know that Michael Lowry had an involvement in Mansfield, and, putting it at its most neutral, he had an involvement in Handforth or Cheadle; isn't that right?

A. That's correct.

Q. So that probably accounts for why you sent this document to Michael Lowry, isn't that right?

A. That would be correct.

Q. I just don't understand why you wouldn't have held onto it as a Michael Lowry document?

A. As a Michael Lowry document. Well, I can tell you, sitting here now, I would have regarded that as a Kevin Phelan document, a meeting that he initiated, that he sought, outlining his problem.

Q. Even though you wrote it to Aidan Phelan and copied it to Michael Lowry?

A. Correct. And, in fact, as I look at that letter now, I am saying here I am being dragged into something I am not going to be dragged into.

Q. Well, that's not correct. Weren't you going to meet weren't you going to get a proposal at the end of the following week from Kevin Phelan. Far from walking away from it, weren't you getting stuck into it?

A. I accept that, but I don't know what the proposal was, to be honest with you. And if it came in, I wasn't going to make a decision on it. It's under the heading of, let's see sorry, it's under the heading of Handforth and Mansfield, or Cheadle and Mansfield. So, in effect, as I read this now, I would imagine that which became a major issue as time went on, was that Kevin Phelan wanted to achieve what he called his uplift by having control of the sites and disposing of them, and that became the issue. So obviously he was going to fax some proposal about, if you like, a path concluding the deals. That's how I read it now.

Q. Yeah, but wouldn't I be right in concluding that this document was about arrangements Kevin Phelan was making

about, inter alia, matters that affected Michael Lowry?

A. As regards I agree, yeah.

Q. As regards Mansfield and Cheadle?

A. Yeah.

Q. Far from walking away from, if you look at the last paragraph under the heading "General":

"I am most anxious (at Michael Lowry's request) to complete the deals that he was involved in and I know this is your objective also. I will help in any way I can but Kevin's attitude is of hostility and no remorse for a deal that did not materialise. If I can help on the other projects, please let me know. I will help if I can. Kevin is now saying he will not talk to you but may deal with me."

Could I suggest to you what that means is, far from walking away from this, you were inviting Aidan Phelan to get involved with you in relation to these matters and you were suggesting that you had a facility of dealing with Kevin Phelan?

A. I'll accept that part.

Q. And that doesn't mean that you were walking away?

A. Okay, I'll accept it that way, yeah.

Q. Now, I think this document came to the Tribunal from files provided to the Tribunal by Messrs. Fry's when, presumably, they were acting as Westferry's solicitors. And from what you tell me, if that file went to Kevin Phelan, that would mean that Fry's must have got that document from Kevin Phelan or Aidan Phelan, isn't that right, or Michael Lowry?

A. It can only be that.

Q. Now, I am just going to jump forward for a minute, but I don't want to I am going to go very far forward. I don't want you to turn up a document for the moment. But the properties that are mentioned here, Handforth, Mansfield, Altrincham and Doncaster, do you see that, that's just I am just listing them?

A. That's okay, yeah.

Q. Do you remember at a later stage getting involved in a dispute between Kevin Phelan, on the one hand, and Aidan Phelan and Bryan Phelan, on the other?

A. I do.

Q. In which Kevin Phelan wrote a letter complaining that Aidan Phelan had failed to, I suppose ultimately, to honour certain undertakings in relation to fees connected with certain property transactions, and he listed the same four transactions as are mentioned here?

A. I can recall the letter of complaint, yeah. Sorry, I can recall the letter as it's in the files, that's what you are asking me?

Q. Yes. Now, if I could ask you to turn to Leaf 28, please. You will see this is a letter from Christopher Vaughan to Michael Heneghan, Solicitor to the Tribunal, in October of 2004, and Mr. Vaughan is answering a number of questions posed by Mr. Heneghan. And one of the questions, question 8, refers to a meeting. If you look at item Number 8, Mr. Vaughan is being asked about a reference to a meeting

that he had on the 21st June with you, a meeting which he noted as having been held at Birmingham Airport. Do you see that, item Number 8? I am just going to read out what Mr. Vaughan says.

"Denis O'Connor, whom I do not think I had previously met, (although he was apparently at the meeting in the hotel on the outskirts of Dublin, I do not recall him) wanted some background information as to the transactions I had been involved in which related to his client. We met in Birmingham airport (about 40 minutes from my office). I do not recall anyone else being present. As to other meetings, please see below."

Do you remember going to Birmingham Airport to see Mr. Vaughan?

A. I do.

Q. Would you agree with his estimate the length of time the meeting took, about 40 minutes? I beg your pardon, 40 minutes from his office sorry. Can you recall how long that meeting took?

A. No, but I would have to assume a few hours.

Q. Can you remember what prompted you to attend the meeting?

A. My recollection of that meeting is that it was all about Catclause, that's my recollection of that meeting. Now, again, if I remember correctly, I was having a lot of difficulty with the Catclause issues, i.e. the fact that it was an incorporated company in the UK; that what became an issue i.e. the apparent mystique about it I could never

understand, and I was trying to follow, if you like, the whole

Q. Background to it?

A. I was going to say trail. The background to it, if you like, beginning to end, and why it had become such an issue. That's my recollection of that meeting.

Q. Could I ask you to turn to Leaf 38, please. Now, this is a letter on the headed notepaper of Game Plan International from Mr. Phelan's Northern Ireland address to Aidan Phelan, Brian Phelan & Company, Charterhouse, Clonskeagh Square, Clonskeagh, Dublin 14. Dated 14th September, 2001.

"Dear Mr. Phelan,

"I have decided to write this letter as a result of two telephone conversations I have had with Mr. Michael Lowry.

"As you are aware, Mr. Denis O'Connor is currently endeavouring to assist in resolving outstanding issues regarding various projects. I understand that you are satisfied with his involvement and you approve of his endeavours. Michael Lowry has given me the impression that in some way you feel disadvantaged in these negotiations.

I must ask you to confirm by return if you feel in any way disadvantaged in these negotiations.

"I have written to you regarding another matter which must deal with at this time. The matter I refer to has nothing to do with me and I did not involve myself in that matter.

I would be pleased to resolve the issues with Denis if possible. However, if you feel that the negotiations are

in any way difficult for you, I would ask that you inform me immediately."

Would you agree with the reference to you contained in the second paragraph, the first sentence of the second paragraph in that letter, "As you are aware, Mr. Denis O'Connor is currently endeavouring to assist in resolving outstanding issues regarding various projects"?

A. Yeah, I would stop it there, if you know what I mean?

Q. Well, doesn't it seem to be consistent with the letter of the 18th June that we saw earlier?

A. Yeah.

Q. You weren't standing back. You were still involved by the 14th September, you were endeavouring to resolve outstanding issues?

A. Correct.

Q. Do you know what the next sentence is about, "I understand you were satisfied with his involvement and you approve of his endeavours. Michael Lowry has given me the impression that in some way you feel disadvantaged"?

A. Well, if you can just take the second sentence in isolation, first, right?

Q. Yes.

A. That part, I can comment on.

Q. Yes.

A. There was an air of mistrust, hostility, aggression, aggravation at all times between Aidan Phelan and Kevin Phelan. Now, I mean, he is obviously - and it did become a

big issue later on, which I'm sure you'll get to - he is obviously trying to pin it down that Aidan Phelan was aware and approved of me trying to settle issues with Kevin Phelan. That's how I read it. I mean, that's my reading of it.

Q. That's how I'd read it, as well.

A. Correct, yes.

Q. Well, if we assume that Kevin Phelan and Aidan Phelan weren't speaking to one another, do I take it that it was from you that Kevin Phelan formed the view that you had Aidan Phelan's approval to assist in resolving outstanding issues?

A. I am actually not being smart; I think it means the opposite. I think, in fact, that he probably feels that Aidan Phelan isn't on side as regards it and he is trying to bring him on side, if you follow what I mean?

Q. Let's cut to the chase, then. Did you have Aidan Phelan's authority at that time to assist in resolving issues between Aidan Phelan and Kevin Phelan?

A. As far as I am concerned, I did.

Q. Do you know anything about the next sentence, "Michael Lowry has given me the impression that in some way you feel disadvantaged in these negotiations"?

A. No.

Q. Did you have how much contact did you have with Michael Lowry about these negotiations that you were involved in, or these contacts?

A. I would have had contact. The extent of it

Q. What does that mean? How regular

A. He would have been aware, that's what I mean.

Q. Well, would you tell him everything you were telling Aidan Phelan and Kevin Phelan?

A. Not everything, no. He would have been aware.

Q. Whose interests were you looking after?

A. I would have considered, at that time, Kevin Phelan.

Q. So you weren't looking after Michael Lowry's interests?

A. Not particularly.

Q. So, if we just go back to the letter of the 18th June then, there must have been a change?

A. Which tab is that? Sorry.

Q. I think it's 27. I'll check it when I get to it.

A. Oh, yeah, the letter of June.

Q. If you go to the last paragraph in the letter. It's headed "General":

"I am anxious (at Michael Lowry's request) to complete the deals he was involved in."

Then if you go to the very last sentence, it goes: "I will help in any way I can in what is becoming a hostile and tense atmosphere, but my priority is to get Mansfield sorted and to get Handforth finalised (moral obligation)."

I am suggesting, and I understood you to agree with me, that would indicate that you were getting involved in this transaction in the first instance and primarily on Michael Lowry's behalf?

A. That's correct.

Q. So at some stage did you cease to look after Michael

Lowry's interests in the sense that you became Kevin

Phelan's agent and not Michael Lowry's agent?

A. You see, what happened after this letter is that nothing

happened, and, if you like, the non-resolution, hostility,

whatever, continued throughout a period of time, and I

wasn't privy to it, but it was effectively, I am sure,

Kevin Phelan, let's call it in inverted commas, fighting or

chasing Aidan Phelan. But I do recall that, later that

summer, Kevin Phelan came back to me and asked me would I

try and help to resolve the fees issue that he was having

with Aidan Phelan. So, I actually, and this is not being

evasive, I don't link the two. I see them as two separate

things altogether, both those periods now.

Q. But that's as may be, but I think I asked you a moment ago

that in relation to this letter of the 14th March, which

refers to various projects which appear to involve Michael

Lowry sorry, the 14th September, which refers to various

projects which appear to involve Michael Lowry, I

understood you to tell me that, in that time and in

relation to those matters, you were acting for Kevin

Phelan?

A. The September letter.

Q. But this letter is not about fees; it's about property?

A. Sorry, the letter of June?

Q. The letter of June is about property, as well, and the

letter of September about property.

A. Sorry, which letter are you asking me that question about, sorry?

Q. Both. As I understood your answer a moment ago, I wondered whether at some stage you had ceased to look after Michael Lowry's interest in the sense that you became Kevin Phelan's agent and not Michael Lowry's agent? And you said, "You see what happened after this letter is that nothing happened, and, if you like, the non-resolution, hostility, whatever, continued throughout a period of time, and I wasn't privy to it, but I was effectively, I am sure, Kevin Phelan, let's call it in inverted commas, fighting or chasing Aidan Phelan, but I do recall that later that summer Kevin Phelan came back to me and asked me would I try and help to resolve the fees issue that he was having with Aidan Phelan, so I actually, and this is not being evasive, I don't link the two. I see them as two separate things altogether, both those periods now."

And that's exactly what I'm trying to do, I trying not to link them at the moment. This letter is not about fees; this letter is about property projects.

A. It's about I suppose, in fairness, it's about getting finality on property projects.

Q. Right. And does rights have something to do with that?

A. As I recall this whole episode, they were unable they being, say, Aidan Phelan, on the one hand, and, on the other hand, Aidan Phelan, Michael Lowry unable to get

these deals completed because of the Kevin Phelan issue in the middle of it; he is claiming to be either entitled to an uplift or fees, or whatever.

Q. Well, was he entitled to fees?

A. Well, I wasn't there when it happened, but based on what I subsequently heard, I suppose the way I would put it is that I think I think what was agreed is that he was entitled to a share of the profit, but that the projects dragged and that that then became an issue of fees rather than a share of the profit. That's my recollection of it now in very simplistic language. Sorry, another issue was that, as part of his share of the profit, Kevin Phelan wanted to manage and see out those projects.

Q. Right. Could I ask you to go to the next document, please, for a moment, document Leaf 39. Do you recognise these documents?

A. I do.

Q. And if you go to the second page for a moment, you'll see that this document is signed by you; do you see that?

A. This is 39? Yes.

Q. We'll just go to the front of the document again. It's headed "Agreement between Kevin Phelan on the one hand and Aidan Phelan/Michael Lowry on the other hand."

Then it has Terms and Definitions. If we just turn over the page, it's signed by Kevin Phelan and it's signed by you.

A. Yeah.

Q. Now, you see, if it was signed by Kevin Phelan and signed by you, Kevin Phelan was presumably on one side and you were on the other, so you can't have been acting for him, do you follow me?

A. I accept that, yeah. Sorry, I don't accept the perception is I couldn't have been acting for him. I was trying to resolve a dispute.

Q. But were you acting for Michael Lowry?

A. As far as I was concerned, yes, I was acting for Michael Lowry, Aidan Phelan and trying to resolve a fees issue with Kevin Phelan which Kevin Phelan asked me to get involved in.

Q. You don't have to be acting for somebody to be resolving an issue for them. You can negotiate with somebody you are not acting for as long as you are acting for somebody else, obviously.

A. Okay.

Q. But I just want to try and get it clear where what role you had in relation to this document. Did you prepare it?

A. By "prepare" you mean?

Q. Well, did you get it typed up?

A. I did, yeah.

Q. Where did the wording come from?

A. It was an amalgam of an agreement of words between Kevin Phelan, Aidan Phelan, to a very small degree Michael Lowry, and myself in the middle trying to negotiate people arriving at this as a final version, if you like.

Q. If we just read it.

A. Okay.

Q. "Agreement between Kevin Phelan on the one hand and Aidan Phelan/Michael Lowry on the other hand.

"This agreement refers solely to the site at Mansfield and will be known as the Mansfield agreement.

"Denis O'Connor will represent and has the authority to represent Aidan Phelan and Michael Lowry as to this agreement." Do you see that?

A. I do.

Q. So I am right in what I suggest so I am right in suggesting that

A. Yeah, yeah. I am not disputing that.

Q. "Kevin Phelan is due no fees in respect of this transaction and he further warrants that he is not committed to any other fees including, in particular, but not limited to John Eastham.

"4. Aidan Phelan and Michael Lowry warrant that they have no claims against this transaction.

"5. Kevin Phelan has no claims against Aidan Phelan or Michael Lowry in respect of this agreement or site transaction. Any such claims or actions implied or otherwise are regarded as settled upon signing this agreement.

"6. Aidan Phelan and Michael Lowry have no claims against Kevin Phelan in respect of this agreement or site transaction. Any such claims or actions implied or

otherwise are regarded as settled upon when signing this agreement.

"7. Currency is in pounds sterling.

"8. Upon signing of this agreement, Kevin Phelan will introduce Denis O'Connor to the purchaser. At all times from signing of contract, all communication will be through Denis O'Connor.

"9. All funds will be transferred to the vendors' benefit by instruction of Denis O'Connor.

"10. The vendors are Aidan Phelan (90%) and Michael Lowry (10%).

"The Agreement:

" Kevin Phelan will sell the site unconditionally for $\pounds 375,000$ to the purchaser identified by him.

" contracts will be exchanged by Monday 22nd October 2001 with payment of 10% deposit.

" the contract for sale will be completed by Friday December 21st 2001.

" the contract for sale will specify that if the completion date is not met, the vendors have the option of charging daily interest at an annual rate of 80%.

" Kevin Phelan undertakes to recruit a solicitor to represent the vendor at the cost of Kevin Phelan.

" upon completion, the vendors to receive $\pounds 300,000$ without deduction the balance of funds on hand will be the property of Kevin Phelan.

" if this agreement is not completed by December 21,

2001, Kevin Phelan will relinquishes exclusive rights to sell the property. Kevin Phelan will receive" can you read the next bit? a something "fee of $\frac{1}{2}$ 50,000" something "upon completion of this sale." Do you see that?

A. "... due upon completion..."

Q. "... due upon completion of this sale."

Can you read all of that? Is that your writing?

A. No. Just give me a sec.

Q. Take your time.

A. Okay, what it says is "Kevin Phelan will relinquish exclusive right to sell this property," and then I think it's a full stop. "Kevin Phelan will receive a" something "fee of $\frac{1}{2}$ 50,000" I don't know what the next word is "due upon completion of sale." They look like two words after "receive" it looks like A, the letter A on its own. Sorry, I'll keep looking at it as we go. If you give me a second then, Mr. Healy, I just might put it together.

Q. Yes.

A. It looks like an adjective describing the fee, you know, as in a termination fee, or something, but it's not the word "terminate". And the word after the "50,000" looks funny, too.

Q. "Fixed"?

A. Sorry, "fixed due" wouldn't mean anything to me. It looks like it certainly looks like it starts with the letter

F. Like, if you didn't know better, you'd say "freed" or "forced", but it's not that.

Q. It can't be "forced"

A. What?

Q. I don't think it can be "forced", can it, because there is no O-R, if you know what I mean?

A. But it looks like it's C-E-D it ends in.

Q. Or else F-I-X-E-D, if you see what I mean.

A. That's the point

Q. We won't delay.

A. I'll have a look at it over the weekend and see if I can make sense out of it.

Q. Thank you very much. If you go to the next document for the moment, this is a related document, and I take it that you recognise this document as well?

A. This is Tab 40, yeah.

Q. This document, just as the last one relates to Mansfield, this appears to relate to the Handforth/Cheadle.

Paragraph 1 under "Terms and Definitions":

"1. This agreement refers solely the site at Handforth/Cheadle and will be known as the Handforth agreement.

"2. Denis O'Connor will represent and has the authority to represent Aidan Phelan as to this agreement.

"4. Kevin Phelan is due fees of $\frac{1}{2}$ 150,000 in respect of this transaction and he further warrants that he has not committed to any other fees including, in particular, but

not limited to John Eastham.

"4. Aidan Phelan warrants that he has no claims against this transaction.

"5. Kevin Phelan has no claims against Aidan Phelan in respect of this agreement or site transaction. Any such claims or actions implied or otherwise are regarded as settled upon signing this agreement.

"6. Aidan Phelan has no claims against Kevin Phelan in respect of this agreement or site transaction. Any such claims or actions implied or otherwise are regarded as settled upon signing this agreement.

"7. Currency is pounds sterling.

"8. The vendor is Aidan Phelan (100%).

"The Agreement:

" upon completion of the Mansfield deal, Kevin Phelan will receive $\frac{1}{3}$ of 50,000 or one-third of the fees due to him.

" as at the 1/10/02, Kevin Phelan will receive the $\frac{1}{3}$ of 50,000, being the second installment of fees due to him.

" upon sale or completion of this disposal of site, Kevin Phelan will receive $\frac{1}{3}$ of 50,000, being the final installment of fees due to him.

" Kevin Phelan will provide to Denis O'Connor the planning permission in respect of nursing home within 14 days."

Do you see that?

A. Yes.

Q. I am just trying to understand how much Kevin Phelan, in

all, was to get arising out of these two agreements. Under the first agreement, the Mansfield agreement, it looked like he had identified a purchaser for $\text{€}375,000$, and he was going to get $\text{€}75,000$ out of the sale; is that right?

A. Yes. I can't recall, sitting here, what the purchase price of Mansfield was, but if I remember, it was in the order of $\text{€}300,000$ sterling. I am not sure I am right, but I think it was somewhere around that mark. Now, at that stage, the problem with the Mansfield site was, if I remember correctly, that I think planning permission had lapsed, or hadn't been got, or something like that, and Aidan Phelan, in particular, was quite annoyed about that and was at that stage kind of regarding it as not a great deal. And, in effect, that was a criticism of Kevin Phelan having put the deal together. So I recall that Kevin Phelan absolutely rejected that perception and was of this view that he knew where he could sell it for this amount of money, and that was his answer to the kind of suggestion by Aidan Phelan in particular. So he was saying, "Look, you might think it's bad, but I can sell it." And as I remember, I think if it was $\text{€}300,000$, that would suggest that Kevin Phelan was aiming to get, out of that, $\text{€}75,000$. That's assuming the purchase price was in the order of I think I said it somewhere.

Q. Well, it does, if you read the document, it looks like Aidan Phelan was going to get $\text{€}75,000$ Kevin Phelan was going to get $\text{€}75,000$ out of the sale of Mansfield for

€375,000, do you see that?

A. I see it now. There it is in the second page, indeed,

€75,000.

Q. So he is going to get a huge amount of money out of the sale and the vendors are going to be left with a loss, wouldn't that be right?

A. I am not sure what the purchase price is. I thought it was around was it, by any chance, 275 or 285? I can't recall.

Q. I think 270, but I can check that.

A. My recollection, for what it's worth, is that this was a break if you want to call it, a break-even, get out of this project. So, yes, to answer your other question, if Kevin Phelan could sell it for €375,000, he was making in the order of €75,000 out of the deal.

Q. And the vendors, after paying their interests and their other costs, it didn't look like they were making much out of it, if anything, did it?

A. I think I said a minute ago in the June letter, did I not crystallise costs on it? Sorry, I thought I saw that a moment ago. Sorry, what tab was the June letter?

Q. 27.

A. I thought somewhere in that I saw sorry, I understand that the current net costs on the site is in the order of 300,000. That's where I see that, as well, okay. So, yes, you are right. They were actually, if you take I don't know whether that 300,000 actually included interest or

not, but they certainly weren't making money out of it and possibly they were going to lose some money between fees and one thing and another.

Q. And the other property, then on the other property, Kevin Phelan was going to get, it looks like 150,000; is that right?

A. Yeah, that was what what he was trying to set up there, if I recall correctly, was he regarded - he, Kevin Phelan, now, regarded the Cheadle site as of as having exceptional potential, and that's what he suggested at all times. He also suggested and was adamant that he had a buyer, but of course he wouldn't disclose who the buyer was, except the price. So here you have Kevin Phelan claiming fees; Aidan Phelan, in effect, saying he wants him out of his life, the thing gone mad; and Kevin Phelan saying, "I am not walking. I can make a lot of money out of this and I'm not going unless I get $\frac{1}{2}$ 150,000."

Q. $\frac{1}{2}$ 225,000, in fact, between the two?

A. No, sorry, I was just talking about the Handforth or the Cheadle.

Q. Between the two transactions he was going to get $\frac{1}{2}$ 225,000?

A. That's exactly right.

Q. Sterling?

A. Correct.

Q. And was he going to walk out of Aidan Phelan's life for that?

A. I believe so.

Q. Does that mean they were going to have no other troubles by any other fees due to him for anything else?

A. I don't know. I mean, I see what you're saying.

Q. The document doesn't

A. But Altrincham is still there and Doncaster is still there.

So I'm trying to remember were they still hanging around then, and certainly we know Doncaster was. I don't know what actually I don't know how Altrincham was resolved or where it went to.

Q. Doesn't this look like sort of quite an exotic agreement:

Somebody buys two properties for 275,000, in the one case, and 500-odd thousand in the other. He disposes of them and he is going to get $\frac{1}{2}$ 225,000 fees out of it, even though he has put no money into it himself; he may have put effort in, but he has put no money in, isn't that right?

A. That's what he was demanding, on the one hand. I am not disputing that with you at all.

Q. Now, again, I just want to know, when you prepared these documents, did they go into that file you mentioned a moment ago, the drop-down file, the twin-lock file, or whatever you call it?

A. Where would these have ended up? Certainly I would have given one copy to like, when I think about it, there was probably two signed, one to Kevin Phelan and one to Aidan Phelan. I don't even know if Michael Lowry got one in relation to Mansfield. Where they would have ended up, I don't know. I mean, I couldn't be certain. I would

imagine the answer to your question is yes, but I can't be certain.

Q. But once again, aren't these documents that would have been relevant to the Tribunal's inquiries into Mansfield and Cheadle?

A. In what way?

Q. Well, would you say they are relevant, or would you say they are not relevant?

A. They are into the Tribunal's inquiry vis-a-vis Michael Lowry and Handforth or, sorry, Cheadle and Mansfield?

Q. Yes.

A. Well, the page I have open at the moment is the Cheadle one, right, and that's a conflict between Aidan Phelan and Kevin Phelan as to fees, so it did not involve Michael Lowry in any shape, good, bad or indifferent. That's my attitude to that one.

Q. Was there not evidence given that Michael Lowry was supposed to be under a moral obligation to dispose of Cheadle?

A. A moral responsibility certainly to do something on Cheadle; it could be dispose, you could be right in that, but certainly a moral obligation, yeah.

Q. So wasn't that what explains why his name is still being mentioned in relation to Cheadle, even after it appears Aidan Phelan took it over?

A. Michael Lowry had nothing to do with this.

Q. Nothing to do with this document at all?

A. With the Cheadle, no.

Q. Nothing at all?

A. Not to my knowledge.

Q. Well, could we go back to the 18th June, then

A. Yeah.

Q. on document 27, again. Again, could we go to the last paragraph under the heading "General":

"I am anxious (at Michael Lowry's request) to complete the deals he was involved in I know this is your objective also." And then in the last sentence again you say, "I will help in any way I can in what is becoming a hostile and tense atmosphere, but my priority is to:

"A) Get Mansfield sorted

B) Get Handforth finalised (moral obligation)."

A. Yes.

Q. Doesn't that suggest that you were involved with this at that time on Michael Lowry's behalf with that priority?

A. No.

Q. I see. Why did you say that then?

A. Why did I say?

Q. What you said there.

A. No.

Q. "I will help in any way I can but my priority is to:

"A) Get Mansfield sorted.

B) Get Handforth finalised (moral obligation)."

A. That's what I said. And then as I said to you earlier in my evidence, nothing happened after the June letter.

Q. I'm not talking about afterwards. If we just take the letter on its face. If we just deal with the letter. Does the letter not mean that you were, at Michael Lowry's request, trying to complete these two deals?

A. Correct.

Q. And that your priority was to get Mansfield sorted and to get Handforth finalised?

A. Correct, if if requested.

Q. Yes.

A. Yeah.

Q. And that was at Michael Lowry's request?

A. You are talking about June?

Q. Yes.

A. Yeah.

Q. I am, yes, do you agree with that?

A. As at June, yes, that's what I said, yeah. I suppose my problem is you are linking both documents.

Q. Well, they seem to me to be related, but perhaps you'd explain to me if they are not. I am anxious to know. On the face of it let me just explain why I think they are linked: One document, the one I have just mentioned, refers to you having certain priorities to do certain things, and as I see it, to do them at Michael Lowry's request. And the other document, you are dealing with those selfsame two properties. Do you follow?

A. I do.

Q. Right. That's why I think they are linked.

A. But what I am trying to explain to you is that after I wrote that letter in June, nothing happened until Kevin Phelan came back to me. I mean, nothing happened. And Kevin Phelan asked me Kevin Phelan asked me would I try and help to resolve the fees issues he had on Mansfield and Cheadle, and I said I would try. I rang, telephoned Aidan Phelan, who was pretty hostile to the whole notion, and he felt it was a waste of time, that there was no settling with Kevin Phelan, but he reluctantly agreed that I could try and progress it to try and find a finality on it. That's the gist of it. But that happened I know you want to link both of them, and I can understand that, but, to me, they weren't linked; they were two separate episodes.

Q. All right. Let me just take what you said, so. After the 18th June, nothing came out of that?

A. Correct.

Q. You didn't get the proposal from Kevin Phelan that he said he was going to fax to you?

A. I can't recall any proposal, certainly.

Q. All right. Subsequently, you got involved in a fees dispute between Kevin Phelan and Aidan Phelan?

A. Correct.

Q. And the resolution of that dispute was the sale of these two properties?

A. The proposed resolution.

Q. So Michael Lowry was prepared to have his property sold to

resolve the dispute between Kevin Phelan and Aidan Phelan,

is that it?

A. That's correct.

Q. And did you explain that to Michael Lowry?

A. I did you are talking about Mansfield now?

Q. Yes.

A. Yes, I did.

Q. And he was prepared to do it?

A. Yes.

Q. And wasn't that all relevant to the Tribunal's inquiries into Mansfield?

A. I am not sure in what context you mean that. I mean

Q. Well, Michael Lowry was prepared to facilitate Aidan Phelan?

A. To dispose of a property in the UK?

Q. Yeah.

A. I still don't see what the point is, I am sorry.

Q. He gave evidence that he was trying to sell this property, do you not remember that, Michael Lowry?

A. Yes.

Q. And he gave evidence that he had a moral obligation to dispose of the other property?

A. I recall that.

Q. Do you remember that?

A. Yeah.

Q. Although he did say he didn't do anything about it, but he did say he had he acknowledged he had a moral obligation

to do something about it?

A. Mm-hmm.

Q. And just so I understand your position, you say that this agreement here, this Mansfield agreement, has no relevance to the Tribunal's inquiries into Mansfield at all?

A. We were actually on Cheadle a moment ago.

Q. I am just taking this because I am going to pass on. You are saying the Mansfield document has no relevance to the Tribunal's inquiries into Mansfield. I am just really summarising your answer. That is your answer

A. I am just looking at it here and looking at it in the context of you asking me the question now. I am just looking at this agreement and I am saying I didn't see it that way. I saw it as a fees issue. To some extent

Q. You brought the Mansfield transaction to the Tribunal first day on Mr. Lowry's instructions?

A. Correct.

Q. What was the relevance of it at that stage to the Tribunal's inquiries?

A. That's a point that's still a debate with me, right? But Mr. Lowry said, if you recall, got me back from America, everything, and said, "Do this". I said, "Fine."

Q. What did you say?

A. I said, "Fine."

Q. Did you give any advice?

A. No. If you recall, I came back from America on the 16th of March, or something like that, and rang the Tribunal that

day. I mean, literally landed, I think this is I recall my evidence as being, I came in on a flight, met him or, sorry, got organised, met him and rang the Tribunal that afternoon. Yeah, all at his instructions. He said, "There is a big problem with all this stuff."

Q. What was the big problem?

A. The Investec, Central Bank, whatever, he was aware of all that. And he said, "Can you please" it wasn't so much advise the Tribunal, but ring the Tribunal and say, on his behalf, he is aware of it and that the Tribunal are going to be investigating it.

Q. What did Investec have to do with Mansfield?

A. Nothing.

Q. Can you just stick with Mansfield then.

A. Sorry, I knew nothing about any of this. I am just telling you what happened.

Q. Wasn't the problem with Mansfield that Mr. Lowry was involved as a partner with Mr. Aidan Phelan, who was an associate of Mr. Denis O'Brien and had been his, if you like, financial advisor for some considerable time?

A. That's what subsequently you know, I mean

Q. That's what he knew, that's what you knew at that time?

A. I didn't know it.

Q. Did he not tell you?

A. No, when I rang up here in March, no, he didn't.

Q. You didn't know how the Mansfield transaction had been put together?

A. Not when

Q. Michael Lowry presumably knew how it had been put together?

A. I would of course he did, yeah.

Q. And he instructed you to come in to the Tribunal and to explain that this was another transaction that was relevant?

A. Sorry, I think we are getting confused with the dates here.

I am talking about when he got me to contact the Tribunal about it. You are saying when I came in to the Tribunal; you mean when I gave my evidence?

Q. Whichever way you want to look at it. Start with when you came in and made contact with the Tribunal, start with that.

A. You see, I didn't come in. I was abroad and Mr. Lowry rang me, or telephoned me, and I was urged by him to come home, that there was some problem about properties in the UK and the Tribunal. So whatever day I arrived in here, it's in my previous evidence, I would have got in to Dublin say half ten, eleven in the morning, gone home, this, that and the other, met Mr. Lowry, and rang the Solicitor to the Tribunal that afternoon, at Mr. Lowry's request, and when I made that, I wouldn't have had an idea, as such, what was going on. That's the point I am trying to get across to you.

Q. Right. You knew, after you gave evidence, isn't that right, the relevance of the Mansfield transaction to the inquiries being conducted by the Tribunal?

A. I did.

Q. And after that evidence had been given and other evidence had been given, you knew the Tribunal was interested in and believed that the transaction was relevant to its inquiries, isn't that right?

A. I was aware of that, yeah.

Q. And against that background, why didn't you bring this document, which came into existence in September of that year, to the attention of the Tribunal?

A. Because I just see it as a fees issue that I was resolving. I don't see what the impact of it as regards Michael Lowry and this Tribunal. If I should have, fine, I accept that, but I cannot see the relevance of it, the impact of it.

Q. So the purpose of these two arrangements was to try to pay Mr. Phelan $\frac{1}{2}$ 225,000 in fees?

A. No.

Q. I see. Well, I thought you said it was a fees issue?

A. It was, but you said what the purpose was. The purpose of this

Q. Yes.

A. was to get finality on both deals.

Q. Well, Mr. O'Connor, is it a fees agreement or is it a property agreement or is it a property agreement designed to generate fees for Mr. Phelan?

A. It's the resolution of a fees issue without which the properties were having difficulty being sold, because Kevin Phelan was, you know - I have explained this already - in

the middle

Q. No, no, let's take it slowly. Kevin Phelan had a problem with fees. Now, can you show me anywhere, any document, in which Kevin Phelan says he was owed $\frac{1}{2}$ 225,000 out of Mansfield and Cheadle?

A. No.

Q. No. So there was no fees issue connected with Mansfield and Cheadle, is that right?

A. Sorry. Kevin Phelan believed, as he did in all the projects he did, that he had the running of the project, i.e. he sourced the project, he redeveloped it, whatever way it was, whether it was planning, or whatever, and he sold it on for what he used to always call an 'uplift'. He believed he had agreed that, right, in these two projects with Michael Lowry initially, certainly, and then that's what continued with Aidan Phelan. The problem was, he continued insisting on that, and the only way he would walk away from that was to be paid fees in lieu of that arrangement. That's my total understanding. And until he got resolved, that dispute existed all the time. I hope I am explaining it properly this time.

Q. Quite apart from the relevance of this document to any matters being examined by the Tribunal, if you put it into the drop-down file you had, does that mean it went back to Kevin Phelan?

A. That's my belief, yeah.

Q. But why would you give these documents to Kevin Phelan when

they are most definitely, on the face of the documents,
belonging to Aidan Phelan and to Michael Lowry?

A. Well, Michael or sorry, Aidan Phelan would have had
definitely a copy, or whatever, of these documents.

Q. Precisely, yeah.

A. Kevin Phelan would have had a copy. And when all this
broke down, as it did in 2002, Kevin Phelan asked for all
the papers back, and I was as happy as Larry to give it to
him.

Q. These weren't his papers; these were Michael Lowry's
papers?

A. Sorry, Michael Lowry was every bit aware of this, and, for
all I know, Michael Lowry had a copy as well. I would
accept that Michael Lowry was certainly aware of and
probably had a copy of the Mansfield document, agreement,
or whatever it is there, a purported agreement.

Q. When do you recall giving them back to him?

A. My recollection of this is that these, if you look at the
if you look under where it says "The Agreement," there
is kind of trigger dates.

Q. Yes.

A. And my recollection is that Kevin Phelan, in the beginning
of 2002, formed a view that these were never going to
happen, and I just have a recollection of him saying that
he would deal with Aidan Phelan himself, and he wanted
everything back, and it was pretty a hostile, if you like,
kind of message. That's my recollection.

Q. What does "hostile" mean? It comes up a lot.

A. Everything to do with this was mistrust

Q. Did you trust Kevin Phelan?

A. Did I trust Kevin Phelan? As regards what?

Q. Anything?

A. Well, I trusted Kevin Phelan as to these two matters, that he had actually enacted that deal where he was claiming the uplifts or the share of the profit. I did actually trust him as to that and nothing has ever changed my view about that. So I actually felt that, rightly or wrongly, he had a deal that looked like a very good deal providing that things were sold, but it was a significant share of profit as distinct from anything else.

Q. But it never happened, isn't that right?

A. I know that.

Q. But you believed at the time that it was all ready to roll?

A. Yeah. Even when they were being completed, like the way it was going on, like Kevin Phelan portrayed that he had, and I can't remember, but that he had the actual purchasers in place, everything, I believed well, sorry, at that moment in time I knew there was some problem with the Mansfield. It wasn't as attractive-looking as the Cheadle deal.

Q. Could I ask you to go to Document 45, please, Mr. O'Connor.

This seems to be one page of either it's either one page of a two-page or perhaps multi-page letter from Mr. McCann, a solicitor in Woodcock's, solicitors for Mr. Kevin Phelan,

or else part of a page of a one-page letter from Mr. McCann in Woodcock's. And it looks to be a letter to Mr. Christopher Vaughan. I'll just read the only portion of the letter the Tribunal has which came to the Tribunal from Christopher Vaughan's, Mr. Christopher Vaughan's file.

Messrs. Woodcock will not provide the Tribunal with the balance of the letter and neither will Mr. Christopher Vaughan.

It says: "We look forward to hearing from you at this point." That appears to refer to the part of the letter the Tribunal doesn't have.

"The final issue that we wish to raise is one that has become apparent whilst we, together with our client, have reviewed documentation that is available to him in relation to the preparation of papers for counsel to enable counsel to advise and thereafter settle Particulars of Claim in relation to the issue of court proceedings concerning the various property transactions that were referred to in our correspondence of the 28th January, 2002."

On the face of it, therefore, this letter must have been written sometime after the 28th January, 2002.

"We are instructed by our client that he has been handed a substantial amount of documentation by Denis O'Connor, accountant to Michael Lowry. We are further instructed that this documentation has been obtained through the Moriarty Tribunal which, as you are aware, is proceeding in Ireland.

"Included within the documents that has been recovered by our client is correspondence from you to our client being, in part, file copies and in others a copy of correspondence that was sent to our client. The correspondence received differs to the originals in our client's possession.

Sample letters are dated as follows:

- "1. 27th August 1999.
2. 9th September 1999.
3. 12th November 1999.
4. 1st December 1999.
5. 12th July 2000.

"The alterations to the correspondence are clear.

"At this stage our client is not in any way attempting to insinuate that you in fact are personally responsible for the alterations to the correspondence, our client is simply unaware of who has altered this correspondence. On the basis, however, it does appear that altered documentation has been submitted to the Moriarty Tribunal, there are serious implications.

"Please confirm therefore if it is that you are in any way aware of the alterations that have been made to the correspondence in this matter. You will see that both the original and the amended versions are included.

"We look forward to hearing from you at your earliest opportunity."

Now, I just want to ask you about the passage in that letter that refers to you as having handed a substantial

amount of documentation to Kevin Phelan. Do you see that?

A. I do.

Q. Do you know anything about that?

A. I don't.

Q. Is the only documentation you handed to him the documentation you mentioned to me a moment ago?

A. Absolutely, yeah. Sorry, those agreements certainly it's not what I mean, as I understand it, those five letters are obviously letters that would relate to the Tribunal. I never gave him anything like that. So all I would have given him was a very small amount of stuff relating to the agreement he signed.

Q. Well, would I be right in thinking that the documents we were looking at a moment ago, the two agreements relating to Mansfield and Cheadle and the $\frac{1}{2}$ 225,000, that arrangement never came off; isn't that right?

A. Certainly, to my knowledge, it didn't, you know, unless something happened since 2002.

Q. And was it soon after that that you were asked to give the documents back to Aidan Phelan or to Kevin Phelan?

A. In 2002 sometime, yeah.

Q. 2002, sometime?

A. Yeah.

Q. Do you think it was early in 2002?

A. I would imagine just, this is based on time sequences in your head it was sometime between early 2002 and, say, the beginning of the summer 2002, but somewhere in that,

and more to the start of the year than the end of the year,

I would imagine.

Q. More to the start of the year than the end of the year?

A. Yeah.

Q. Now, could you go to document 48 for a moment, please. Do

you see that this is a letter from Game Plan International

of 106 Gillyhooley Road, Omagh, to the Secretary of the

Institute of Chartered Accountants in Ireland.

A. I do.

Q. Dated 4th March, 2002, "strictly private and confidential".

"Dear Sir/Madam,

"Re Bryan Phelan & Co. Auditors & Accountants...

"We wish to register a formal complaint against the above firm of accountants and in particular Mr. Bryan Phelan and Mr. Aidan Phelan who gave undertakings to our firm which were relied upon but 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 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. Brian Phelan & Company has failed to make payment 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 Brian Phelan & Company on a number of occasions. Mr. Bryan Phelan has acknowledged the correspondence in a letter dated September 17th, 2001. In Mr. Bryan Phelan's letter of September 17th, 2001, he attempts to distance his firm 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 at 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 Brian Phelan & Company has a legal obligation to return our files so as to allow us to 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 member.

"Yours sincerely,

Mr. Kevin Phelan.

cc Brian Phelan & Company."

Is that document familiar to you?

A. No.

Q. Were you aware in March of 2002 that Kevin Phelan had made a complaint to the Institute of Chartered Accountants regarding both Bryan Phelan and Aidan Phelan, although Mr. Aidan Phelan is not, in fact, apparently, a member of the Institute of Chartered Accountants?

A. No.

Q. You weren't aware of that?

A. No.

Q. You describe the two agreements that we mentioned a moment ago as relating to a fees dispute between Kevin Phelan and Aidan Phelan, isn't that right?

A. That's correct.

Q. And you say that that I think you imply, am I right, that that appeared to arise right back on the 18th June, 2001?

A. In that the demand, or whatever, was given to me then?

Q. Yes.

A. Yeah, correct.

Q. And do you remember I mentioned to you that the properties mentioned in that letter are the same as the properties mentioned in this letter here, do you see that?

A. I remember you making that mention. Now I see it, yes.

Q. Do you see where the same properties are mentioned in the second paragraph of this letter, Mansfield, Handforth, Altrincham and Doncaster?

A. I do.

Q. Now, at the time that you were dealing with Mr. Aidan Phelan and Mr. Kevin Phelan in June of 2001, were you aware that Mr. Aidan Phelan was really only, I think, as he put it, a front man for Mr. Denis O'Brien in relation to the Doncaster transaction?

A. I am sorry, that who was a front man?

Q. Were you aware

A. I just missed the name; that who?

Q. That Mr. Aidan Phelan was really only a front man and I am not using that in any derogatory sense

A. I know that.

Q. for Mr. Denis O'Brien in relation to the Doncaster transaction?

A. At what time?

Q. In June of 2001?

A. No.

Q. When did you become aware that Mr. Denis O'Brien was really the man behind Mr. Phelan in relation to that transaction?

A. I don't know, but I think it was actually in here in

evidence, but, you know, that's my recollection. I think it came up here in evidence one day while I was sitting here, I think. Now, when that was, I don't know.

Q. Yes. Well, Mr. Aidan Phelan gave evidence in 2002, I think, in which he may have mentioned it, and I am reminded that Mr. Denis O'Brien himself may have mentioned it in his evidence in 2001, so maybe it's from that

A. I actually can't remember. I know I sort of feel I heard it up here for the first time, but...

Q. Could I just ask you to look at the second sentence in the second paragraph: "We have been instructed in the past on two projects by the above firm." That's referring to Mr. Bryan Phelan's firm, the firm itself, do you see that?

A. That's correct.

Q. Now, he then passes on from that and says: "We have also had instructions from the firm through Mr. Aidan Phelan who confirmed he was acting as agent for Mr. Denis O'Brien and another in respect of four other projects." And do you see the first one he mentions is the Mansfield site?

A. Correct.

Q. And have you ever heard that Aidan Phelan was giving instructions on behalf of Mr. Denis O'Brien in relation to the Mansfield site?

A. No.

Q. Or the Cheadle site?

A. No.

Q. Or the Altrincham or Doncaster Rovers sites?

A. The Altrincham one kind of means nothing. I know it came up in June, but and sorry the question?

Q. The last one is the Doncaster Rovers site. Well, you have just confirmed that you were aware?

A. Yeah.

Q. But look at the rest of the sentence. He says that "Aidan Phelan confirmed to him that he was acting as agent for Denis O'Brien and another in respect of four projects."

Now, the only person you knew to be involved in any of those projects, other than Mr. Denis O'Brien or Aidan Phelan, was Mr. Michael Lowry; isn't that right?

A. Well, the only one I understood to be involved was Aidan Phelan and Michael Lowry and I knew nothing about Altrincham, like to this day. It's kind of a blank. And I, for a period in time, I think I have outlined it before, I understood Aidan Phelan to be Doncaster Rovers, okay? I think that's what you are asking me, so.

Q. Now, could I ask you for just a moment to turn to document 54, Mr. O'Connor, please. This is a letter from PGL, which is, I think, a successor firm to Mr. Bryan Phelan's firm, do you see that?

A. I do, yeah.

Q. It's addressed to Mr. Heneghan, the Tribunal Solicitor, dated 20th December, 2004, and Mr. Bryan Phelan is the author of the letter. And you will see the way he writes the letter, he actually sets out, effectively, the matters in respect of which the Tribunal sought his comments.

And the first item is item 1: "All the matters in dispute between Mr. Kevin Phelan and you/your firm."

And he says: "Mr. Kevin Phelan wrote to Aidan Phelan at our firm on the 27th August 2001, 12th September 2001 and 14th September 2001 raising or alleging certain matters. I replied on behalf of Brian Phelan & Company on the 17th September 2001. Mr. Kevin Phelan responded to our letter on the 4th October 2001. We had a further letter from Mr. Kevin Phelan on 3rd January 2002, again addressed to Aidan Phelan. We replied to this letter by fax on the 9th January 2002 in light of our letter of the 17th September 2001. We should point out that we do not recall or have a copy of the letter of November 12th, 2001, referred to in Mr. Kevin Phelan's letter of the 3rd January, 2002.

"On the 4th March, 2002, Mr. Kevin Phelan forwarded us a copy of a letter dated 4th March, 2002, which he had apparently sent to the Secretary of the Institute of Chartered Accountants in Ireland.

"On the 19th March 2002 the Institute wrote to our firm. Our firm instructed LK Shields, Solicitors, to represent it, and by letter of the 27th March 2002 they wrote to Mr. Kevin Phelan. This firm wrote to the Institute on the 28th March 2002. There was further correspondence from the Institute on the 25th June 2002 to which we replied on the 1st July 2002. The Institute wrote to us again on the 11th July 2002 and we responded on the 26th July 2002. The Institute wrote to us on the 1st August. LK Shields,

Solicitors, were not informed by us in 2002 about the further correspondence with the Institute commencing on the 25th June 2004 and ending on the 1st August 2002.

"How such matters in dispute arose," and he refers to attached correspondence.

Next query is: "How such matters were connected (if such be the case) with the matters in dispute between Mr. Kevin Phelan and the other parties referred to in the second paragraph of the letter dated 30th July 2002."

"Mr. Kevin Phelan sought to connect the various matters, as is evidenced by his letter of the 4th March to the Institute. This firm's view is that the matters were not connected with the matters in dispute between Mr. Kevin Phelan and the said other parties. You are aware from my letter of the 10th December 2004 of my primary business involvements with Mr. Denis O'Brien.

The next query relates to the "Manner in which the matters in dispute with you/your firm were resolved."

He says: "Our firm retained LK Shields, Solicitors, in this matter. Denis O'Connor, we understand, contacted that firm early in June 2002 as he had several dealings (including some ongoing dealings) with them over a number of years. He had become aware of the complaint to the Institute and offered to try and help dispose of that matter as he was fully aware of the amount of time and cost that would be involved by our firm in dealing with the Institute. LK Shields, Solicitors, were made aware by

Denis O'Connor of terms upon which matters between our firm and Mr. Kevin Phelan might be resolved, and subsequently LK Shields, Solicitors, were instructed by our firm to prepare a draft agreement containing those terms. This they did and sent it to Woodcock & Sons, Solicitors, by fax of the 18th June 2002, a copy of which I enclose. This was responded to by letter of the 30th July 2002, a copy of which we enclose. This was followed by further letters from LK Shields, Solicitors, dated 20th August 2002 to David McCann of Woodcock's & Sons, of 28th August 2002 from LK Shields, Solicitors, to David McCann, and by letter of 4th September 2002 from Woodcock & Sons to LK Shields. There followed a further e-mail and fax from LK Shields, Solicitors, on the 4th September 2002 to Mr. McCann. On the 5th September 2002, further drafts were dispatched by e-mail to Mr. McCann followed a confirmatory fax of 6th September 2002 requesting confirmation of wording being agreed. This was responded to by a letter of 6th September 2002 from Woodcock & Sons.

"The agreement was subsequently received, duly executed and a letter dated 27th September 2002 was sent to the Institute, who responded on November 7th 2002. We attach a copy of the signed agreement made 12th September 2002 and the various letters and e-mails referred to above. While the draft settlement agreement included, on my instructions, reference to my brother, Aidan Phelan, I should clarify that he was not a participant in the

settlement in circumstances where he did not, in the event, instruct LK Shields, Solicitors.

"5. The involvement of Mr. Denis O'Connor (if any) in dealings with Mr. Kevin Phelan on behalf of you/your firm."

And he says: "Mr. Denis O'Connor contacted LK Shields, Solicitors, and offered to assist our firm in relation to the complaint, and his role, as far as I was concerned, was one of a friend and colleague. Mr. Denis O'Connor did not report to me on his dealings with Mr. Kevin Phelan.

Through LK Shields, Solicitors, he offered to assist us and suggested that an agreement might be prepared by our solicitors and sent to Mr. Kevin Phelan's solicitor. I was not involved in any negotiations with Mr. Kevin Phelan following upon his complaint to the Institute. The sole act carried out by Denis O'Connor on behalf of this firm was to deliver the settlement agreement dated 12th September 2002 to Mr. Kevin Phelan's solicitor, to receive in exchange the counterpart of the agreement duly executed, and to forward same to LK Shields, Solicitors.

"The documents attached relate to the matters raised by Kevin Phelan in his correspondence with our firm. I also attach a copy of the correspondence and documentation passed between Denis O'Connor and LK Shields, Solicitors, in relation to the dispute Mr. Kevin Phelan had with my firm and myself."

Now, do you see that Mr. Phelan refers to your becoming involved in this matter?

A. I do.

Q. Can you tell the Tribunal what you know about it?

A. The first I heard of the complaint to the Institute of Chartered Accountants of Ireland about this matter was from Denis O'Brien Senior, and he also apprised me of the fact that it was LK Shields that were handling the matter from Bryan Phelan's & Co's perspective, and, as part of all the other issues that you have yet to go through here, Mr. O'Brien Senior said that he would not progress the other settlements with Kevin Phelan unless this issue was resolved. So he asked would I intercede with Kevin Phelan to get this thing sorted out, the complaint to the Institute. So I said I asked him, I inquired of him who was dealing with it, was it Bryan Phelan or whoever? And he said, no, it was actually LK Shields & Partners, and he named the person who was dealing with it in there, who I actually knew quite well, and he suggested that I call him. That's how I got involved in it.

Q. So all this business about you getting involved as a colleague, and all of that, is all none of that is correct?

A. It's a fair comment.

Q. You wouldn't have got involved in this but for the fact that Mr. Denis O'Brien Senior asked you to get involved?

A. Well, I accept that, but other people could, you know; that's, unfortunately, the type of person I am. I mean, it's a dispute resolution and it's pretty serious stuff

from Bryan Phelan's perspective.

Q. Let's just take it step by step. "Denis O'Connor, we understand, contacted that firm early in June 2002 as he had had several dealings, including some ongoing dealings with them over a number of years." Is that the reason you contacted them? We know that's not the reason you contacted them; you contacted them because of Mr. Denis O'Brien Senior asked you to?

A. That's right, yeah.

Q. "He had become aware of the complaint to the Institute and offered to try and help dispose of that matter as he was fully aware of the amount of time and cost that would be involved by our firm in dealing with the Institute."

That's not that wasn't what prompted your involvement either?

A. No.

Q. You got involved because Kevin Phelan was saying "I won't settle on another matter unless" Denis O'Brien said "I won't settle on another matter unless this is settled"?

A. I got involved because of Denis O'Brien Senior.

MR. HEALY: I suppose we might as well leave it till next Tuesday. We'll go into it in more detail then.

A. Okay.

CHAIRMAN: Very good. Eleven o'clock.

THE TRIBUNAL ADJOURNED UNTIL THE 20TH MARCH, 2007, AT 11AM.