

THE HEARING RESUMED ON THE 11TH OF FEBRUARY, 1999, AS

FOLLOWS:

CHAIRMAN: Good morning everyone.

MR. COUGHLAN: May it please you sir.

CHAIRMAN: Yes Mr. McGonigal?

MR. MCGONIGAL: Before Mr. Coughlan takes the next witness, could I just mention something by way of a small difficulty which I just want to alert the Tribunal to? And it is this; that in relation to the matters which the Tribunal are dealing with today, we have no witness statements or documents except as we came into the Tribunal this morning.

CHAIRMAN: Yes.

MR. MCGONIGAL: I am saying this because it makes it difficult from our point of view in relation to taking instructions, in relation to any matters that we may wish to raise during the course of this; and I appreciate the Tribunal are in the difficulty of carrying out investigations at the same time. I am not seeking to interfere with that, nor am I seeking to object to taking things effectively on the run as they come in, but I simply want to alert the Tribunal to the fact that it does make it difficult for us to respond on the day, and that I would like to be taken pretty well as reserving our position in

relation to anything that arises and I wouldn't like anyone anywhere to take my silence as simply being an endorsement in case we have to take instructions arising out of any matter. It is simply a procedural matter that I want the Tribunal to bear in mind.

CHAIRMAN: Well, I see Mr. Coughlan appearing to acquiesce in that Mr. McGonigal; and from my own part I am certainly appreciative of the difficulties that this particular phase of dealing with the Carlisle Payments have raised for everybody, and indeed it has imposed enormously last minute pressures and late night working hours on the Tribunal's own legal advisors, and I accept that by analogy it imposes considerable and exacting demands on other parties such as Mr. Haughey; and of course Mr. McGonigal, insofar as the Tribunal can reasonably accommodate the situation, we will endeavour to see that you are not in anyway taken short and that by perhaps not being able to put all matters that you may in the ultimate considered material today, you are not debarred on any future occasion of doing your level best to see that your client's interests are entirely safeguarded.

MR. MCGONIGAL: I was thinking not only of the Carlisle Trust, but the other matters, Celtic Helicopters and Larchfield Securities and things of that matter, things which have only just come in, so we haven't been in a position to take full instructions in relation to that. It is not criticism, it is just simply laying my cards on the

table in relation to that matter at this stage so nobody is taken

CHAIRMAN: I appreciate that, so I think, clearly, does Mr. Coughlan.

MR. COUGHLAN: Yes of course. Mr. Kieran Ryan please.

KIERAN RYAN HAVING BEEN SWORN WAS EXAMINED BY MR. COUGHLAN AS FOLLOWS:

CHAIRMAN: Thank you Mr. Ryan, please sit down.

Q. MR. COUGHLAN: Mr. Ryan, I think you are a chartered accountant and you carry out practice under the title Kieran Ryan & Company; is that correct?

A. That's correct.

Q. And I think you have prepared a report or memorandum?

A. That's correct.

Q. To assist the Tribunal; isn't that correct?

A. That's right.

Q. And I think, do you have that in front of you?

A. I have it here, yes.

Q. And I think you have informed the Tribunal that the purpose of this memorandum is to follow-up on a meeting you had with members of the Tribunal team on Tuesday the 9th of February; is that correct?

A. That's correct.

Q. And while you deal with the issues raised you will be happy to answer any further queries that might arise?

A. That's correct.

Q. And I think you are doing this because the Directors and shareholders of Larchfield Securities have instructed you to cooperate fully with the Tribunal?

A. They were their instructions, yes.

Q. Now, I think in the report you first of all deal with matters under the heading "Background"; isn't that correct?

A. That is true.

Q. And you have informed the Tribunal that your firm was appointed auditors to Larchfield Securities in 1997 and was instructed to prepare such accounts and tax returns for the company as were necessary to bring its affairs with the Inspector of Taxes up-to-date?

A. That's correct.

Q. And I think you have informed the Tribunal that on investigation it emerged that income was first earned for the company in 1996 from the letting of property at Kilmuckridge, County Wexford during the summer season?

A. That's correct.

Q. And for this reason you decided to prepare accounts for each of the two years ended the 31st of December, of 1997?

A. Yes.

Q. I think you have informed the Tribunal in your view the preparation of accounts for tax purposes relating to earlier years was not necessary as the company had earned no income?

A. That was my view, yes.

Q. I think under the heading "Approach", you have informed the Tribunal that you set about, you set about making inquiries into the affairs of the company and contacted all parties whom you considered would have information relevant to the preparation of the accounts?

A. Yes.

Q. You have informed the Tribunal that this included the former accountants, financial advisors, Deloitte and Touche, Celtic Helicopters, Charles J. Haughey and the current Directors?

A. Yes.

Q. I think you have informed the Tribunal that you did not contact the former Directors of the company as you considered that the accuracy of the balance sheet would be established without recourse to them?

A. That's correct, and to supplement, they had resigned in 1989.

Q. Yes. I think you have informed the Tribunal that the company did not operate a bank account, with the result that the normal starting point with exercises of this nature did not exist?

A. That's right.

Q. I think you have informed the Tribunal that you took account of the profile of the company which would, with the exception of the shareholding in Celtic Helicopters Limited, holds assets for the use of the extended Haughey family?

A. Yes.

Q. I think under the heading "Company", in the report, you have informed the Tribunal that the Browne's "All In" Company Register; is that right?

A. That's it.

Q. Just, if you could just

A. It is this document, it is this book here and you have already have obtained a copy on the 9th.

Q. Browne's are the publishers?

A. It is just the title on the front page.

Q. The Browne's "All In" Company Register relating to Larchfield Securities has been furnished to the Tribunal who have copied its contents and returned it to you?

A. That's correct.

Q. I think you informed the Tribunal that the company was incorporated on the 12th of November of 1973; is that correct?

A. Yes.

Q. And was converted to an unlimited company on the 1st of December of 1994?

A. Yes.

Q. I think you have informed the Tribunal that a copy of the revised memorandum and Articles of Association is appended to your report at Appendix one; is that correct?

A. That's correct.

Q. I don't think we need to refer to that at this moment?

A. I don't think so.

Q. I think you informed the Tribunal that the registered offices of the company have been, to June 1995 - 3 Trinity Street. Dublin I take it?

A. Yes.

Q. Between June 1995 to January 1999 - 29 Earlsfort Terrace?

A. Yes, again Dublin.

Q. Yes, in Dublin

A. Yes.

Q. And from January 1999 to date - 20 Upper Mount Street, Dublin?

A. Yes.

Q. I think you informed the Tribunal that the original subscribers were Samuel Field-Corbett and Maria Rogers?

A. Yes.

Q. And that shareholdings were arrived at in the following manner, subscribers shares transferred to Eimear Mulhearn nee Haughey and Conor Haughey?

A. Yes, that is one each.

Q. One each. And then shares were issued to Eimear Mulhearn nee Haughey, 24?

A. Yes.

Q. Conor Haughey, 24?

A. Yes.

Q. That would of course bring their shareholding up to 25 each; isn't that right?

A. Yes.

Q. Sean Haughey, 25?

A. Yes.

Q. And Ciaran Haughey 25?

A. Yes.

Q. I think you have informed the Tribunal that the position in relation to Directors is unclear from the register, however the register supplemented by your inquiries suggests that the following Directors were Samuel Field-Corbett, John J Traynor, Maria Rogers; Maria Rogers resigned as a Director on the 26th of July of 1974 and Brendan Hogan was appointed as a Director on the same date; is that correct?

A. Yes.

Q. John J Traynor resigned as Director on the 24th of August of 1996 and was not replaced?

A. Yes.

Q. On the 23rd of March of 1988 Brendan Hogan resigned and was replaced by Patrick McCann?

A. So it seems, although that is not clear from the register.

Q. I see. On the 24th of February 1989 Samuel Field-Corbett and Patrick McCann; can we just identify that is the Patrick McCann of Management Services, to the best of your knowledge?

A. I have no such knowledge.

Q. I see. But on the 24th of February of 1989 Samuel Field-Corbett and Patrick McCann resigned as Directors and were replaced by Conor Haughey, Ciaran Haughey, Sean Haughey and Eimear Mulhearn nee Haughey?

A. Yes.

Q. You have informed the Tribunal that the secretary of the company from an early date was Management Investment Services Limited of 3 Trinity Street, Dublin 2.

A. Yes.

Q. And on the 28th of June of 1995 Ciaran Haughey was appointed secretary of the company in place of Management Investment Services Limited?

A. Yes.

Q. I think under the heading "Assets of Larchfield Securities", you have informed the Tribunal that after investigation you established that the assets of Larchfield Securities were;

lands and a house at Ballyduboy, Kilmuckridge, County Wexford; Inishvickallane and house; cottage on lands at Lislarry, County Sligo; acquisition of Celtic Mist and subsequent refurbishment; shares in Celtic Helicopters Limited?

A. Yes.

Q. I think you have informed the Tribunal that when the cost of assets could not be determined with certainty

A. With certainty, it should be.

Q. estimates were used?

A. Yes.

Q. This arose mainly in determining the costs of the construction of houses at Ballyduboy and Inishvickallane?

A. Yes.

Q. I think you informed the Tribunal that the cost of the

initial lands as Wexford and Inishvickallane, together with the costs of the construction of the houses at these locations were regarded as gifts from Charles J. Haughey to the four children who were also shareholders of the company, with the company being indebted to the children in respect of these amounts?

A. Yes.

Q. I think you informed the Tribunal that assets acquired by Larchfield Securities after 1982, being additional lands at Ballyduboy, Celtic Mist, including refurbishment costs and the Celtic Helicopters shares are regarded as assets of the company with a matching liability to Charles J. Haughey?

A. Yes.

Q. Now, I think you have also, under the heading "Celtic Helicopters Shares", you have informed the Tribunal that you spoke informally to the Directors and to Charles J. Haughey and as a result wrote to Deloitte and Touche, and you enclosed a copy of their response at Appendix 2 to the report?

A. That's correct.

Q. I think you have informed the Tribunal that you also received a copy of a note setting out the shareholders in Celtic Helicopters and the related information, and you appended a copy of that also to your report?

A. Yes.

Q. And that following a review of these documents and subsequent discussions with the Directors and Charles J.

Haughey, you summarised the position in your note which you append at Appendix 4?

A. That's correct.

Q. The shares are regarded as beneficially owned by Larchfield Securities and are disclosed as assets on the company's balance sheet; is that correct?

A. That is correct.

Q. And I think you have informed the Tribunal that the cost of these shares was regarded as a loan advanced by Charles J. Haughey to the company at the relevant dates?

A. Yes.

Q. I think you have informed the Tribunal that it was your view that you were not required to investigate the source of the funds supplied on behalf of the company beyond determining whose account should be credited in respect of the introduction of these files, "such action would be one step removed from the company"?

A. Yes.

Q. I think you also informed the Tribunal that the 7 percent non-cumulative preference shares of one pound each were not regarded as assets of the company, "as all evidence was that the beneficial ownership of these shares did not vest in the company"?

A. Yes.

Q. And that it would therefore be misleading to regard these shares as assets of the company for balance sheet purposes?

A. Yes.

Q. I think you have informed the Tribunal that neither the Directors nor Charles J. Haughey had any knowledge of the execution of trust documentation arising in connection with the issue of 7 percent non-cumulative preference shares of one pound each?

A. Yes.

Q. Under the heading "Subsequent Events" in your report, you inform the Tribunal that there was a letter dated the 1st of February of 1999 and the 5th of February of 1999 which were sent to Gearoidin Charlton, that is solicitor for the company I think?

A. Yes.

Q. By John Davis, who was solicitor for the Tribunal?

A. That's correct; but in fact there were two letters, two separate letters dated the 1st of February.

Q. Sorry; and you said that the letters 1st of February 1999 by two?

A. Yes.

Q. And that having receipt of copies of these letters you arranged to meet Messrs. Paul Carty and Ralph McDarby of Deloitte and Touche on the 9th of February, 1999, in an effort to secure additional information necessary to respond to the questions raised?

A. Yes.

Q. And I think in response to the queries raised in connection with the shares registered in the name MS Nominees Limited for the benefit of Larchfield Securities, you say:

"Please see the Deloitte and Touche letter of the 23rd of January, of 1999, referred to at 6(1) above where the cost of the A Ordinary Shares at one pound each from Mr. Cruse-Moss shown at IR €9.80. The cost of the 4987 B Ordinary Shares of one pound each, is shown as €7,802.70. Share transfer forms are dated the 24th of May, 1990, and the 17th of August, 1990, respectively, but I am unaware of the date of the payment or the account from which payments was made. However, Larchfield Securities did not operate a current (cheque book) account at the time and payment was made on its behalf directly or indirectly by Charles J.

Haughey"?

A. Yes.

Q. "With regard to the 55 A Ordinary Shares of one pound each and 54862 B Ordinary Shares of one pound, each issued on the 28th of March of 1995, the Deloitte and Touche letter indicated that these shares were issued for cash at par.

This letter was interpreted as showing that the shares were always owned by Larchfield Securities with no previous beneficial owner or owners"; is that correct?

A. Yes, these are in direct response to the questions raised in the letter. So I am at this point answering the correspondence.

Q. Yes.

"It appears that cash was subscribed at par in March 1985 but I am unaware of the amount from which payment was

made. However, Larchfield Securities did not operate a current (cheque book) account at that time, and I understand that the payment was made on its behalf directly or indirectly by Charles J. Haughey"?

A. Yes. Excuse me, I am just after noticing that there is a mistype there. Where March 1995 occurs, it should of course be 85.

Q. Yes. That's right?

A. Sorry.

Q. You have informed the Tribunal that the other shares issued "on the 28th of March of 1985 comprise of five A Ordinary Shares at one pound each and 4987 B Ordinary Shares, a similar position to the other shareholding issued on that date arises here" again?

A. Yes.

Q. That is that the company did not have a current account cheque book and that at the time when payment was made on its behalf, directly or indirectly by Mr. Haughey; is that correct?

A. The position, as I saw it, was that there were shares which would have been owned beneficially by Larchfield, and clearly if Larchfield have acquired them there was a source of funds.

Q. Yes.

A. So the matching account was dealt with in that way.

Q. Yes. And I think you have informed the Tribunal that since the Tribunal's letter of the 1st of February you have

sought the documents mentioned in your letter related to the shareholdings of Larchfield Securities and Celtic Helicopters Limited registered and beneficially held; is that correct?

A. Yes.

Q. No such documents appear in the register; is that correct?

A. That's correct.

Q. "The Directors advised me that they hold no such documents and Deloitte and Touche, Messrs. Carty and McDarby advised me that they hold no such documents for Larchfield Securities"; is that correct?

A. Yes.

Q. In the time available I did not make contact with Mars Nominees or MS Nominees Limited?

A. That's correct.

Q. I think you have informed the Tribunal that "you were shown a letter dated the 6th of March of 1992 from Ciaran Haughey to Mars Nominees Limited requesting that the 55 A and 54,862 B Shares held for the benefit of Larchfield Securities being registered in the name of MS Nominees Limited"; is that correct?

A. Yes.

Q. "There was no such letter in connection with the five A and 4,987 B Shares"; is that correct?

A. That's correct.

Q. I think the source of this letter was apparently from the Tribunal?

A. So I understand.

Q. And it is your understanding that the Directors of Larchfield Securities do not hold any such documentation?

A. Yes.

Q. I think in your report you have informed the Tribunal that the separate matter of the œ290,329, 7 percent non-cumulative shares arises, and you can find no evidence of a payment of œ290,329 from Larchfield Securities to Celtic Helicopters Limited; is that correct?

A. That's correct.

Q. And the instruction that a loan advanced be converted into preference share capital appears to be in error?

A. Yes.

Q. I will put that up in a moment and you can just explain it. "In addition, I can find no written instructions to Larchfield Securities in this matter"?

A. That's correct, from the beneficial owners.

Q. And I think separately you have been advised that the documentation regarding the beneficial ownership of the shares has yet to be put in place to the best knowledge and belief of the Directors of Larchfield Securities?

A. Yes.

Q. I think throughout this period Larchfield Securities did not operate a current cheque book account and any payment made apparently did not come from Larchfield Securities?

A. Yes.

Q. And I then think that you, under the heading "Summary" say

that you append a copy of the company accounts, which I don't think we need to go into for the moment?

A. Yes.

Q. And the foregoing represents your overall conclusion on the matter and a direct response to specific inquiries raised in connection with Celtic Helicopters Limited's shares, and you have said that should the Tribunal require anything further you will be happy to supplement the report?

A. Yes.

Q. Now, I think you informed the Tribunal that you did not contact the former Directors, but to the best of your ability you attempted to identify them from the register and from certain inquiries; is that correct?

A. That's right.

Q. And you have set that out in the report; isn't that correct?

A. Yes, I have.

Q. And I think you have also informed the Tribunal that you carried out investigations to establish the assets of Larchfield Securities; isn't that correct?

A. Yes.

Q. Could you just assist the Tribunal; what investigations did you carry out in that regard?

A. I spoke to the shareholders, Directors, the four Haughey children. I spoke to Charles J. Haughey, and following from that I split the assets into a number of different categories: Real estate; the acquisition of Celtic Mist;

and the Celtic Helicopters shares. And to take the real estate first, I contacted the solicitors that were acting for the company and/or Mr. Haughey at the time and I got copies of acquisition contracts for various land holdings or where gifts were made in connection with those gifts.

If you I tried to get details of the cost of construction of the property, but those details were not available, so that is not available for those, so for the various land acquisitions I would have seen copies of the contracts acquiring them, or evidence as to how they came into Larchfield Securities.

Q. Yes. Well, who actually built the buildings; do you know?

A. I understand that in the case of Inishvickallane that it was a local contractor called "Brick".

Q. Yes.

A. And that in the case of Wexford that it was a contractor run by a Mr. - a company run by Mr. Howlan, which has since gone into liquidation. In other words the company does not exist at this point.

Q. Mr. Who? I beg your pardon?

A. Howlan.

Q. Howlan?

A. Yes.

Q. I am having difficulty hearing you.

A. Sorry, I will sit closely, I beg your pardon.

Q. Now, you used estimates, and on what did you base those estimates?

A. Discussions largely with Charles J. Haughey, because at the point which we are talking about, 1974/75, the children were very young and the person who would have known about these things was Mr. Haughey.

Q. Yes. Well, can we take it that in connection with these investigations which you carried out, that the current Directors and the shareholders of the company, being the children?

A. Yes.

Q. Had no knowledge of it?

A. At the time, yes. I should say by way of supplemental, just to supplement this, this is not a normal company. This is a - it is an unlimited company, it doesn't trade.

Q. Yes.

A. It holds a variety of assets.

Q. Yes.

A. And when these accounts were prepared they were prepared with a view to itemising those, but also to show clearly where income may have been produced.

Q. Yes.

A. So, the normal trading obligations which one would expect and the normal behavior one would expect from a trading company simply wasn't required here.

Q. Yes; and I am not making inquiries directed in that direction at all. But that it was Mr. Charles J. Haughey who was able to provide the information?

A. He was the one I discussed it with and to be fair, they

were estimates and they have clearly been shown to be estimates.

Q. I am not being critical about that, I am trying to establish the fact, who you discussed the matter with?

A. Absolutely.

Q. And it was Mr. Charles J. Haughey who was able to give you assistance in that regard?

A. Yes.

Q. And the current Directors and shareholders would not have been in a position?

A. No. Although I discussed the outcome of that with them, because they were the people who drew up the accounts.

Q. Yes. Well, from your investigations did you draw any conclusion as to who would have provided the funds in the initial stages in respect of these? I take it the company itself didn't have any money?

A. That's right. I understand, and I've said I thought, that the funds came either from or through Mr. Haughey, but were gifts from Mr. Haughey to the children.

Q. To the children?

A. To the children, yes.

Q. Yes. So, the source of the funds into the company, as far as you understand?

A. Yes.

Q. Would have been Mr. Haughey?

A. That's right.

Q. Now

A. I am sorry, by way of gift to the children.

Q. By way of gift to the children. Yes, coming to deal with the shares in Celtic Helicopters?

A. Yes.

Q. I think in relation to these you had discussions with the shareholders and the current shareholders, the shareholders and current Directors?

A. That's right.

Q. Messrs. Deloitte and Touche as they are now?

A. Yes.

Q. And Mr. Charles J. Haughey?

A. Yes.

Q. And I am now talking about the 1985 shares initially?

A. Okay.

Q. Were the shareholders or current Directors able to afford you any assistance in respect of these shares?

A. No, as at 1985, no they were not.

Q. And?

A. And I should point out that they were not Directors in 1985, they became Directors

Q. They became Directors subsequently?

A. Yes.

Q. They were the shareholders?

A. That's right.

Q. And I will come to that in one second, if I may. But to establish, or to carry out your investigation, who was the primary source of information?

A. Well, at this point there had been another Tribunal and information had been disclosed.

Q. In 1985?

A. Sorry, not in 1985, the point I came to look at it.

Q. Of course. Of course.

A. And I set out to establish at that time, what had been said in another forum, and I acquired information from Celtic Helicopters but through Ciaran Haughey and Mr. Barnacle. At the same time I wrote to Deloitte and Touche and got the response that you have seen there.

Q. Yes.

A. Now, the Deloitte .

Q. Would it be of assistance if you put the

A. If you wish. I have it. I am just looking here. I have the - which one do you want to take first? Do you want to take the Deloitte and Touche letter first or the listing?

Q. What I want to put up is the list of shareholders?

A. Fine.

Q. I think.

A. I have that, yes.

Q. You recognise that?

A. I do, yes.

Q. And that shows. Sorry, could you the A and B Shares and then ultimately the 7 percent non-cumulative

A. That's right.

Q. shares?

A. That's right.

Q. And we see Mr. Barnacle is registered and beneficial owner of 60 of the shares; is that correct?

A. So it says. I have to say I have no knowledge of this because I have no role with Celtic Helicopters, but so it says, yes.

Q. Yes; and that Mr. Ciaran Haughey is registered as 60 shares, Larchfield Securities - this is of the A Shares - five A Shares and 4,987 B Shares, and then MS Nominees Limited beneficial owners Larchfield Securities 55 A Shares and 54862 B Shares.

A. Yes.

Q. Those are the figures?

A. Those are the figures, yes.

Q. Now, were you able to ascertain at that stage whether those shares were held by Mars Nominees at that stage?

A. Well, if I can refer you to at Appendix 2.

Q. Appendix 2 of your book?

A. Yes, which is the Deloitte and Touche letter.

Q. Yes.

A. At No. 2 there.

Q. I am just wait until we get it now. Yes.

A. It says:

"On 28th March, 1985, 55 A Ordinary Shares of one pound each in the capital of Celtic Helicopters Limited, were issued to Mars Nominees Limited (account number 660). On the same date 54,862 B Ordinary Shares of one pound each in

the capital of Celtic Helicopters Limited were issued to Mars Nominees Limited (account No. 660). Both of these issues were for cash at par.

On 25th June 1992 these two shareholdings were transferred from Mars Nominees Limited to MS Nominees Limited (account number 153). It is our understanding that the beneficial owner of these shares is Larchfield Securities".

So at that point I was able to establish that from Deloitte and Touche and from this, that where the shares were registered I then went and spoke to the Directors and to Mr. Haughey and it emerged that yes, this report was the best information that was available at the time, and that the asset should be shown as an asset on the balance sheet of Larchfield Securities, as being that, as an asset beneficially owned by it.

Q. That it was always owned by Larchfield?

A. Well, to be honest I hadn't got to establish that because I was preparing a balance sheet of 1996 and I didn't have to establish when exactly it was acquired. I just had to establish at a date was it an asset or was it not and what the cost of that asset was.

Q. Well, what I want to ask you is were the Directors or the shareholders in Larchfield in a position to give you any assistance about this particular shareholding?

A. They knew nothing of the initial transaction.

Q. They knew nothing at all?

A. No, but they weren't Directors in 1985.

Q. Yes.

A. They were shareholders.

Q. But they knew nothing about it. And from whom, you said you made inquiries of Mr. Charles J. Haughey?

A. Yes, I did.

Q. And what was the upshot of those inquiries?

A. Well, the upshot of those inquiries was that the shares in question were recognised as an asset of Larchfield Securities.

Q. By whom?

A. By Larchfield Securities.

Q. But what did Mr. Haughey say that indicated that they were, that lead you to that belief?

A. Well I asked, I had in one hand, if you like, a Deloitte and Touche letter and in the other hand this document which you have there, which I understand has been submitted to the McCracken Tribunal, although I wasn't party to that.

Q. Yes.

A. And I would have had both of these and said then "look, this appears from the evidence to be an asset of Larchfield Securities", "yes, it is", and the follow-on question from that would be: "Well, how are these accounted for or where did the funds come"

Q. Yes, that is what I want to ask you?

A. Yes absolutely. To the best of my knowledge Mr. Haughey said without saying that he paid for them, that I think

the phrase used was "you better put that down to me".

Q. "You better put that down to me"?

A. Yes, what we did then was we opened .

Q. I want to take that slowly now, if we may?

A. Sure.

Q. And make it clear. Larchfield Securities had, as you have told the Tribunal, had no current account, no bank account?

A. Yes.

Q. For that purpose?

A. Yes.

Q. And it had no funds itself?

A. Yes.

Q. So for the purchasing of these shares, it had to get funds somewhere?

A. Quite.

Q. And as a result of your investigations Mr. Haughey's response to you was "you better put that down to me"?

A. Yes. Now, can I supplement that?

Q. Yes, indeed.

A. What I did then was we, the company - if something is paid on it's behalf would have an obligation to a third party.

Q. Yes.

A. So that obligation is disclosed as a creditor in the balance sheet.

Q. Yes.

A. In the corresponding note.

Q. Yes.

A. And the creditor is identified as Charles J. Haughey.

Q. Yes. Did Mr. Haughey tell you at that stage that, when he said to you, "put that down to me", did he say to you that was a loan to Larchfield?

A. Well, he - that certainly is how it has been treated.

Q. I appreciate that, it is no criticism?

A. To be honest I am not sure that he knew exactly where it came from at the time that we spoke. But it was clear that because I was looking, what I was looking at, did it come from the shareholders and current Directors or did it come from other sources, and it was quite clear that it didn't come from the children.

Q. Yes. So?

A. So after that then I opened the current account because that was the other treatment that was obvious.

Q. Now

A. And he is aware of that treatment.

Q. Oh, yes I appreciate that; and I am not for the moment raising any criticism in relation to how they are treated in the accounts?

A. Fine. Fine.

Q. But the expression used is "you better put that down to me"?

A. Yes.

Q. And you made an accounting decision?

A. Yes. Fine, yes.

Q. Yes. Now, on the - yes, of the 7 percent non-cumulative

preference shares, the 290 odd thousand?

A. Yes, that's right.

Q. I think from your investigations it did not appear to you that the beneficial ownership of these shares vested in Larchfield?

A. That's right.

Q. And you wouldn't have considered that they form part of the assets of Larchfield?

A. Well, yes indeed. If beneficial ownership doesn't vest in the company then it would be misleading to claim in the balance sheet that it did.

Q. And I think from your investigations the Directors nor Mr. Haughey had any knowledge of the execution of any trust documents in relation to these shares; is that correct?

A. Well, I asked if there were trust documents available and nobody knew. Excuse me. Nobody knew either where they were or indeed if they had been executed.

Q. I suppose what you would be trying to ascertain, if it is not the company, are you holding them for somebody?

A. Exactly.

Q. And they would be a trust document?

A. Yes.

Q. Now, turning to the query which was raised by the Tribunal in respect of the - I beg your pardon, the Cruse-Moss shares, if I might describe them as that?

A. Yes.

Q. The €9.80 A Ordinary Shares and the €7,802.70 in B Shares.

What inquiries did you make in respect of those and what were the outcomes of those inquiries?

A. I suppose the starting point is the paper you have on the screen.

Q. Yes.

A. Where at No. 3 it is shown that the register and beneficial owner is Larchfield Securities, so I have a document starting off that says this is the position.

Q. Yes.

A. And this is coming from the company itself.

Q. Yes.

A. I similarly had a letter from Deloitte and Touche where - and may I read from it?

Q. Yes.

A. "The share register of Celtic Helicopters Limited contains a share transfer form dated

Q. I wonder could you take it slowly, Mr. Ryan?

A. Yes. "The share register of Celtic Helicopters Limited contains a share transfer form dated the 24 May, 1990.

Under which Larchfield Securities Limited is converted to an unlimited company, acquired five A Ordinary Shares of one pound each in Celtic Helicopters Limited from Mr. Cruise W Moss for œ9.80".

That is œ9.80, it also contains a share transfer form dated the 17th August, 1990, under which Larchfield Securities acquired 4,988 B Ordinary Shares of one pound each in Celtic Helicopters Limited for Mr. Moss for Irish pounds

œ7,802.70.

Q. Yes.

A. So I have direct evidence there that not alone is it registered in the share register of Celtic Helicopters, but also that the share transfer form, which shows both the number of shares involved of each class and the amounts paid.

Q. Yes. So, you now know that these have been purchased?

A. Yes.

Q. By Larchfield Securities?

A. From Mr. Cruse-Moss.

Q. From Mr. Cruse-Moss?

A. Yes.

Q. And from your investigations you know that Larchfield Securities don't have a bank account and don't have any money for the purpose of purchasing shares?

A. Yes.

Q. So you have to direct your investigations now to how were these purchased?

A. That's right.

Q. And were the Directors and share, the current Directors and shareholders in any position to assist you on that?

A. When I spoke to them at the time no, they were not; and I went to Mr. Haughey then and a similar response.

Q. "Put it down to me"?

A. Yes. Well we, spoke about the whole lot in one go, not separately, if you like.

Q. Yes, "you better put that down to me" I suppose?

A. Yes. But again without an awareness of how it had been done.

Q. Yes. Just in respect of the monies to purchase those shares, Larchfield certainly didn't have a bank account?

A. None that I have seen, certainly. I have asked if there is any evidence

Q. And the current Directors were all adults in 1990; isn't that correct?

A. Yes, I think so, yes.

Q. And they weren't able to assist you, they didn't know; isn't that correct?

A. No.

Q. And was any evidence ever produced to you, I mean documentary evidence of a payment for the purchase of the shares?

A. I have seen no such evidence.

Q. Now, if we turn then to the 7 percent non-cumulative shares which

A. Yes.

Q. I think we know from evidence here what we are talking about is representing the investment of, purported investment of various people in 1992. I think you are now aware of that?

A. I am now aware of that.

Q. You are now aware of that, you weren't at the time when you were carrying out your investigations of course; isn't that

correct?

A. No. The only indication that I had in that regard was a, again a letter from Deloitte and Touche where the same letter, where they say amongst, other things

Q. If you just hold on - we will put that up on the screen as well, Mr. Ryan?

A. Sure.

Q. The second page of it.

A. It is point 4 there, yes.

Q. Point 4. Yes?

A. Now, from that I am aware .

Q. Well, we will just read it. On the 29th March - if you would read it?

A. "On 29th March 1996, 100,000 7 percent non-cumulative preference shares of one pound each, and 190,329 7 percent non-cumulative preference shares of one pound each, both in the capital of Celtic Helicopters Limited were allotted for cash at par to MS Nominees Limited. The funds in respect of these shares had been subscribed in 1992, 1993. It is our understanding that MS Nominees Limited hold these shares in trust for Larchfield Securities which in turn - sorry - which is in turn holding them in trust".

So from that I am aware that while shares were issued in March 1996, that the funds involved arose considerably earlier.

Q. Yes.

A. I am also aware from the company register of a resolution passed on the same date.

Q. Shall we deal with those if we can put them up now.

Perhaps you will read the resolution which was passed by the company on the first instance? This is by Larchfield and we will put it up now.

A. Yes, okay. Do you want me to wait until it is up?

Q. Just read it and we will just get it up now?

A. "Larchfield Securities' minutes of meeting of Directors held at Abbeville, Kinsealy, County Dublin. 29th day of March of 1996. Present: Sean Haughey in the chair, Conor Haughey, Ciaran Haughey Celtic Helicopters Limited.

The Chairman advised the meeting that it was proposed to hold an Extraordinary General Meeting of Celtic Helicopters Limited on that day for the purpose of creating 500,000 new 7 percent non-cumulative redeemable preference shares; adopting new Articles of Association; authorising the Directors of that company to allot the said new preference shares.

Following discussion it was resolved that Mr. Ciaran Haughey be, and is hereby appointed as representative of the company for the purpose of attending at the said Extraordinary General Meeting of Celtic Helicopters Limited..... Close: There will be no further business to discuss at the meeting". (Quoted).

Q. And that minute is signed by?

A. It is signed by, I understand, Sean Haughey.

Q. Who was Chairman. Now, you had this, you now had sight of a resolution of the company; isn't that correct?

A. I had, yes.

Q. And did you form any view at that stage, I think you also had sight of

A. That resolution or minutes doesn't really help in that all, it is - it is an enabling document to say "look, Celtic Helicopters are reorganizing themselves in some way and you are authorised to do whatever has to be done".

Q. Whatever is necessary?

A. Yes, it doesn't say an awful lot more than that.

Q. Yes; and then there were

A. So it doesn't help me, I think, with the 7 percent shares.

Q. Yes. And did anything help you at that stage with the 7 percent?

A. Yes.

Q. I think there was an instruction issued at that

A. Well, I since understand that an instruction was issued.

Q. At the time you didn't know?

A. At that time I didn't know it and I have only become aware of that instruction in recent days.

Q. Yes. Perhaps if we could put the instruction up now and may be you could be of assistance to the Tribunal?

A. Sure.

MR. McGONIGAL: I wonder could Mr. Coughlan indicate where the rest of us might find some of these documents, because

I was unable to find that one at all? It appears that these documents have not been given out and neither have the statements to which these documents may be attached. Now, I don't mind the Tribunal continuing, but I am now at a total loss as to what is happening.

MR. COUGHLAN: We have sir, been asking for these documents for a long time and we are only getting them at very short notice ourselves. I understood that that was appended to a summary or a memorandum of evidence which may have been sent to My Friends solicitor's yesterday evening, but I may be incorrect in that. That is my understanding. But I appreciate and I appreciate any difficulties that Mr. McGonigal may have, and of course if he wishes to come back at any stage or deal with the matter, I have no difficulty.

CHAIRMAN: I have already indicated that also Mr. McGonigal. I appreciate it is a lot of quite esoteric information which is being raised at quite short notice.

MR. MCGONIGAL: It is not a matter of coming back to it, I just want to make clear that I am not following it, because I don't have the document.

MR. O'DONNELL: If I could say sir, this may have been inadvertence, but I am just slightly concerned with Mr. Coughlan's remark to the effect that he has been seeking documents, this document for a particularly long time. I

don't, with respect, think that he intended to convey that, but if that could be clarified because it is a document that Larchfield have provided in the course of their dealings with the Tribunal and I think quite promptly

Q. MR. COUGHLAN: I am not in anyway critical at all sir.

And I want to assure My Friend, Mr. O'Donnell, about that.

I am not at all. I appreciate the difficulty that Mr.

McGonigal finds himself in. It is not a dissimilar difficulty the Tribunal finds itself in as things unfold this week.

So, I will go very slowly on this so that Mr. McGonigal can be assisted in following it and we have no difficulty in coming back to it.

That's, you see the document which is now up? Which I think you have recently seen. There is a monitor down there.

A. Yes, I see that letter.

Q. Yes and could you read it?

A. I will have to go closer.

Q. "Larchfield Securities, Kinsealy, County Dublin. It is addressed to the Directors, Celtic Helicopters Limited, 29 Earlsfort Terrace Dublin 2. The 14th of February of 1996.

Dear Sirs, we refer to a loan in the amount of €290,329 which we advanced to the company in 1991. We know give irrevocable instruction that the loan be converted into

preference share capital as soon as possible. Yours faithfully for and on behalf of Larchfield Securities", and it is signed Mr. Conor Haughey, Director?

A. That's right.

Q. Now, I think you have made reference to that already

A. Yes, I have.

Q. in your report. And just to be clear, there was to loan by Larchfield Securities to Celtic Helicopters?

A. Well, if I can come to that and just supplement it a little. I saw this letter for the first time earlier this week.

Q. Yes.

A. I have not been able to find a bank account or a payment involving Larchfield Securities at all.

Q. Yes.

A. And my view is that there is no cash loan from Larchfield directly to, in that sum.

Q. And in your opinion it appears to be in error, referring to it as a loan?

A. It appears to be. I should also say that there was no copy of that document in the company register, nor minutes.

Q. Yes; and I take it that you have discussed the matter with the Directors and there is no recollection of a loan; is that correct?

A. That's correct. Although I understand that they have been asked; I understand they have asked that question themselves.

Q. Yes, themselves. Now, if we could - whether it be a loan or not and it clearly wasn't?

A. Yes.

Q. And we go back to the Deloitte and Touche letter, dated the 23rd of January of 1998, and the second page of that letter, I think point 4 is dealing with this, with these particular shares; isn't that correct?

A. Yes, that's right.

Q. And then the final paragraph; "it is our understanding that MS Nominees Limited hold these shares in trust for Larchfield Securities, which in turn holds them in trust"?

A. Yes.

Q. What was your understanding of that?

A. Well, at the same time I had the other document which had been submitted to the other tribunal, which actually provided the answers, so I didn't have to rely on that exclusively.

Q. Yes.

A. And that shows that on the summary of that other sheet at points 7 and 8, it lists five different people as the beneficial owners from that; and from discussions with the Directors and Charles J. Haughey I formed the view that these were not assets which were beneficially owned or beneficially held by the company.

Q. Well, you are now aware from evidence which has been given at this Tribunal, that there was an investment by a number of people; isn't that right? Leave aside the €100,000

represented by Mr. Murphy, but that there was an investment amounting to 190,300 odd pounds in respect of four other investors. You know that now from the evidence given at this Tribunal?

A. So it seems, although I have to say to you I haven't been following the evidence of this Tribunal.

Q. I see. So did you see any documentation - maybe I will ask you a general question. Did you see any documentation from any investors?

A. In connection with this?

Q. Yes.

A. None at all.

Q. Nothing consenting to the transaction?

A. Not, nothing at all.

Q. Did you ask the Directors about that?

A. I did.

Q. And to your knowledge did the Directors, could the Directors throw any light on that for you?

A. No, they weren't aware of anything. At the time I took that as being acceptable because everything was pointing in the same direction.

Q. And what do you mean by "pointing in the same direction"?

A. Well sorry, the formal evidence had been given to the McCracken Tribunal about the ownership of these shares. I had the Deloitte and Touche letter and I had spoken to the shareholders and Mr. Haughey of their position, all of the positions were that these shares were beneficially held by

others and not by the company. If that

Q. Sorry, Mr. Ryan, perhaps I am misunderstanding you. You are saying that evidence was given to the McCracken

Tribunal about the ownership of these shares?

A. Sorry, I understand that this document - perhaps I am wrong - I understood that that document was submitted.

Q. But you are saying - sorry, your understanding is that evidence was given, your understanding may be incorrect?

A. I am not a lawyer, so.

Q. Yes.

A. I understand that that document formed part of the, was prepared for the purposes of that Tribunal.

Q. Yes, okay.

A. But I didn't verify that, but that is what I understand.

Q. When you say everything was pointing in the one direction, that is what I really wanted you to

A. I beg your pardon. I had that document there. I had the letter from Deloitte and Touche which indicated that the shares were not beneficially held by Larchfield. I had spoken to the Directors and I had spoken to Mr. Haughey, and to the extent that anybody had knowledge about it they were all saying that it was not, that they were not beneficially held by Larchfield.

Q. And Mr. Haughey was able to tell you that?

A. To the best of his knowledge and belief, yes.

Q. Was he able to assist you as to by whom they were held?

You say the Directors knew nothing about it?

A. Well, we had the list and any time I would have discussed it with him I would have had both the Deloitte and Touche letter and the list, and I understand that there was, in looking at these, there certainly was, there was no difficulty over some there was a difficulty over some, uncertainty over one of the holdings as to who actually held it, and that holding was the one at No. 7. But for my purposes I didn't have to, I didn't have to pursue that, because it didn't impact on my preparation of the balance sheet.

Q. I appreciate that. When you say there was some difficulty over the item at No. 7?

A. Yes, well to be precise Mr. Haughey indicated that Mr. Murphy may not have been the - sorry, may have indicated to him that he was not the beneficial owner, but it was vague and nothing else arose out of it.

Q. Now, I know you were preparing the balance sheet for the company, and I take it

A. For Larchfield.

Q. For Larchfield, I beg your pardon. You didn't think it necessary and this isn't a criticism, you didn't think it necessary to make inquiries of these people yourself?

A. Well, no is the direct answer to that, and certainly my view was that if I was satisfied that it didn't belong to Larchfield that there was no requirement on me to pursue it beyond that.

Q. Yes. When you say that there was some

A. Sorry, I should also clarify in connection with that, that discussion took place after the accounts were prepared and signed off.

Q. Yes.

A. It is in much more recent times in connection with No. 7, and it was in the vein that apparently Mr. Murphy was contesting whether he was or was not the beneficial owner.

Q. And when did you have that conversation? I appreciate it was after you signed off the accounts, when did you have that conversation?

A. In relatively recent months.

Q. In relatively recent months you have spoken to Mr. Haughey about this?

A. Sorry, it came up in the course of another conversation.

Q. But you spoke to Mr. Haughey about this in relatively recent months, that is all I am trying to establish?

A. Sorry, it came up in the course of another conversation, but yes.

MR. COUGHLAN: Thank you very much Mr. Ryan.

CHAIRMAN: Mr. Quinn?

MR. QUINN: Mr. Chairman, I don't know what extent at this stage you wish me to deal with Larchfield. I understand it is a matter that we may come back to at another stage.

CHAIRMAN: Well, because as I have indicated to Mr. McGonigal, and it applies also to you, Mr. Quinn, because

all interested persons, not least the Tribunal itself, has only had extremely recent sight of these documents, I think it would be unfair to tie your hands altogether, and if you do wish to reserve your rights in relation to the questions you may wish to address in the context of Larchfield, I will go along with that.

MR. QUINN: May it please you Mr. Chairman.

CHAIRMAN: Mr. O'Donnell?

MR. O'DONNELL: No questions sir.

CHAIRMAN: Mr. O'Moore.

MR. O' MOORE: I just have some questions if you don't mind for Mr. Ryan.

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

Q. MR. O'MOORE: Mr. Ryan, I represent Mr. Mike Murphy who you were discussing a few moments ago. Can you tell me the conversation you had with Mr. Charles Haughey in relatively recent months during which the questions of Mr. Murphy's ownership of the shares arose? That didn't take place in the last week or 10 days obviously?

A. No.

Q. Would it have taken place some months ago?

A. The best I can do is guess, because really I

Q. Would you give your best?

A. I didn't come here expecting to be asked that question, so I could be wrong if I said it was in the last six months certainly.

Q. Yes; and it was within the last six months, almost certainly say no more recent than three or four months ago?

A. I wouldn't like to have my hands tied. It certainly, I don't believe it to be this calendar year.

Q. Yes.

A. If I could put it that way.

Q. Yes. That is fine, Mr. Ryan. Could I ask you one more question; did Mr. Haughey give any indication to you as to how he had heard that Mr. Murphy was disputing the beneficial ownership of the shares?

A. No.

MR. MOORE: Thanks very much Mr. Ryan.

CHAIRMAN: Mr. McGonigal, you prefer to reserve your situation?

MR. MCGONIGAL: So I have no questions at this stage.

CHAIRMAN: Mr. Allen?

MR. ALLEN: No, I have no questions.

CHAIRMAN: That is the conclusion, Mr. Coughlan?

MR. COUGHLAN: That is, yes.

CHAIRMAN: Thanks for your attendance, Mr. Ryan.

THE WITNESS THEN WITHDREW.

MR. HEALY: Mr. Paul Carty.

PAUL CARTY HAVING BEEN PREVIOUSLY SWORN RETURNS TO THE
WITNESS BOX TO BE FURTHER EXAMINED BY MR. HEALY AS
FOLLOWS:

CHAIRMAN: Thank you again Mr. Carty, you are already
sworn from earlier in the proceedings.

Q. MR. HEALY: Thank you, Mr. Carty. Take your time there,
if you want to.

A. Thank you, Mr. Chairman.

Q. Now, Mr. Carty, I am going to be asking you about Celtic
Helicopters and your knowledge of and association with the
company, and also the knowledge and association of your
firm with the company; but I think in addition to your
evidence the Tribunal will also be hearing evidence from a
member of your firm who deals, I think he is not
exclusively, certainly in a more expert or specialised
capacity, with the secretarial end of the organisation of
the company affairs; is that right?

A. That's right.

Q. So you may need to refer to some of that evidence, even
though it is going to be given by somebody else at a later
point.

MR. O'DONNELL: Sorry sir, if I could just mention

something at this stage in ease of the Tribunal? I, of course appear for Ciaran Haughey, but not for Celtic Helicopters. I don't see that they are represented here.

CHAIRMAN: Yes, that seems to be the case Mr. O'Donnell, that Miss Costello isn't present, but I will endeavour, as I have already indicated to

MR. O'DONNELL: To communicate a fact that a witness is proposing to deal with issues concerning Celtic Helicopters.

CHAIRMAN: Yes.

MR. O'DONNELL: That is really the issue for me sir. I don't

MR. HEALY: I am much obliged. I think that is a useful piece of information because it hadn't occurred to me, because obviously myself and Mr. Coughlan are at the front and don't see what is behind us, but

CHAIRMAN: Mr. Shipsey, I understand you may have some observation?

MR. HEALY: This information has only come now

MR. SHIPSEY: I may have some assistance. I have just come from court where I had been against Miss Costello. I informed Miss Costello that my understanding was that Mr. Carty was going to be giving evidence this morning and I

understand that Miss Costello may be attempting to contact her solicitors with a view to coming here. I don't think she is aware that Mr. Carty was giving evidence this morning. I think she is now aware of that fact. I can certainly, if it is of assistance to the Tribunal, make inquiries as to whether she is coming.

MR. HEALY: Sir, what I would suggest, subject to your direction is that you might rise for a very short period of time. This information has literally come to the Tribunal within the, to the Tribunal within the very recent time and the Tribunal will contact Miss Costello with a view

CHAIRMAN: I think again, Mr. Shipsey, having instructing solicitors in common may be able to throw some light on that.

MR. SHIPSEY: My instructions are that the solicitors for Celtic Helicopters, that the Tribunal would proceed with Mr. Carty in the absence of the solicitors and counsel for Celtic Helicopters.

CHAIRMAN: I am obliged for that Mr. Shipsey.

Q. MR. HEALY: Thank you. Now Mr. Carty, you have got - you have provided to the Tribunal a statement of evidence and I hope that you have got a copy of that in front of you there, do you have?

A. I have, Mr. Healy, yes.

Q. I think in your statement you say that you were a

non-executive Director of Celtic Helicopters from the 28th of March, 1985, to the 25th of June of, 1992; is that correct?

A. That's correct.

Q. And you were requested by the late Mr. Traynor to act as a Director of the company with Mr. Maurice O'Ceallaigh of Guinness and Mahon?

A. That's correct.

Q. When you ceased to be a Director you became the client service partner. Does that mean that you became the partner in the firm that dealt with that particular client?

A. Well, not necessarily, Mr. Healy, more I think, you could also phrase that the contact partner, the conduit.

Q. Other members of your staff may have done the work but you were the partner with the responsibility for that client?

A. Contact partner.

Q. You say that you received no remuneration, whether by way of salary or fees in respect of any period during which you acted as the Director, a Director?

A. That's correct.

Q. Your company would have received fees for?

A. General practice work.

Q. For general practice work?

A. Yes.

Q. In the years between 1992 and 1996 you say that you were aware of various matters relating to the raising of share capital by the company and you set out your recollection of

those matters. You say that Mr. Traynor acted as financial advisor to the company and was involved in the financing of the company. That the company in its early stages traded in small, in a small and profitable way. Until 1990 the main business activity being flying charters, and in 1991 the company had wished to expand into the helicopter maintenance business and made a substantial investment in a new premises, the cost of which was financed by borrowings. The maintenance business never developed to any significant level and serious financial difficulties arose. I think you would be familiar from the transcript and from what you have been told by the Tribunal that this has been the subject of some discussion over the last few days?

A. That's correct.

Q. In early 1992 you say that the company had a requirement for additional permanent funding of œ500,000 to œ600,000 if it was to develop and expand its business operations. You say that Mr. Traynor did undertake to identify interested investors and introduced five investors between November 92 and February 1993 with an injection of œ300,000 approximately?

A. That's correct.

Q. And is that the œ290,000 odd that we have been discussing herein at the public sittings?

A. That's correct, Mr. Chairman.

Q. You say that in or about the summer of 1992 Mr. Traynor

asked you to meet with Mr. Xavier McAuliffe and Mr. Michael Murphy, and Mr. Traynor indicated to you that these were potential investors in the company and you said this, you did meet both individuals separately - and we will discuss those meetings later?

A. Yes, that's correct.

Q. In or about Autumn 1992 you say that Mr. Traynor informed you that Mr. Xavier McAuliffe, Mr. Patrick Butler, now the late Mr. Butler and Mr. John Byrne would be investing in the company?

A. Yes, that's correct.

Q. You say Mr. Traynor informed you at that time that for confidential reasons he would be using a nominee company as the vehicle for the making and holding of the investment?

A. That's correct.

Q. And that "he advised you that the nominee company would probably be Overseas Nominees Limited and that this company's affairs were dealt with by his former Guinness and Mahon Guernsey colleagues at Credit Suisse Guernsey".

Do I take it that that is a reference to a one time Guinness and Mahon associated company in Guernsey which was now under the, under the control of Credit Suisse?

A. That's correct, yes.

Q. You say that subsequently you met Mr. Murphy and that he indicated to you that he himself and a French colleague intended to invest €100,000 and while he was concerned

about confidentiality he was also concerned to ensure that the investment would always be readily identifiable?

A. That's correct.

Q. You told them that you understood from Mr. Traynor that Overseas Nominees Limited would be the registered shareholder and that it would make investment on behalf of all the investors; is that correct?

A. That's correct, yes.

Q. Mr. Murphy requested details of the account to which he and his colleague should make payment for the investment?

A. Should make.

Q. Should make?

A. Sorry, I beg your pardon.

Q. You say that you subsequently contacted Mr. Traynor and that he gave you a reference number which you understood to be the Credit Suisse bank account reference number of Overseas Nominees Limited together with the relevant branch; is that correct?

A. That's correct.

Q. You say that you cannot recall specifically either the account reference or the branch location. You say you did not receive a cheque from Mr. Murphy or anybody else relating to the investment, and I think you say that you had no similar discussion with any other shareholder?

A. That's correct.

Q. I will come back to these discussions again in a moment, but do I take it what you mean by that is that you had no

discussion concerning Credit Suisse with any other shareholder?

A. That's correct.

Q. You say that in or about May or June of 1993 you were aware from the company's draft accounts for the year to 31st of March, 1993, that €290,392 had been invested in the company and you asked Mr. Traynor who the shareholders were?

A. That's correct.

Q. He indicated to you that the investments had been made in a particular way in which I will not go over, but which we have already heard detailed here in evidence. Mr. John Byrne - €47,533; Mr. Xavier McAuliffe - €50,000; the late Mr. Patrick Butler - €25,000; Mr. Michael Murphy - €100,000; Mr. Snowden - €67,796.

You say that Mr. Traynor did not at that time or at any time in the future indicate to you who Mr. Snowden was?

A. That's correct.

Q. Did you know who Mr. Snowden was?

A. No.

Q. You say that Mr. Traynor asked you to arrange to have calculations made as to the number of shares to be issued to the new shareholders together with the premium at which such shares should be issued. You say that calculations were made in this regard and a memorandum was sent to Mr. Traynor and you refer to the memorandum in the documents which have been produced by your firm under an Affidavit of Discovery made by Mr. Ralph McDarby?

A. That's correct.

Q. And I think you understand that Mr. Ralph McDarby will be assisting with the Tribunal with his evidence later on?

A. Well in relation he will be, yes, sorry he will be.

Q. And we can, if necessary, refer to those documents in the course of your evidence? Now, you say that Mr. Traynor spoke to you again in relation to this matter in early 1994. He was aware that the company had suffered further losses and that the shares would not command any premium, and for some measures of protection he felt that the new share, the new investors should be issued with 7 percent preference shares of one pound each. He stated the shares would be held in trust for the shareholders by Larchfield Securities. He indicated that he would revert to you when he had finalised the position. You say that you did not hear from the late Mr. Traynor in relation to this matter prior to his death on the 11th of May of 1994?

A. That's correct.

Q. You say that the funds which had been subscribed by the investors were shown in the company's accounts as loan capital pending the formal issue of shares?

A. That's correct.

Q. No action was taken by the company to issue the shares and you raised this matter with the Directors in July of 1995 when accounts for a number of years were being finalised. The Directors indicated that the matter would be finalised before the next year end at the 31st of March 1996. You

say in early 1996 the Directors informed you that in seeking to raise finances a bank had indicated to them that they would wish to see the share capital position formalised. Is that right?

A. Yes, correct.

Q. And that a formal instruction was given by the company on the 15th of February, and we will refer to the letter in a moment, to have the capital position formalised and giving you instructions as to what that new configuration of the capital structure of the company should be.

A. That's correct.

Q. You say that documentation was prepared on their instructions to issue preference shares and the necessary corporate actions for formalising the position were taken on the 29th of March of 1996?

A. That's correct.

Q. The Directors wished to maintain confidentiality as to the identity of the shareholders and did not wish Larchfield Securities to appear as the registered shareholder of further blocks of shares, and that accordingly

MR. O'DONNELL: Sorry to interrupt sir, is there a statement in relation to this?

MR. COUGHLAN: Yes.

MR. O'DONNELL: Sorry, I just want to clarify that I haven't received a statement, this statement until this

moment.

CHAIRMAN: Yes, I am sorry that is the case Mr. O'Donnell, but you will appreciate that it is dated, I think only of today's date. And

MR. O'DONNELL: I make a similar point.

CHAIRMAN: I

MR. O'DONNELL: I understand that. I make a point similar to My Friend, Mr. McGonigal, that clearly, given those difficulties that I appreciate create other difficulties obviously for me, so that I wanted

CHAIRMAN: I am certainly not going to shut you out on an occasion later than today, Mr. O'Donnell, when you have had an opportunity to take much more complete instructions.

MR. O'DONNELL: May it please you sir.

Q. MR. HEALY: I think I was just dealing with the part of your statement in which you say that Larchfield Securities' shareholders did not wish Larchfield Securities to appear as the registered shareholder and it was for that reason that it was held by a nominee company?

A. Yes.

Q. And who nominated that nominee company, MS I think that should be, MIS Nominees?

A. That should be.

Q. Who nominated that company? Was it Larchfield Securities

nominated it?

A. Yes.

Q. I see. You say that you were "not aware whether MIS Nominees Limited or Larchfield Securities prepared the necessary trust documents. The shares were issued in two tranches, one of 100,000 and one of 190,329 shares and you say this was done so as to identify separately the investment made by Mr. Murphy. You say that you were not aware at any time the late PV Doyle, Mr. Seamus Purcell or Dr. John O'Connell were alleged to have invested in the company"; is that correct?

A. That's correct.

Q. In relation to Mr. John Byrne, now, I think that insofar as this part of your statement is concerned, you are dealing with a matter that was raised in the course of the evidence of Mr. Byrne regarding communications between Mr. Byrne and your firm; is that right? You say that in relation to Mr. John Byrne?

A. Sorry, I am dealing with the statement in relation to that, I was requested to cover this point.

Q. Yes.

A. In my submission.

Q. Yes.

A. By the Tribunal.

Q. Yes.

A. Yes.

Q. You were asked to respond to the suggestion or the

indication in the evidence of Mr. Byrne that Mr. Byrne had made contact or had directed that contact be made with your firm in or around 1994 concerning a Carlisle cheque drawn in favour of Celtic Helicopters in the sum of €100,000?

A. Yes.

Q. You say in relation to Mr. Byrne: "I have reviewed our files for the period on this matter, and they contained no information. I am certain that if he spoke to anyone in the firm on this matter at that time it would have been to me. He did not and I have confirmed that he spoke to no other individual involved in his affairs at that time in the firm in relation to this matter".

A. That's correct.

Q. And the time that we are talking about where that evidence is concerned is 1994; is that correct?

A. Yes, correct.

Q. And were you, to use the expression that you have mentioned at the start or at the beginning of your statement, were you the client's "service partner" who would be dealing with Mr. John Byrne's affairs?

A. I would be the advisory partner, yes.

Q. Would you be dealing with, both with Carlisle Trust or any other matter that Mr. Byrne dealt with where your firm was concerned?

A. Yes, I would be dealing with the Carlisle Trust and his Irish companies.

Q. I see. Now, could I just take you back over some parts of

your statement so that we can flesh out what you are saying a little more. If I could ask you to come now to paragraph

2. Or point 2 of your statement? You say that Mr. Traynor the late Mr. Traynor acted as a financial advisor to the company and that he was involved in the financing of the company. Now just to clarify what you mean by involved in the financing of the company, you are not suggesting, or are you, that Mr. Traynor himself was financing the company?

A. Well no, no not personally, no.

Q. How did Mr. Traynor come to be involved as a financial advisor to the company?

A. Well Celtic Helicopters had been associated with the Haughey family. Mr. Traynor acted as financial advisor to the Haughey family.

Q. And how did Mr. Traynor come to be involved with you where Celtic Helicopters was concerned? In other words who approached you to get Mr. Traynor involved or did Mr. Traynor himself approach you?

A. Mr. Traynor approached me.

Q. And did he approach you to become involved as the company's accountant or as the company's, or as a Director on the company's board?

A. At this point in time as a Director.

Q. Had the company had your firm already become involved as the company's accountants?

A. Yes.

Q. And did he indicate to you that he was actively involved at that point, which would have been in 1985, in seeking investors to get the company off the ground?

A. He never indicated that to me.

Q. Well, what do you mean by saying that Mr. Traynor was involved in the financing of the company?

A. Well, so far as the initial borrowing, he would have been involved in that.

Q. Did you know anything about the initial investors in the company, even if you didn't know their identity, did you know anything about where the initial capital for the company was coming from?

A. No.

Q. Have you since learned where the initial capital for the company came from?

A. Well, in terms of the initial capital you mean borrowings.

Q. Any kind of capital, whether borrowed capital or equity?

A. I understand there was borrowings from Guinness and Mahon as well as the Bank of Ireland.

Q. Where did the initial capital to get the company off the ground, initially and metaphorically, come from?

A. My understanding of what I seen at the time was Larchfield was indicated as a shareholder.

Q. And were you aware that - were you aware of the amount of money Larchfield was putting up at that point?

A. Well, at that time I would be aware from the point of view when allotment of shares was made, it quantified the

amounts and that would indicate money.

Q. I think that Mr. Ciaran Haughey - and I am sure I will be corrected if I am wrong - Mr. Barnacle indicated that initially they were putting up, when I say "they", I mean the investors were putting up €80,000 and they were borrowing €80,000 as well?

A. Well yes, the €80,000 was from the borrowing and presumably the shareholding funding came to €80,000 at that time.

Q. And neither Mr. Barnacle nor Mr. Ciaran Haughey were putting up any money, apart from a nominal €60 or so?

A. That's correct.

Q. Each. They were putting up their expertise?

A. That's correct.

Q. And therefore, the balance of the money must have come from Larchfield?

A. Yes.

Q. As far as you were concerned?

A. Yes.

Q. Now, I think turning to the next paragraph of your statement you say that in its early stages the company traded in a small and profitable way, until 1990. Do you know what profit, what profits it actually made?

A. Yes.

Q. Up until 1990?

A. Yes.

Q. Would I be correct in saying that while it may have been making profits it was mainly making a living for the

Directors, there were no dividends being paid to any of the investors?

A. That's correct Mr. Healy.

Q. And would I be right in saying that looking at those accounts now, I don't want to go into the accounts, save to the extent that it may be necessary, that looking at the company, that is what it could have provided long-term, a living perhaps for the two professional pilots who were really running the day-to-day activities or operations of the company; is that right?

A. That's correct, yes.

Q. Now, in 1991 you say the company had a wish to expand into the helicopter maintenance business, and that you say that it made a substantial investment in a new premises, the cost of which was financed by borrowings?

A. That's correct.

Q. Were you involved in raising those borrowings?

A. No.

Q. Did you know anything about them at the time that they were being raised?

A. Yes.

Q. Did you know who was involved in raising the borrowings?

You were a Director of the company at this stage?

A. Yes, I knew who was involved, yes.

Q. Well, was it who was deputed, presumably the Directors themselves didn't have the necessary accountancy or financial skills to raise the money. Were there other

people involved in raising it, the money?

A. Well, my recollection would have been that the Directors were involved. When I say the Mr. Barnacle and Mr. Haughey I would have thought, would have been involved with the institution at that time, as well as with the support of Mr. Traynor.

Q. You say that in early 1992 the company had a requirement for additional permanent funding of a half a million to 600,000, if it was to develop and expand its business operations. Now, at that time am I not correct in suggesting that the requirement for œ500,000 to œ600,000 was effectively to deal with the very serious financial debt situation which had arisen because of the overrun on the development that was being, that the company became involved with in 1991?

A. Yes, that would have been one of the factors, yes.

Q. You refer to a requirement for additional permanent funding of 500 to 600,000; was that the initial view that you took of the amount of funding that was required?

A. Yes.

Q. Perhaps I will have a look at the documents. Correct me if I am wrong, but I had the impression that the initial requirement as envisaged by you, was for œ300,000 or œ200,000?

A. Well, sorry Mr. Healy .

Q. I will refer you to a document.

A. If you would please.

Q. Which would assist you?

A. If you would please, yes.

Q. Do you recall a letter of the 24th of February of 1992 written by you to Mr. Gerry Duffy, Manager of Bank of Ireland, Dublin Airport?

A. Yes, I recall that.

Q. Do you have a copy of that letter there?

A. Not to hand, but I can get one I am sure.

Q. You needn't worry, we will take our time.

MR. ALLEN: Chairman, if we may assist, we can give the witness a copy of that letter.

MR. HEALY: I have a copy. (Copy handed to witness).

A. Thank you. Mr. Healy, I have it before me, yes.

Q. We might .

A. I have that Mr. Healy.

Q. I just want to put it on the overhead monitor. Perhaps firstly I will refer you to the relevant part of the document, because it contains an amount of material that I don't think we need to put up on the monitor. If I could refer you to the second page of the document?

A. Yes.

Q. It is a letter by you to the bank, in which you are making a case on behalf of the company; is that right?

A. Yes.

Q. You refer to the hanger in question and in the second last paragraph on the second page you say:

"The company is negotiating for €300,000 additional equity in order to reduce its borrowings. Up to €300,000 is being negotiated and it is hoped that this will reduce the interest burden on the company and redress the debt in balance on the company's balance sheet"?

A. Yes.

Q. That is what I am trying to draw your attention to when I mentioned that I understood that initially you had envisaged a €300,000 equity injection into the company as opposed to a €600,000 equity injection?

A. Yes; and there is two separate issues here Mr. Healy.

Q. Yes?

A. If you - I know you might come to the document later. In the allocation of the shares.

Q. Yes?

A. You will see where mention was made on the contemplation of having investors of maybe €500,000 to €600,000.

Q. Yes?

A. The understanding of how does one get to the €600,000, would that be the question you are looking for?

Q. What I want to get at is in early 1992, certainly what the company needed was €300,000?

A. Certainly.

Q. And that was to deal with a very serious debt situation?

A. Yes, certainly.

Q. And in terms of developing or expanding its business, what the company needed was €300,000 at that stage to deal with

a very serious or critical situation.

A. Correct.

Q. You mentioned that there were negotiations going on at that stage to introduce new investors?

A. Yes.

Q. Were you involved in those negotiations?

A. No, at that stage, no.

Q. Who was involved in the negotiations?

A. Mr. Traynor.

Q. And what did you know of the negotiations from Mr. Traynor?

A. Other than he was endeavoring to identify investors who would, who might have an interest in investing in the company.

Q. I take it that this problem with this debt had arisen for some time, at least it was a growing problem over 1991?

A. Yes.

Q. And that you were referring to a situation which had been identified either by Mr. Traynor or yourself sometime prior to this, and that the negotiations were going on actively at that time to try to encourage other people to become involved in the company?

A. About that time, yes.

Q. Your letter is dated the 24th of February of 1992 and you are referring to a meeting that had taken place at an earlier point. So presumably you were meeting the bank in either February or January of 1992?

A. Yes.

Q. As a Director of the company. At that stage were you in anyway concerned about your own position, having regard to the debt situation in the company?

A. Yes.

Q. Were you present at the meeting or - sorry, you were present I think at the meeting with the Bank of Ireland that is referred to in your letter of the 24th of February of 1992?

A. Yes.

Q. I think in fact I now have a memorandum in front of me, suggesting that that meeting occurred on the 31st of January of 1992; would that be your own recollection?

A. That's correct, yes.

Q. And the purpose of the meeting was to deal with a request from the bank that the company's overdraft facility be reduced?

A. That's correct.

Q. That is a fairly serious situation for a trading company; isn't that right?

A. It is one of the concerns certainly, yes.

Q. And it was to make a case to, if you like, keep the bank off the company's back, that you wrote the letter?

A. That's correct Mr. Healy.

Q. Now, during the rest of 1992, Mr. Traynor was in contact with you concerning the investors that he had managed to identify?

A. Yes.

Q. And you are certain that you had no prior, you had no dealings with any of these investors until they were brought to your attention by Mr. Traynor?

A. That's correct Mr. Healy.

Q. And does that apply to all of the people we have mentioned? Mr. McAuliffe, Mr. Murphy, Mr. Byrne, Mr. Butler, and Mr. Snowden; I think you said you had no involvement with him at all?

A. I had no involvement; at this point in time I had no involvement with any of these people.

Q. You knew nothing about them until their names were mentioned to you by Mr. Traynor?

A. Correct.

Q. And you mentioned that you met Mr. McAuliffe and Mr. Murphy and was that at the request of Mr. McAuliffe and Mr. Murphy respectively, or was it at the request of Mr. Traynor?

A. Mr. Traynor advised me, yes, to meet these people.

Q. When you say he advised you to meet them, did they contact you and did he then say you should meet them?

A. I feel they my recollection is that they contacted me.

Q. And what was the purpose of the meetings?

A. Well, the meeting with Mr. McAuliffe was effectively to put the, to make them aware of the financial status of the company. It wasn't a meeting in the form of putting forward a prospectus or anything like that, just more or less giving them information on the status of the finances of the company.

Q. Mr. McAuliffe was buying into the company at this stage?

A. Yes. Well he had an intention obviously when it, when he came to me. Because I only saw him the once.

Q. That is what I am trying to get at; were you a seller at that stage?

A. I definitely wasn't a seller. I was more or less a financial accountant giving information. That is the way I see it. I certainly was not a seller, I was not promoting or forming a prospectus or making any representations.

Q. There would be, you were certainly not encouraging Mr. Xavier McAuliffe to invest in the company?

A. No sir, that would not be my intention, no.

Q. You were not in fact even a Director at that stage were you, or am I right in that?

A. Yes. You are correct. I ceased as a Director of the 25th of June of 1992. I had ceased as a Director, that's correct.

Q. So your meeting with Mr. McAuliffe on the 13th of August of 1992, which was the date I think you mentioned him?

A. That's correct.

Q. That was not as a Director of the company?

A. No certainly not, no.

Q. It was purely to assist Mr. Traynor and the company of which you had formally been a Director?

A. Correct.

Q. Why did you cease to be a Director of the company?

A. Well, there was two reasons there. The main reason being

that the Companies Act in December 92, the Companies Act was making a change that, you know, no partners could be Directors and auditors of the company.

Q. At the same time?

A. At the same time and that came in, I think in legislation in December of 92.

Q. And your firm, were you at this time, the accountant?

A. Yes, that's correct.

Q. And what was the other reason?

A. Well, I suppose one can't say beyond certainly the financial position, I would have felt more comfortable advising outside.

Q. Directors have now become, I suppose since the early 1990's far more answerable for the financial affairs of a company?

A. Yes around that time, at no stage was this company recklessly trading, but at that time I think the reckless trading definition was coming into play; and I mean I just want to emphasise at no stage did this company act in any reckless way, but that was another factor with Directors, they were getting - it was getting much more responsible and onerous to be a Director in any company, particularly if you had financial expertise I suppose.

Q. When you dealt with Mr. Murphy, again I take it it was on the same basis, you were not a seller, you were simply providing some information?

A. Correct.

Q. What sort of information were you providing Mr. McAuliffe

and Mr. Murphy?

A. Other than setting out the financial position of what, at that point, I would have had the accounts to March 92 before me, there would have been indications or information that the Directors would have hope, what they can do in getting into the maintenance business. I mean this was considered by the Directors and I wasn't a Director at this time, but the executive Directors had a view that there was an opportunity in the maintenance business, if you could generate, you know, maintenance hangers, there was opportunities and business there to be obtained.

Q. Did both Mr. McAuliffe and Mr. Murphy know, after you spoke to them, that one of the reasons the company needed money was to deal with this debt problem it had?

A. They would have certainly realised that, yes, when I say to deal with the debt problem, they would have realised that there was substantial debt there.

Q. Did they know that you had ceased to be a Director?

A. I would imagine they would have, yes, to put it in context; Mr. McAuliffe, as I understand it, was a person that was very interested in helicopters. He had his own helicopter.

Q. Yes, were they both aware of the fact that the company was having difficulties?

A. I would say yes, because Mr. Murphy dealt with them on a trading basis.

Q. Were they aware of the fact that the company was having a problem with the bank who were seeking to reduce it's

overdraft?

A. I would have advised him of everything that was in front of me with the company. I would have nothing to it was a very open meeting. I was a very neutral person as far as I was concerned there.

Q. And at that stage to invest money in the company you were really investing in getting rid of a very big overdraft?

A. Yes; and to put the company on a sound financial basis and move forward.

Q. And both Mr. McAuliffe and Mr. Murphy were made fully aware of the thing that we have just described now, or that we have just mentioned?

A. Yes.

Q. What were the dates of your meetings with Mr. Murphy?

A. The first meeting was the 21st of October 92, and there was one other meeting with Mr. Murphy on the 2nd of November, 1992.

Q. Can you recall what happened at the meetings with Mr. Murphy?

A. Well, at the first meeting it would have been more setting out the same as Mr. McAuliffe, the financing position; so there would have been a half an hour meeting, in my view, a 20 minutes meeting giving him information on the company; and obviously at that point in time he would have, he would have had an interest in considering to invest.

Q. Was he talking about investing himself?

A. At that time my recollection, Mr. Healy, all the time was

that there was always himself and a foreign colleague, a French colleague, that was always my understanding, and the impression I was given from the conversations I had with him at the time.

Q. And did he tell you what the split was to be between himself and the

A. No, he didn't.

Q. And the French colleague?

A. No he didn't, no.

Q. And was that clear from both meetings?

A. No, particularly the second meeting.

Q. When you say particularly, do you mean it wasn't clear at all from the first meeting?

A. I don't recall it as clearly at the first meeting. I have to say I don't recall it at the first meeting.

Q. When you say that the first meeting was to go over the type or material, or the type of matters that you went over with Mr. McAuliffe; what distinguished the second meeting from the first meeting?

A. I suppose what distinguished the second meeting was; (1) The question of confidentiality and; (2) That if he was to go this road then the whole question that his investment would be readily identifiable, the fact that - the fact that it was going to be in a nominee name.

Q. What was the purpose of that request, that the investment be a readily identifiable one?

A. I suppose from the point of view of that in the same way I

think that it developed, the £100,000 is shown separately

all the time.

Q. Oh I can see that, but why would somebody make a request

like that to you? Does it strike you as a strange request?

A. No. No, the fact I suppose maybe using the word "nominee",

probably the fact that using the word "nominee" maybe

prompted him to say that.

Q. Did you find it in anyway a strange request? "I want my

investment to be readily identifiable"?

A. No, I wouldn't find that strange, no.

Q. Why wouldn't an investment be readily identifiable?

A. Well, if it is in a nominee holding it mightn't be readily

identifiable.

Q. Why not?

A. When you say "why not".

Q. Yes?

A. Well, if you had your trust documents and so forth.

Q. But you deal with nominee - in the course of your business

you deal with people who take shareholdings in companies

through nominees all the time?

A. That's correct, yes.

Q. And isn't the system that is used that where you have a

nominee company holding shareholdings on behalf of large

number of people that they are given a number?

A. Yes.

Q. How can there be any difficulty in any share holding not

being readily identifiable? You get a share certificate;

isn't that it?

A. Yes, you do get a share certificate, yes.

Q. Well, how can there be a difficulty about - I am not arguing the point with you, I am just trying to establish why such a - what I would regard as a somewhat unusual request should be made. Why would somebody want an investment to be readily identifiable?

A. I am trying to put myself in the position whereby if there is a block of shares, say in Overseas Nominees, all he was making the point was, I want to be able to see that in there, if I can put it that way. That was all, there was nothing else in it.

Q. And did you explain to him that as with any nominee company he would have a number?

A. No I didn't explain that. Mr. Murphy is an experienced businessman.

Q. That is my point. If he is an experienced businessman why would he be asking a question like this?

A. Well, I didn't make much out of it Mr. Healy, I didn't take much out of it. I don't think there was a lot in it.

Q. Well, that was one of the things he asked you at the second meeting. He was concerned about confidentiality and was concerned about the investment being readily identifiable.

Now you say that in the, you say that Mr. Traynor informed you at that time, meaning the Autumn of 1992, that the shareholding in question for the individuals - he was

discussing the new investors - would be held by a nominee company, probably Overseas Nominees Limited?

A. Yes, correct.

Q. And that this company affairs were being dealt with, as I said, by one of his former, by his former Guinness and Mahon colleagues at Credit Suisse?

A. Yes.

Q. Did he identify any of those colleagues?

A. No.

Q. Did you have any contact with Credit Suisse?

A. No.

Q. You say that subsequently you met Mr. Murphy. Now I just want to get this and a number of meetings clear. You said you had two meetings with Mr. Murphy. Was it only two meetings?

A. Only two meetings.

Q. So therefore you had a meeting with him early in October, presumably subsequently Mr. Traynor told you about the nominee shareholding that, the nominee company he proposed to use to take the shareholding; and then you had a meeting with Mr. Murphy, so that when you refer on paragraph 8 of your statement to subsequently having a meeting with Mr. Murphy, you are referring to the meeting of the second of November?

A. Correct.

Q. And at that meeting he indicated to you that himself and the French colleague you have mentioned earlier intended to

invest €100,000?

A. Yes.

Q. You told him that you understood from Mr. Traynor that Overseas Nominees would be the registered shareholder and that it would make the investment on behalf of all the investors?

A. Yes.

Q. Mr. Murphy requested details of the account to which he and his colleagues should make payment for the investment.

Would you explain to me what that meant? He asked for details of the account?

A. Yes. In making the investment, this was after the meeting, I should explain.

Q. Yes?

A. After the meeting, the second of November meeting, he was still obviously considering the investment; and presumably equally he would have had contacted his colleague or other investor, and ultimately then they were going to make a decision. So from my recollection, a day or so later he came back, in his mind he was making the investment and then he wanted to know what form or how would he make the payment and to whom.

Q. When you say he came back, did he physically come back and meet you?

A. A phone call.

Q. A phone call. "I want to make the investment" he was saying to you and "how do I do it"?

A. Yes.

Q. Did he say "I want an account number from you"?

A. No, no.

Q. What did he say to you?

A. That he would have known it was going to be in a nominee name, but from what we have already mentioned to you, and in effect he more or less agreed that he was going to make the investment and the question was where should he make the payment.

Q. Could I put it to you this way, if you were going to make an investment in a company through a nominee company would you simply make your cheque out to the nominee company; isn't that right?

A. No. I think there is another part to this.

Q. That is what I am trying to get at. Could you just answer my question first?

A. Sorry.

Q. If you were making an investment through a nominee company, whether it is Overseas Nominees, Mars Nominees; if it was Mars Nominees would you simply write your cheque, œ100,000 pay Mars Nominees and you would give it to whoever was dealing with the matter, either you, Mr. Traynor or somebody; isn't that all you would do?

A. Yes. Yes.

Q. Was there another element to this?

A. Well, the only I had the impression from discussions with him that he had, he had already got the funds with his

foreign colleague, that it was the foreign colleague effectively who had the financing of this.

Q. Yes. His foreign colleague still only had to make out a cheque to pay Mars Nominees?

A. Or Overseas Nominees.

Q. Or Overseas Nominees?

A. Yes, that is true.

Q. Why was there a need to know the name of an account then?

A. Well, that is the question he asked.

Q. He asked you?

A. Yes. He didn't give me a cheque to Overseas Nominees, nor were they looking for any cheque. As far as I was concerned I was there to find out if he was going to invest.

Q. But he asked you for information?

A. Yes, later on yes.

Q. Did that indicate that he had been in touch with Mr.

Traynor or somebody, or that Mr. Traynor had told him that you had certain information?

A. The only impression that I had, was that Mr. Traynor was gathering the funds together for Overseas and where was that to be transferred to.

Q. I am just wondering how Mr. Murphy knew that it wouldn't be enough to make out a share to Overseas Nominees, how did Mr. Murphy know that he would have to make out a share, make out a cheque, payable to somebody, to some account number or some other reference number?

A. Well he assumed that the account was going to be,

presumably - I am assuming now, I shouldn't be assuming,

but he was going to transfer the funds to Overseas

Nominees, an account where the shareholders funds were

being gathered together in one lot.

Q. You say you contacted Mr. Traynor and he gave you a reference number which you understood to be the Credit Suisse bank account reference number of Overseas Nominees?

A. Yes.

Q. Can you remember what Mr. Traynor and you discussed?

A. Yes. Yes, I did ask him, you know, I raised the question that Mr. Murphy is looking for this information and he gave me, at that time, an account of Credit Suisse and the number. I wasn't so sure, as I said in my statement, I wasn't so sure what location was it; was it London, Jersey, or Zurich, at that time when I had written that statement, that was my recollection.

Q. You say that you didn't receive a cheque from Mr. Murphy or anyone else related to the investment, and Mr. Murphy has himself confirmed that he didn't give you a cheque?

A. I noticed that yesterday. At one stage he thought he gave me a cheque, but I never got any cheque from Mr. Murphy.

Q. But all he got from you was an account number and perhaps?

A. Well, could I just clarify that.

Q. Yes?

A. I cannot recall. I recall getting the account number, but equally I recall that I passed that information on, not directly to Mr. Murphy.

Q. Who did you pass it on to?

A. My recollection is vague, but I thought I passed it on to Mr. Barnacle.

Q. For onward transmission to Mr. Murphy?

A. Yes. Yes.

Q. I wonder I wonder should I stop there sir?

CHAIRMAN: It might be an appropriate moment. Is ten to two suitable to you to conclude your evidence Mr. Carty?

Thank you very much.

THE HEARING WAS THEN ADJOURNED FOR LUNCH.

THE HEARING RESUMED AS FOLLOWS AFTER LUNCH:

THE WITNESS CONTINUED IN EXAMINATION BY MR. HEALY AS FOLLOWS:

CHAIRMAN: Thank you, Mr. Carty.

Q. MR. HEALY: Thank you, Mr. Carty. You may recall that before we broke for lunch I was asking you about the meetings you had had with Mr. Murphy, and just to clarify where things stood at that point; you said that you had two meetings with him, and then subsequently I think, you feel a telephone call from him?

A. Yes.

Q. Right. And that the two meetings were on the 21st of October, 1992?

A. Yes.

Q. And the 2nd of November of 1992?

A. That's correct.

Q. And

A. Sorry, the 2nd of November of 1992.

Q. 2nd of November of 1992. The phone call you think would have been sometime shortly after the second meeting?

A. I would say very soon after that.

Q. That was the only contact you had with Mr. Murphy in relation to this investment?

A. At one point I think, I don't know how long afterwards but he did inquire about a share certificate, some time that I passed the information on to Mr. Traynor and the Directors, sometime, he did mention that at some stage.

Q. And the first meeting, at the first meeting with Mr. Murphy you say you gave him some information concerning the company?

A. Not in any physical sense, in talking to him about the company.

Q. And at the second meeting, the purpose of the second meeting you say was to give him some information about how he should deal with paying for the cheques?

A. No, no.

Q. I see.

A. No, I didn't say that. I said it was I would think, after the first meeting, he had reflected on it.

Q. Yes.

A. In the second meeting then, I would think was a stage more

or less in his mind finalising his decision and presumably in turn having to talk, as I understood to his foreign colleague, and then the question would there be confidentiality and how would the shares be held.

Q. So, the second meeting then was, as it were, to say "yes, I think I am going to go ahead"?

A. No, he didn't say yes at that meeting.

Q. I see.

A. He didn't say yes.

Q. He hadn't said yes, he still wanted more information?

A. I would imagine he would have to go back to his colleague, this is my thinking, Mr. Healy, he would have to go back to his colleague to ascertain would they make this investment, that would be my interpretation.

Q. I see. I don't know if you were, I don't know if you or any of your advisors were here yesterday?

A. They were not.

Q. But Mr. Murphy gave evidence yesterday of this investment, and he was asked about the money that was used to make the investment, and I will just put the cheque that was used to make the investment up on the overhead projector.

A. That's not too easy to read.

Q. I am sure it isn't. I am going to give you a copy so that you can follow what I am saying. It is a Bank of Ireland cheque, drawn on the Dundrum branch, it is drawn on the account of Mike Murphy Insurances, can you see that?

A. I do, Mr. Healy.

Q. Section 48, non-life assurance client's current account.

Do you see the amount of the cheque in figures, a œ100,000?

A. Yes.

Q. The payee is Credit Suisse London?

A. Yes.

Q. Then you have the date of the cheque which is the 21st of September of 1992?

A. Yes.

Q. Now, do you see the significance of that?

A. Yes.

Q. That the cheque is in fact dated not just before the second meeting with you, but in fact even before the first meeting with you?

A. Yes, yes.

Q. Which would seem to suggest that Mr. Murphy had made up his mind about this investment to some extent, rather earlier than you felt or at least rather earlier than you had been lead to believe?

A. Yes, Mr. Murphy is the only one that can

Q. Pardon.

A. Mr. Murphy is the only one that can explain that, I don't know, I haven't seen that.

Q. Yes, but you are certainly satisfied that you didn't mention Credit Suisse to Mr. Murphy, you didn't mention Credit Suisse to Mr. Murphy until was it your first or second meeting?

A. It had to be after the second meeting, it had to be after

the second meeting.

Q. Right. Even though he clearly seems to have known about it well in advance of the first meeting?

A. I don't know the answer to that.

Q. Well, he certainly drew a cheque in favour of the Credit Suisse?

A. I never saw this cheque until I got a copy yesterday.

Q. I see.

A. In actual fact this is the cheque probably that was given to me originally.

Q. Yes.

A. But I never received any cheques.

Q. I appreciate that, and Mr. Murphy may have said that in his statement but corrected it in his evidence yesterday?

A. I see.

Q. That you never got these cheques. And the first you became aware that these cheques were made out well in advance of the meetings with you, and in fact that they were made out to Credit Suisse, is yesterday; is that right?

A. Yes, I saw this I saw this, the Tribunal kindly sent me a copy I think of the statement of Mr. Murphy with this attached I think.

Q. Does it surprise you that the cheque, the cheques were in fact drawn in advance of the meetings with you?

A. I have no comment really on that, I would be speculating if I am saying surprised.

Q. Does it surprise you?

A. Well it was a surprise to see it yesterday, dated so early, in the context

Q. I am not suggesting for one moment that anything you said is wrong, Mr. Carty, or your recollection is inaccurate, but it doesn't tally in a way that you have, you have told us, I am not saying anything you have said is wrong. In the light of what you said isn't it surprising that it was written in advance?

A. I can only say on my understanding and reflection, and it is six and a half years ago, that's my clear understanding.

Q. Of course. In the light of what you know from your own knowledge of what you did and the contacts you had with Mr. Murphy, and in view of the date of the cheque as we now know it, and the identity of the payee on the cheque, wouldn't that seem to indicate that Mr. Murphy was in contact, possibly with Mr. Traynor?

A. What it seems to suggest is there would have been no need for me to ring Mr. Traynor.

Q. Exactly. The fact that Mr. Murphy knew the identity of Credit Suisse without having to make contact with you about it, would seem to suggest that somebody else had informed him of that?

A. I don't know about that.

Q. Wouldn't that seem to be the case?

MR. O'MOORE: Now, I don't know how this witness can answer that question, it is absolute speculation on his

part that Mr. Healy is asking him to engage in.

CHAIRMAN: Let's proceed.

Q. MR. HEALY: The only information that you gave after the second meeting that you had, the only material information was the number of an account?

A. To on my reflection to Mr. Barnacle.

Q. On your reflection to Mr. Barnacle, yes that information was given to you by Mr. Traynor?

A. Yes.

Q. And again it is only fair to let you make a comment, if you wish, Mr. Carty, on some of the other evidence that was given, which seems to conflict or at least doesn't seem to fit precisely with the account of, with your own view of the dealings that you had with Mr. Murphy.

Yesterday a document was put in evidence for Mr. Murphy, it was a letter from International Insurance Brokers in Monaco dated the 5th of October of 1992, do you see it on the monitor?

A. Yes.

Q. Now, do you see the amounts? The amount referred to in Irish pounds? Would you like a hard copy of the letter to read it?

A. I can read it here, Mr. Healy, okay.

Q. It says; "I have received the amount of €116,624.62 as agreed, which I have deducted from the account. This

reduces the amount outstanding on the old shipment ADSI as attached. I forward the investment as agreed for the investment in Celtic Helicopters. I note you will hold the shares for me in a nominee account for the moment, and I will instruct you later when I decide further".

Now, if you look at the two cheques which I have given you copies of, and that you had in your hand a moment ago, you will see them come to €116,624.24; do you see that?

A. Sorry, come back to the letter again.

Q. Yes.

A. "I have forwarded cheque as agreed for the investment in Celtic Helicopters".

Q. Yes.

A. That's to Mr. Murphy.

Q. Yes?

A. What cheque is that?

Q. Well, if you look at the two cheques that you had in your hand a moment ago?

A. Yes, I have those.

Q. Those are two cheques made out on the account of Mr. Murphy, which when added together come to €116,624.62. Do you see that?

A. Yes, yes.

Q. And the second paragraph says that "I have forwarded the cheque as agreed for the investment in Celtic Helicopters"?

A. To where?

Q. Well just, for the moment leave it as it is. Assuming

that to be the cheque made out to Credit Suisse in the sum of a hundred thousand pounds, wouldn't that suggest that the money had been forwarded, taking the letter on its face, wouldn't it suggest that the money had been forwarded, again in advance of either meeting that you had with Mr. Murphy?

A. It appears that way, Mr. Healy, yes.

Q. But you are absolutely satisfied that you did have a meeting with him on the 21st of October and another meeting on the 2nd of November?

A. Yes. Well, I think somewhere in the correspondence yesterday Mr. Murphy acknowledged he had a meeting with me on the corresponding day, the 21st of October, so he has acknowledged that meeting.

Q. Absolutely. Absolutely. And if what is, if that letter is referring to the hundred thousand pounds cheque, once again wouldn't you be surprised at the contents of the letter?

A. I would have expected it to be in the bank account of Celtic Helicopters a bit sooner than it got there.

Q. Now, to pass on to the next aspect of your evidence. At paragraph 9 of your statement you say In or about March or June, May or June of 1993 you were aware from the company's draft accounts for the year to 31st of March, 1993, that 290,000 had been invested in the company and you asked Mr. Traynor who the shareholders were. He indicated to you that the investments had been made in a certain way; John

Byrne, Xavier McAuliffe, Patrick Butler, Michael Murphy and

Mr. Snowden?

A. Yes, Mr. Healy, yes.

Q. What prompted you to ask Mr. Traynor that?

A. Well because the he took up the discussion and out of

this we would have been at a meeting, it wouldn't

necessarily have been for Celtic itself, he asked here were

the shareholders because it was a situation where

obviously it had to be discussed at some stage, arising

from having received those shares, a discussion then took

place on how were they going to be allocated, in other

words what premium, if any, would they carry. That

prompted him, would you do have an exercise done just

to give us some idea of what way to pull out for each

individual.

Q. And you did an exercise suggesting how those shares should

be

A. Yeah, I went back

Q. reconfigured?

A. to my office and had some people under my supervision

do an exercise.

Q. And I think you referred to that exercise as being set out

in Schedule 2, Document 2 of the affidavit of Discovery

made by Mr. McDarby?

A. That's correct, Mr. Healy.

Q. We will try to get this up on the overhead projector so

that you can look at it. If you can pull back for a moment

so we can see the whole document.

Do you have a copy in your hand as well?

A. I have, Mr. Healy, yes.

Q. That's the front page of the document, there are three pages?

A. Yes, Mr. Healy.

Q. The page we just had is headed "Issue of Additional Shares", and it suggests a mode of issuing these shares, so as to represent the new money invested in the amount of œ290,329?

A. That's correct.

Q. Now, on the next page what you have is the proposed division of these shares as between the various subscribers and showing how they would hold their investment in the form of two different types of shares; isn't that right?

A. A and B shares.

Q. And then the next document, which is the last of the three documents forming part of the paper you carried out for the exercise you carried out, shows that what, shows what the shareholdings of the various shareholders would look like after the new shareholding had been configured in accordance with the proposals you were putting forward?

A. That's correct.

Q. Now, what was the result of your discussion with Mr. Traynor?

A. Well, he received this. Nothing transpired from it since

I sent that to him. It was, I suppose you would have to, you know, it was an attempt, it is not to say that it couldn't be changed, it was an attempt to indicate to him how the shares would be allocated, based on what was the original thinking, that if there was a €600,000 investment, and this worked back from the €600,000 investment because only capital came in of 290,000, so it doesn't make that much sense because it is all mathematical, the main thing is 290

Q. This exercise was never carried through into the actual shareholding of the company?

A. Never implemented in this form.

Q. Were you discussing this matter solely with Mr. Traynor, did you discuss it with anybody else?

A. I don't recall discussing it with anybody else only Mr. Traynor.

Q. And you certainly never discussed it with any of the new investors, you never discussed it with any of the new investors?

A. No. I should just say, I never met any of the investors in relation to this at all, other than the two points I mentioned, meeting Mr. McAuliffe and Mr. Murphy.

Q. The new investors when they were, two of them were speaking to you, there was no discussion at that stage of how their shareholding was going to be held?

A. Well, I certainly would have indicated to them, I feel my recollection is that the plan was maybe in turn that these

shareholdings, if 600 or 500 was collected it would represent maybe 48 percent of the business, other than that

Q. But there was nothing more specific than that?

A. Certainly not.

Q. And certainly it was not a condition of their becoming new investors that they would hold their shares in any particular way, nor was it a condition that they would hold any specific percentage of the company?

A. No, Mr. Healy.

Q. Now, once again at this stage you had left the Board of the company, you were no longer a Director and you were dealing solely with the company through Mr. Traynor?

A. Yes, correct.

Q. You were not speaking to the Directors at all, the remaining Directors?

A. No, no, I went to no Board meetings since we discussed this.

Q. Mr. Traynor who was the person as far as you were concerned was organising all of this?

A. Yes, he was the one in effect involved in getting the shareholders, arranging to get the subscription from the shareholders, he was the one in the way that was driving that.

Q. And did it in fact appear as if Mr. Traynor was the person going to make the decision ultimately as to how these shares would be held?

A. Certainly in relation to, he was the one that gave me the instruction to undertake the work, and he was the one I was reporting back to.

Q. You were the person who met him, you met him regularly over a lengthy period of time concerning the company, from the time of its inception right up to the time of this investment. Would I be right in saying that the impression that you would be left with is that it was Mr. Traynor who was going to make the decision as to how these shares were going to be held, not anybody else?

A. That's correct, Mr. Healy.

Q. If we get into the reel world, he was the person going to know what the bottom line was at the end of the day?

A. Correct.

Q. I think he discussed with you at a later point that he would have to implement a different proposal because he felt things had moved on and perhaps the company was not fairing as well as he had anticipated, and he thought that the new investors could be put into the company on a different basis?

A. Yes.

Q. And this was on the basis that they would be given preference shares?

A. Yes.

Q. And he informed you that those preference shares would be held in trust for the shareholders by Larchfield Securities?

A. That's correct, Mr. Healy.

Q. He said to you that he would come back to you once he finalised the position?

A. Yes.

Q. At that stage presumably you knew what the preference to Larchfield Securities was?

A. I knew of Larchfield Securities.

Q. Yes.

A. Yes.

Q. Did you know of Larchfield Securities' role in the company up to then?

A. Role in what company?

Q. In Celtic Helicopters?

A. Yes, but going back to the very beginning when I was a shareholder.

Q. Yes.

A. I should say, I was never a shareholder, I think I said I was a shareholder, when I was a Director.

Q. Yes, but you certainly knew of Larchfield Securities' shareholding and their involvement in the company from the beginning?

A. Yes.

Q. You knew that they were, we have been using the expression I think used by Mr. Barnacle in the witness-box, unofficially a Haughey family company?

A. Yes.

Q. So that they would hold their existing shares plus the new

shares, depending on what way Mr. Traynor decided the new shares would be issued, that's what his plan was at the time he spoke to you in 1994 before he died?

A. Yeah, but I don't think he means in the context of Larchfield owning them beneficially.

Q. I see. He said the new shares were to be held by them in trust, that's what he told you anyway?

A. Yes.

Q. And that was the last you heard of it, because unfortunately Mr. Traynor died in May of that year?

A. Yes.

Q. Now, we are going on to how the funds were shown in the company's books, paragraph 10. You say the funds would have been subscribed by the investor and were shown in the company account as loan capital pending the formal issue of shares. No action was taken by the company to issue the shares, and you raised this matter with the Directors in July of 1995 when accounts for a number of years were being finalised. You say "the Director indicated the matter would be finalised before the next year end at the 31st of March of 1996" .

Now, in what capacity did you raise that with the Directors?

A. It would have been insofar as a significant loose end in terms of the accounts. The accounts, the year end is 31st of March and I know a number of years accounts were being adopted by the Directors, and this was a loose end that

needed tidying up.

Q. Which Directors did you speak to about that?

A. Mr. Barnacle and Mr. Haughey.

Q. Early in 1996 you say that the Director informed you in seeking to raise finance, a bank indicated to them that they would wish to see the share capital position formalised. Did you deal with that bank at that time?

A. I personally didn't deal with that bank.

Q. You know the name of the bank?

A. Yes.

Q. Did your firm deal with the bank?

A. Yes, I think the firm might have dealt with them, by way of a letter of some sort.

Q. Well, I am not sure if your firm has made that letter available, I am not suggesting for one moment that anybody has concealed it, but I can't recall if it is in the documents we have got, but if needs be we can track it down.

A. We certainly wouldn't be concealing.

Q. I am not suggesting for one moment you are, I don't have a recollection, we can identify it in due course.

A. Do you have it already?

Q. What I am trying to say to you is I don't have a recollection of it, but if I do have it we will produce it in due course.

A. Okay.

Q. I now want to come to the documentation that was eventually

brought into existence to formalise the implementation of new proposals for the share capital of the company.

Now, I think Mr. McDarby will deal with this eventually.

Can you tell me how Mr. McDarby came to be dealing with this matter and the way in which new shares were to be issued?

A. In fairness, it is his department, secretarial/legal department. Mr. McDarby is the partner in charge of that department.

Q. Did he receive his instructions in relation to these matters directly from the Directors or from you or a combination of both?

A. I would say a combination of both.

Q. What would you have told him to enable him to deal with the formalisation of this matter?

A. Whatever, I am not a legal person, so whatever legal requirements were necessary to implement this or to reach the objective of what the Directors needed to get to, whatever was required to implement that in a legal sense and a company law sense, to go ahead and do that.

Q. Well, it is one aspect of this which I want to ask you to comment on, even if only in principle; it arises in connection with a letter which was written by Celtic Helicopters to Deloitte and Touche on the 15th of February of 1996. I will put one up on the monitor, and if necessary give you a copy. Can you see that?

A. I can yes, Mr. Healy.

Q. Addressed to Deloitte and Touche from Celtic Helicopters.

"Please prepare the documentation necessary to convert an existing loan into the amount of €290,239 non-cumulative preference shares one pound each"?

A. Yes.

Q. "I enclose a letter received from Larchfield Securities in relation to the matter"?

A. Yes.

Q. We will just look at the loan from Larchfield Securities for a moment. Again it is from Larchfield Securities, Kinsealy, County Dublin. It is to the Directors of Celtic Helicopters, and it says; "Dear sir, we refer to a loan in the amount of 290,000 odd which we advanced to the company in 1991. We now give irrevocable instruction that the loan be converted to preference share capital as soon as possible". Can I leave that letter aside for a moment and go back to the previous letter, the letter addressed to you which says "please prepare the documentation to convert existing loan into cumulative preference shares"?

A. It is on Celtic Helicopter's paper.

Q. Yes, but addressed to you?

A. Yes, yes.

Q. To your firm?

A. Yes, this was the loan, well let's call it in inverted commas "Loan Capital", I think it is called in the account.

Q. You used the expression in inverted commas. If there is a reason why the language that's used here is perhaps maybe loose, would you explain it to me, but would you agree with me that there was no loan of €290,000 to Celtic Helicopters?

A. Correct, it was all

Q. That statement is not correct?

A. Correct. It was all intended to be share capital, maybe speaking now as an accountant. The terminology of that loan capital, I suppose would be an accountant's terminology that you have to, if it is not share capital you have to find a name and park it somewhere, so obviously they called it "loan capital". Equally in my view, and maybe it might have been better clarity if they said "payments in advance for shares", if they said maybe "payment on application of shares", or maybe something like "convertible loan stock", that might have given it a better understanding and impression.

Q. Well, would I be right in saying that would have accorded more with the facts as you understood them?

A. Yes, Mr. Healy.

Q. If we go back to the other letter from Larchfield Securities, that was enclosed with the letter from Celtic Helicopters. That says; "Dear sirs, we refer to a loan in the amount of €290,329 which we advanced to the company in 1991". Now, apart from the fact that that clearly now was advanced, whether by way of loan or equity in 1991, because

I think that sum of money only came into existence in 1992?

A. Correct, yeah.

Q. Am I right in saying that that statement makes no sense?

A. No, not in relation to what I have just said to you about shares on application, convertible loan stock or whatever. It is

Q. Would I be right in thinking, however, that if you're dealing with the Directors of a company and if you want to bring a situation up-to-date, as it were, and you have to go through a whole load of steps, passing resolutions and so forth, you will prepare all your documentation to achieve the end that you want to achieve, i.e. the representation in the company's accounts of these monies as capital, as equity, well in this case as preference shares as opposed to a mere loan?

A. Correct.

Q. You may go through all the steps on the one day, but if the people you are dealing with are the people you believe to be entitled to the money or in control of the money you may, how shall I put it, take shortcuts or perhaps be not as careful as you might be otherwise in your language?

A. Are you speaking about the Directors?

Q. I am speaking about both the Directors and the accountants?

A. Well, first of all I would have to say that letter there is not, is on Larchfield paper heading and certainly Deloitte and Touche didn't do it.

Q. I see. Well Mr. Haughey, I am not sure about Mr.

Barnacle's evidence but I can clarify this, led the Tribunal to believe that what he did in signing documents and what his family did in signing these documents is they followed the instructions given to them by Deloitte and Touche and they signed documents or produced documents according to those instructions. They say this document was put in front of them and they simply signed on the basis they were told by professional people "look, you must sign these documents to reach this end, we have to find a home for this money"?

A. I might be talking academically now, what I am saying at the moment is as I understand it from my inquiries Deloitte and Touche didn't do that letter, but equally that's not to say we didn't put all the paper to implement and bring us to a legal position, certainly Deloitte and Touche would have been involved in that. No, I am only being a bit pedantic, when you say did we take shortcuts, you concern me when you use that.

Q. I won't use "shortcuts". Did you use language which perhaps shouldn't have been used?

A. Yes, I can say it could have been improved, put it that way.

Q. Am I not right in saying that no loan in the amount of 290,000 was advanced by anybody, that's the first thing that's completely and certainly no loan was advanced by Larchfield Securities?

A. Correct.

Q. Money was invested?

A. Correct.

Q. Sometimes using language that could be improved or adopting a procedure that could be improved doesn't make much difference if the people at the end of the day involved are not going to suffer; isn't that right?

A. Correct.

Q. And could I suggest to you that as far as Deloitte and Touche were concerned in dealing with Larchfield Securities and the people involved, you understood you were dealing with the people who were entitled to the €290,329?

A. Most certainly.

Q. Beneficially perhaps even, not to mention nominally?

A. Well, I am talking about the shareholders that's on the list, those five shareholders.

Q. Yes.

A. My understanding is they are the beneficial shareholders.

Q. But you had no consensus from them?

A. I appreciate that.

Q. And you had letters from Larchfield saying that they owned that money effectively, they said "We advanced that money"?

A. Well, I see the point you are making, Mr. Healy, but if I can just clarify too, Mr. Chairman, what I am trying to say is at the end of the day no matter what my understanding is, those five shareholders were the owners of that money and entitled to shares.

Q. Isn't it still a matter of some concern to you if those

five people were in fact the owners of that money that somebody else was writing a letter, perhaps on the instructions of your firm, saying that money is a loan which we advanced?

A. Yeah, I think I said earlier on the terminology could be improved.

Q. Were you, would your firm have been relying on the Larchfield Securities' Directors to keep you right as to who the owners of these monies were?

A. Well, going back to the original meeting with Mr. Traynor and the shareholders; those Directors would have been aware, the Directors at the end of the day have ultimate responsibility. The accountants are professional advisors and are there to advise, ultimately the decision making is the Directors, as I understand it.

Q. And those Directors meaning Mr. Conor Haughey, Ciaran Haughey, Mr. Sean Haughey and Miss Eimer Mulhearn Larchfield Securities' Directors were the people producing this letter; isn't that right?

A. Yeah.

Q. And you didn't see it as your business to ensure that the people whom you knew to have put up the money were aware of what Larchfield Securities were doing on their behalf?

A. Well, it would have been much more preferable if, in all of this in 20, 20 vision, if from day one there was clear documentation to each of those shareholders it would be much, much better and save everybody a lot of confusion.

Q. Well, even to this day you don't know if these people went along with this or not, you don't know if Mr. Snowden, Mr. McAuliffe, Mr. Byrne

A. No, other than I understand Mr. Byrne said he was a shareholder, I understand Mr. Murphy and he was saying somebody else is a shareholder, equally I don't know the answer to the other three.

Q. Would you be somewhat concerned that at the time that this letter was written one of the shareholders was in fact dead?

A. Mr. Butler?

Q. Yes.

A. I wouldn't say I am concerned in terms of the legalities, I would say I presume he has a personal representative, so on that basis, whatever benefit he was entitled to his personal representative I am sure stands in his shoes.

Q. You weren't dealing with the personal representative?

A. No.

Q. You were dealing with somebody who claimed to be in control of the situation?

A. Yes.

MR. ALLEN: Chairman, I wonder if I might interject briefly just in relation to the particular matter which Mr. Healy is pursuing? Just to make this point for your consideration; these matters were all dealt with by Mr. McDarby, Mr. McDarby is here to give evidence in relation to them, and I just want to flag this point sir, because it

does seem to me and you may take the view that I am wrong, but it does seem to me that Mr. Healy, with the greatest of respect to him, is proceeding on a, a false or if such a thing exists a semi-false premise in relation to the questioning as to the need to inform those whom Mr. Carty undoubtedly knew were shareholders. The legal and accountancy position, sir, as I understand it is, that they weren't on the register of shareholders, and the requirement is to notify those who are on the register of shareholders, so as I understand it, and I may be entirely wrong, Mr. Healy is suggesting or is questioning Mr. Carty on the basis that in some way shortcuts were taken or matters were dealt with in a manner in which they shouldn't. Mr. McDarby is the man who actually dealt with the transactions, has given a statement and will explain precisely why the matters were dealt with as, in the manner which he thought and still believes to be the correct and appropriate legal and accountancy manner to dealing with them.

He will also make the point that that letter which is on the I am lost for the word that's used to describe it, the monitor I think it is sir, that that letter did not emanate from Deloitte and Touche, and he will explain to you why he is quite satisfied that that is the case.

CHAIRMAN: Well, I certainly take those points, Mr. Allen, and I am conscious of the general thrust of Mr. Carty's

evidence in this regard, and I have no doubt we will have regard to the fact that Mr. McDarby will be dealing specifically with the matters in relation to this.

MR. ALLEN: Thank you, sir.

Q. MR. HEALY: Thank you, sir. Just taking up your counsel's point, Mr. Carty, of course none of these people were in fact shareholders at that time?

A. No.

Q. None of the people we have mentioned were shareholders; Mr. Snowden, Mr. Byrne, none of them have been issued with share certificates?

A. Well, whoever was holding them in trust, they don't have to have share certificates.

Q. They didn't have anything in trust?

A. No, in answer to your question the trustees have share certificates.

Q. Of course, the trustees had no share certificates at this point?

A. There were share certificates issued.

Q. I see.

A. Chairman, if Mr. McDarby came to this it might clarify it easier, I am not the best

CHAIRMAN: Well, it is the case that whilst you were still had a link with the matter you had delegated to him and he is also a partner in the firm?

A. Yes, yes, but if necessary I will come back to it, if

Q. MR. HEALY: We will just pass on from that then. Just to clarify the point you are making, I take it Larchfield Securities only had its own share certificate at this point, there was no share certificate at this point issued to any of the people who put up the €290,000?

A. No share certificates to Mr. Snowden, Mr. Murphy, yes.

Q. And no share certificate had been issued to any person on their behalf as nominee for them, prior to this?

A. You will have to ask Mr. McDarby that.

Q. I see, you don't know that?

A. I am not sure, so therefore I don't want to answer unless I am sure.

Q. Okay, we will go to Mr. McDarby on that. Now, I think you lastly say that you were never aware, you were not aware at any time that Mr. Doyle, Mr. Purcell, or Dr. John O'Connell were alleged to have invested in the company, and you never discussed with Mr. Traynor the original investors in the company?

A. No.

MR. HEALY: Thank you very much.

MR. CONNELLY: I would like to reserve the Revenue's position. We have received a certain amount of information today. I would like to take instructions on that, and if we have to come back and ask questions later I would like to do so then.

CHAIRMAN: Do you want to ask anything now, Mr. Connolly?

MR. CONNOLLY: Yes, sir, just one or two matters with your permission, sir. I may have to come back when I get further instructions. There are a few matters I can deal with now.

A. Sorry, I missed your name.

CHAIRMAN: This is Mr. James Connolly, he is acting for the Revenue.

A. Certainly.

THE WITNESS WAS EXAMINED BY MR. CONNOLLY AS FOLLOWS:

Q. MR. CONNOLLY: I asked you some questions last week on other matters.

A. I remember, yes.

Q. I think I may have other questions to put at another stage, but just on some matters that have arisen today out of Mr. Healy's questions I want to ask you some things. The accounts which were returned in 1993, in 1993 and 94 and 95, if I am correct, they treated the, what originally had been share capital as loan capital; isn't that correct?

A. That's correct.

Q. And what I want to ask you is whether shareholders circulated, that means the five persons we are dealing with, Mr. Murphy, McAuliffe and Mr. Byrne, Mr. Butler and Mr. Snowden; were they all circulated with the accounts for those year endings, do you know?

A. From my knowledge, no.

Q. I see. And was there, was the share register as such, was that kept in the offices of your firm separate from Celtic Helicopters, is that a question I should put to Mr.

A. No, the register of what company?

Q. Of Celtic Helicopters?

A. It was kept in our office.

Q. Yes.

A. Yes, I think for some stage I think it was.

Q. What documentation would have been available during the years ending 93, 94 and 95 which would have indicated that despite whatever is on the share register the interests of Mr. Murphy, Mr. McAuliffe, Mr. Byrne, Mr. Butler and Mr. Snowden ought not to be ignored?

A. The balance sheet would have shown loan capital, and that would have been delineated in their names.

Q. That's what I am getting at, there was some document to be read side by side with that that would have indicated they were the sources of loans?

A. I wouldn't say, no letter for instance came from Mr. Traynor other than, unfortunately there was no letter saying "here are the shareholders", the only evidence that appears to exist to me when I got the instructions and sent that letter back, not that letter, that analysis back to Mr. Traynor of who the shareholders are that he gave me, so the loan capital and the balance sheet, the loan capital on the balance sheet will tell you, that represents those

individuals.

Q. Yeah, but I am not dealing with 96, just those three years, the years where the matter is dealt with as a loan?

A. I am dealing with 93 as well.

Q. That's the only document; is it?

A. And the balance sheet, there is loan capital of 290,000.

Q. Yeah.

A. That's analysed between the individuals, that's all you see.

Q. All right. Well then, in 1995, the end of year, 31st of March of 95, the loan capital is explained in the accounts by the expression "This represents an interest free unsecured loan with no fixed repayment terms". That's a fairly elaborate statement of something that was being nominally treated as something that was different from what it really was?

A. I think that's more presented in the form of accounting terminology and what would be considered to be good practice, because if it is share capital, there was going to be no loan interest payable on it whatever about a diffident, there was going to be no loan interest paid on it.

Q. Is that all you want to say on that statement? Any other comment?

A. If you ask me the questions I will give you the answers.

Q. Well, I have given you the opportunity, there is nothing else you want to say on that statement; is there?

A. Sorry, not being smart, if you have any questions to ask me

I am only too pleased to answer them.

Q. All right. During the years then, during all of these years when Corporation Tax returns, I don't want you to give me details of this; is it a fact your company was dealing with Corporation Tax?

A. Chairman, am I in order to talk about my client's tax affairs?

CHAIRMAN: Possibly the mere fact of whether or not returns were made to your knowledge or not is permissible, I won't have anything further than that, no?

A. Pardon me?

CHAIRMAN: I won't have anything further than that opened up.

Q. MR. CONNOLLY: Were the returns prepared by your firm during all of these years?

A. I would say so, yes.

Q. That's all?

A. I didn't want to be giving information from a client point of view without the client being here.

CHAIRMAN: You need have no fears in that regard, we are only too conscious of your professional interest.

A. Thank you, Chairman.

MR. CONNOLLY: That's all I want to deal with at this

stage, Chairman.

CHAIRMAN: Very good. Well, I will give you the option to deal last with any matters you wish to raise, Mr. Allen, between the other counsel present. Mr. O'Donnell, Mr. O'Moore, Mr. McGonigal, anything?

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

Q. MR. O'MOORE: Yes, I have some questions if you don't mind, sir. I should say I received the statement this morning. I think it was made I might be able to deal with Mr. Carty completely now, and I will try do that, sir.

Mr. Carty, my name is Brian O'Moore. I appear from Mr. Murphy and his company. I want to ask you about the circumstances of Mr. Murphy's dealings with you in 1992. I don't know if you are aware of the evidence given by Mr. Barnacle on Tuesday of this week, are you?

A. I wouldn't have read the detail, no.

Q. Yes, well can I tell you this, and tell me whether or not you have any difficulty in accepting it. I asked Mr. Barnacle, I should say for the purpose of the record, sir, this is the transcript of the proceedings of Tuesday at page 106. I asked Mr. Barnacle whether he accepted that Mr. Murphy's evidence would be that he, Mr. Murphy, was not approached by Mr. Traynor but rather that Mr. Barnacle suggested to Mr. Murphy "that I might see if there was

anyone interested in providing financial assistance to the company?". Mr. Barnacle's reply was "Correct. I may have asked Mr. Murphy if he knew of a way of getting finance. I didn't directly ask Mr. Murphy for finance". I went to on to say: "Precisely so you,; Mr. Barnacle; talked to Mr. Murphy whom you knew was in the general line of business, and you suggested that maybe finance might be got and Mr. Murphy might be of some assistance". To which Mr. Barnacle said "correct".

Now, I think you weren't directly involved in the first contact with Mr. Murphy in connection with the possible connection of Celtic Helicopters; isn't that so?

A. That I wouldn't have been involved?

Q. You wouldn't have been involved?

A. Not with Mr. Barnacle, no.

Q. Or Mr. Murphy?

A. No, certainly not.

Q. And from Mr. Barnacle's evidence I think it is quite clear it was Mr. Barnacle who first suggested to Mr. Murphy that Mr. Murphy might be some assistance in acquiring finance, you have no difficulty with that?

A. None at all, no.

Q. Mr. Murphy's evidence will be that he never had any dealings whatsoever with Mr. Traynor, so obviously it wasn't Mr. Traynor who contacted Mr. Murphy at that time?

A. I understand, yes.

Q. Your evidence was that Mr. Traynor would have asked you to

talk to Mr. Murphy, you did so on the 21st of October, 92?

A. That's the date I have.

Q. And also on the 2nd of November of 92?

A. That's what I have.

Q. Now, I think it is clear from your evidence that the detail of the bank account in London, the Credit Suisse account, the Ansbacher account with Credit Suisse was provided to you by Mr. Traynor; is that right?

A. Yes.

Q. And you passed that information on to Mr. Barnacle?

A. That's my recollection.

Q. In other words, Mr. Barnacle I think would have had some idea at around that time that the payment was to be made to a Credit Suisse account of some nature; is that right?

A. Yes.

Q. Is it possible that Mr. Barnacle had that information before you told him the precise account number?

A. I don't know.

Q. It is not impossible then?

A. I don't know the answer to that.

Q. Yes. And do I understand your evidence correctly that when you first discussed the matter on the 21st of October of 1992 with Mr. Murphy, at that stage you weren't told about a foreign investor coming in with Mr. Murphy; is that right?

A. I was not told.

Q. Were you or weren't you?

A. Well, I felt that was on the 2nd of November?

Q. Yes.

A. In fairness, I could have been told. My understanding is clearly at the end of this decision I thought it was a French investor with Mr. Murphy.

Q. Yes, that's why I ask you the question if I understood your evidence correctly, what you say is that there was a meeting on the 21st of October, and Mr. Murphy agrees with you about that, and that Mr. Murphy then went away to consult with the French investor or foreign gentleman he was going to get to invest in Celtic; is that so?

A. Yes.

Q. And it is possible, is it not, that Mr. Murphy told you on the 21st of October that he had to go away and talk to this other investor?

A. That's possible, that's possible, yes.

Q. So your evidence is it is quite possible from the very first moment or first time you discussed this matter with Mr. Murphy he said to you "well, it is not just an investment for myself, there is another gentleman involved"?

A. That's possible.

Q. It is quite possible, according to your evidence, that as of the 21st of October of 1992, over six years ago, Mr. Murphy was telling you that there was a foreign gentleman involved in the investment?

A. Yes.

Q. Your evidence is it is a matter of certainty by the 2nd of November of 1992 you had been told that there was a foreign gentleman involved in Mr. Murphy's apparent investment?

A. Yes.

MR. O'MOORE: Thank you very much.

CHAIRMAN: Mr. Allen?

THE WITNESS WAS EXAMINED BY MR. ALLEN AS FOLLOWS:

Q. MR. ALLEN: Just briefly Chairman. Mr. Carty, just to clarify one or two matters. You have told the Chairman that you had three meetings, one with Mr. McAuliffe; is that correct?

A. That's correct.

Q. And two with Mr. Murphy?

A. That's correct.

Q. We know, as I understand it, that you had the meeting with Mr. McAuliffe in August, I think it is the 23rd of August; is that correct, because you have your diary dates; isn't that the position?

A. 13th of August.

Q. My apologies, I knew there was a three somewhere. 13th of August was Mr. McAuliffe, and two subsequent meetings, as I understand it, with Mr. Murphy. One on the 21st of October?

A. That's correct.

Q. One on the 2nd of November?

A. That's correct.

Q. And you have indicated, as I recall, that you may have had or indeed did have a subsequent telephone conversation with Mr. Murphy; isn't that the position?

A. That's correct.

Q. Now, all three meetings, as I understand it, and correct me if I am wrong, took place at the request of the late Mr. Traynor?

A. Yes.

Q. Isn't that the position?

A. Yes.

Q. You have described yourself in, you describe yourself in your statement as the client relationship partner, and in elaboration of that this morning you indicated that you were the contact partner?

A. Yes.

Q. May I take it that the contact partner, the phrase or the term of art, if it be such in accountants parlance, contact partner is the same as client relationship partner; is that correct?

A. Yes.

Q. Are they one and the same?

A. Yes, conduit from the person dealing with the word to the final.

Q. Yes, the fact in fact I just want to ask you this question; the fact that you were the client relationship partner or the contact partner, described yourself as you

will, does that necessarily mean that you would be, you would do any work which was required, following upon your being contacted or related to by the client?

A. Mainly delegate my activities to other people.

Q. Indeed. This is in terms of the share register etc., this is precisely what happened as, Mr. McDarby will give evidence; isn't that the position?

A. That's correct.

Q. The requirements which were made of you were requirements which in your judgement were matters which were properly dealt with by the department within your partnership of which Mr. McDarby was the head; isn't that correct?

A. That's correct.

Q. And just returning to the meetings, and again to be absolutely clear as to what would have transpired at those meetings for the avoidance of doubt, you met with Mr. McAuliffe, if we take that meeting, on the 13th of August; isn't that the case?

A. That's correct.

Q. As you have rightly indicated Mr. McAuliffe was in a slightly unusual position in that, the correct way of putting it, in that he was, firstly owned a helicopter himself and he was an experienced flier of helicopters; isn't that the case? He had a particular interest in helicopters?

A. That's correct.

Q. Now, in terms of what transpired between you and Mr.

McAuliffe at this meeting, we know that at the time the company was experiencing financial difficulties; isn't that the case?

A. That's correct.

Q. Did you outline those financial difficulties to Mr. McAuliffe?

A. I did, Mr. Allen, yes.

Q. And did you do when I say, when I ask you that question, and again for the avoidance of doubt, you would, as I understand your evidence, have been in possession of all the relevant information in relation to the position of this particular company; isn't that correct?

A. That's correct.

Q. And under the general rubric of relevance would undoubtedly have been the fact that the company was under pressure from its bankers, and that it had a variety of other difficulties which have been enumerated during the course of this morning's evidence; isn't that correct?

A. That's correct.

Q. And again for the avoidance of doubt we want to be absolutely clear about this; did you bring all of these matters to the attention of Mr. McAuliffe?

A. I did.

Q. And can you recall, if they appeared to have any impact on him? Did he question you in any detailed way when you brought these matters to his attention?

A. Certainly not.

Q. I see. Now, turning to Mr. Murphy, may I take it, and please correct me if I am wrong, that you have canvased exactly the same material and the same information regarding the financial status of the company and the various difficulties which it was experiencing with Mr. Murphy?

A. That's correct.

Q. And again can you recall whether or not any of that, any of those matters which you communicated to Mr. Murphy appeared to cause him any alarm or to dampen his enthusiasm for investment?

A. No, Mr. Allen.

Q. And just one final point then if I may, Mr. Carty; and again for the absolute avoidance of doubt in the context of these meetings we know that they were held, we know you agreed to meet these individual at the behest of Mr. Traynor; isn't that correct?

A. That's correct.

Q. And as I understand it your recollection insofar as it goes is that these individuals would have contacted, would have made direct contact with you at the behest of Mr. Traynor; is that correct?

A. That's correct.

Q. But that Mr. Traynor would have appraised you of the fact or told you to expect to hear from them?

A. That's correct.

Q. Is that a fair summarisation?

A. That's correct.

Q. And the final point that I want you to deal with it, if you would, would be that was there any question whatever in the course of those three meetings, the two with Mr. Murphy and one with Mr. McAuliffe, of you in anyway encouraging either Mr. McAuliffe or Mr. Murphy to make an investment in the company? Was there any question of you praising the company or suggesting this was a good one, you should get in on this?

A. No, Mr. Allen, certainly not.

Q. Would it be fair to characterise your role as the giver of information?

A. That's exactly it.

Q. In relation to the precise and exact financial situation of the company?

A. Yes, Mr. Allen.

Q. Which at that time was parlance; isn't that correct?

A. Yes.

CHAIRMAN: Well, I think you did say, Mr. Carty, that you were careful not to in anyway be doing a marketing operation, that you were putting a dispassionate picture on the pluses and minuses that might be borne in mind by a prudent investor. From the matters that were raised by you with, by Mr. Allen, obviously the potential investors weren't philanthropists. What do you think may have been the upbeat factors that may have influenced their position?

A. When I say, Mr. Chairman, (1) quite a few of them have an

interest in helicopters and flying, quite a few of them,
that would be one and (2), you know, there was a situation
where you know, in terms of this maintenance situation

CHAIRMAN: You mentioned that.

A. That one could see, you know in terms of the competition in
Ireland we have a large corporation in the business, there
could be consideration given, not without risk, to a
maintenance business for helicopters, personally owned.

CHAIRMAN: Mr. Healy, anything?

MR. HEALY: Nothing sir.

CHAIRMAN: Thank you very much for your attendance, Mr.
Carty.

THE WITNESS THEN WITHDREW

MR. HEALY: Mr. McDarby.

HAVING BEEN SWORN RALPH MCDARBY WAS EXAMINED AS FOLLOWS BY

MR. HEALY:

A. Ralph McDarby.

CHAIRMAN: Thank you very much Mr. McDarby, please sit
down.

Q. MR. HEALY: Thank you Mr. McDarby. Mr. McDarby, you are
a Director of and Director of Secretarial Trust Company?

A. That's right.

Q. And you have made a statement to the Tribunal, and I hope copies of this have been circulated. I don't know if you have a copy, sir? Do you have a copy yourself, Mr. McDarby?

A. I do sir.

Q. Secretarial Trust Company forms part of what has been described, I think, either in these terms or in similar terms by Mr. Paul Carty, as the company secretarial division of Deloitte and Touche?

A. That's right.

Q. Formally Deloitte Haskins Kinsells Haughey Boland?

A. That's correct.

Q. Now, am I right in saying, to use the words that Mr. Allen used a moment ago, that you were the man who actually dealt with the transactions that we have been describing here, and that your statement will explain precisely why matters were dealt with in the way in which you thought and still believe to be the correct and appropriate legal and accountancy manner of dealing with them?

A. If by these matters you mean the actual issue of shares, that's correct.

Q. Yes, well transactions. We can come to it later. Now, I will just take you through your statement first which is simply, I think, flagging some of the things we will come to at a later point. At paragraph two of your statement you refer to Celtic Helicopters, you say that it was a company, secretarial client of STC, meaning Secretarial

Trust Company, and it maintained its registered offices at the offices of STC successively at 60/62 Amien Street, Dublin; 63/66 Amien Street, Dublin; 43/49 Mespil Road, Dublin, and eventually at 29 Earlsfort Terrace, Dublin 2, which is the address from which you now practice?

A. Each were the addresses from which we practiced successively.

Q. Yes, and the services provided to Celtic Helicopters by Secretarial Trust Company included the maintenance of the company's register?

A. That's right.

Q. You say, I think, that the company register read in conjunction with the register of application and register of transfers show a history of register shareholders, which you set out in Schedule 1 of your statement entitled "Celtic Helicopters - Registered Shareholders"?

A. That's right.

Q. Now, maybe we can have a copy of that on the overhead projector and go through it. I am sure you should have a hard copy in front of you?

A. I do.

Q. I think the first entry at paragraph one shows one of the subscriber shareholders Carmel Dunne; is that right?

A. That's correct.

Q. That was issued?

A. In and out.

Q. In and out. And the next subscriber shareholder as well

in and out, as you say?

A. In and out.

Q. Then the two original subscribers shares are shown as having been transferred from the two original subscribers to Mr. John Barnacle and Mr. Ciaran Haughey on the same day in March of 1985?

A. That's right.

Q. And each of those are shown as holding at present, 60 A Ordinary Shares in the company 60 A Shares in the company?

A. There was an issue of shares subsequent to the transfer.

Q. At paragraph five, which is on the next page, you show an issue of shares to Mars Nominees Limited, account 660?

A. Yes.

Q. 55 A Shares issued on the 28th of March, five A Shares issued on the same date?

A. Yes.

Q. And in each case 54,862 and 4,987 respectively of B Shares issued to that same Mars Nominees Limited account?

A. That's correct.

Q. We also have an issue to a Mars Nominees Limited account, account number 476 on the same day, mentioned earlier, the 28th of March, and another issue to Mars Nominees Limited account, account number 663 on the same day?

A. That's right.

Q. Did you know or do you know who the actual persons beneficially entitled to those shares are?

A. No, and as Registrar I am precluded by law from knowing or from asking.

Q. I appreciate that you may be precluded from asking, do you know, you don't know?

A. From my own knowledge other than the information that has been given here in previous information, I was not aware and at the time or, I have only become aware since.

Q. Well, of what have you become aware since?

A. Of the persons who are allegedly the beneficial owners, insofar as it has been put forward in the course of the evidence here and in the preparation for that.

Q. Well, perhaps you would tell me what you knew from the preparation that you made for giving evidence?

A. I understood from the documents that were submitted, were referred to by you and Mr. Carty, that the Larchfield Securities was, would have to have the corresponding, there was a transfer to MS Nominees' account, number 153, was a transfer I think from 6

Q. 476 sorry?

A. 476.

Q. Sorry, I am giving you the wrong three. The transfer to MS Nominees 153 was from 660?

A. Let us say there are, it would Mars numbered accounts which transferred to three numbered MS Nominees accounts.

Q. Yes.

A. And the beneficial owners of those MS Nominees accounts as presented here, are Larchfield Securities, Joseph Malone

and Larchfield Securities.

Q. Now, I think in the course of giving assistance to the Tribunal you prepared some documents showing the up-to-date breakdown of the shareholders in Celtic Helicopters. I think if we pass from this document for a moment, indeed we may not need to come back to it, you will be able to be of more assistance to us based on your own understanding of the up-to-date position. If we go to a document I think prepared by you, you will correct me if I am wrong, showing the present shareholders of Celtic Helicopters Limited?

A. I may have assisted in its production but I don't think it is, because as I say the beneficial ownership of the shares is contained in it. If you are referring to the document that I gave to you with my affidavit in the second schedule, page one?

Q. Correct. Maybe we can have a copy of that document up on the overhead monitor? From what were you able to prepare, from what material were you able to prepare this document?

A. The basic information in regard to the holders of shares would have been contained in the share register of the company, which in some cases we actually entered those entries in the register ourselves. It was a matter of extracting them.

Q. And what, your up-to-date and your up-to-date understanding of the position is that Mr. John Barnacle is the registered and beneficial owner of 60 A Ordinary Shares; Ciaran Haughey is the registered and beneficial owner of 60 A

Ordinary Shares; Larchfield Securities is the registered and beneficial owner of five, again A Ordinary Shares and 4987 B Shares and three I think that should be MIS; am I right?

A. I don't think so, unless they don't know their own name, because they have signed transfers for shares in MS Nominees.

Q. I see. We will come to that. As far as you are concerned it is MS Nominees?

A. That's right, that's the entry in the register. That's prima facie evidence of the persons in title.

Q. 153, 152, 154 in respect of 55 shares beneficially owned by Larchfield Securities; 15 shares beneficially owned Joseph Malone Junior, and further five by Larchfield Securities?

A. For A A Ordinary Shares.

Q. A Ordinary Shares?

A. They are ordinary shares, but they are actually called A Shares in the Articles of Association.

Q. Are A Shares voting shares?

A. They are.

Q. Are the other shares voting shares?

A. I don't believe they are, no.

Q. So would the control of the company rest with the A shareholders?

A. That's right.

Q. Then, the next shareholding on the document that's up on the overhead monitor is a shareholding in the name of MS

Nominees Limited, there is no number, that is because you were unable to find a number?

A. The application for shares did not contain a number.

Q. I see.

A. It was not designated.

Q. And that was in respect of 7 percent non-cumulative preference shares, 100,000?

A. That's correct, that is one of the MS Nominees Limited.

Q. Yes, one of the unidentified MS Nominees?

A. Undesignated.

Q. Undesignated. The next undesignated MS Nominees Limited shareholder is in respect of 190,329 non-cumulative 7 percent preference shares?

A. That's correct.

Q. And under that designation you have listed the four persons that we have been speaking about earlier in evidence; Mr.

McAuliffe, the late Mr. Butler, Mr. Byrne and Mr. Snowden?

A. When you say they have been listed, I assume we have them here listed?

Q. Yes.

A. Yes.

Q. I now want to come to some documents at the end of the affidavit that you prepared?

A. Yes.

Q. I don't know how they are referred to, the documents you have in front of you?

A. They are the last two attachments.

Q. Well, I will identify each of the documents first, so that we know what we are talking about?

A. Yes.

Q. The first document I want to refer you to is a document dated the 6th of March, 1992, addressed to Guinness and Mahon Limited, under the heading "Larchfield Securities Limited"?

A. Yes.

Q. It says "Re: Mars Nominees Limited, account 660"?

A. Yes.

Q. It is an instruction to complete share transfer forms in relation to Larchfield's beneficial shareholding?

A. Yes.

Q. Now, where did you get that document?

A. I procured it from one of the Deloitte and Touche files which I perused for the purposes of preparing this affidavit.

Q. Do you notice that it does, in fact, refer to MIS Nominees. I am not sure that much turns on this, you see what it says is that

A. Yes, I do. Perhaps I could clarify that.

Q. Yes.

A. MIS Nominees or MS Nominees as I understand, the nominee company of Management Investment Services, so Management Investment Services, the initials of which MIS might account for that.

Q. And do you think that that is the same entity that is

referred to in the documents we looked at a moment ago

where reference is made to MS Nominees?

A. I can only speculate that it was intended to be.

Q. The next document I want to refer you to is another similar document from Mr. Joseph W Malone?

A. Yes.

Q. Authorising a similar share transfer in 1992?

A. Yes.

Q. From Mars Nominees to MIS Nominees?

A. Dated the 6th of March, is it?

Q. Dated the 6th of March, correct?

A. Yes.

Q. The next document needn't concern us because that merely corrects a slight error in the previous document.

A. Yes.

Q. I now want to go on to two documents that have been mentioned in evidence already, and the first document I want to refer to is a letter addressed to Deloitte and Touche, dated the 15th of February of 1996 from Celtic Helicopters?

A. Yes, on their headed paper, yes I have that.

Q. Yes, that's an instruction to Deloitte and Touche to prepare the necessary documentation to convert an existing loan in the amount of 290,000 into non-cumulative preference shares of one pound each. It refers to an enclosed letter from Larchfield Securities which we will come to in a moment?

A. Yes, indeed.

Q. Now, when Mr. Carty referred to the fact that the various steps taken to implement certain proposals in relation to the share structure or the capital structure of Celtic Helicopters, was he referring to instructions received from Celtic Helicopters by way of this letter?

A. I expect that the procedure would be initiated by this letter. As you can see it is not very expansive. And more detailed instructions would be required to be given, so it would probably initiate a contact with the Directors to seek more precise instructions on how they wanted the matter dealt with.

Q. What do you understand this letter to mean? It says "Please prepare the necessary documentation to convert an existing loan in the amount in question into non-cumulative preference shares" . Does that convey the impression to you that the Directors thought that there was a loan in the accounts of the company?

A. Well, they certainly if they consciously wrote that letter then one must assume that they knew what they were doing.

Q. Did they consciously write it in your view? Did you have anything to do with the writing of this letter?

A. No, this is, as you can see, written on Celtic Helicopters' paper, and it is only sending in that which I think is probably the more important letter that the company, the accompanying letter from Larchfield Securities.

Q. Maybe we will go to the Larchfield Securities' letter for the moment. This is from Larchfield Securities and refers to an irrevocable instruction that a loan in the amount of 290,000 be converted into preference share capital as soon as possible?

A. Yes.

Q. Now, I don't want to quibble about words, but isn't it absolutely clear, don't we know that there was no such loan or was none?

A. I heard you making that point indeed, but you know, this is a letter addressed to the Directors, the Directors received it and wrote to us, so they were of the opinion that there was something to be converted into share capital, some funds that they had, how they sought to describe it is really their affair.

Q. Well, how is the matter referred to in the accounts? You heard Mr. Connolly asking Mr. Carty a question about the description applied to this money in the accounts, it was described as an interest free loan in the accounts?

A. So I heard.

Q. Did you take that on face value?

A. But it really, the accounts are the production of the Directors, and if they have a sum in the accounts which they care to call a loan, then that's their affair. My function here was to respond to their request to convert what they called a loan into capital of a type that at that time didn't exist and had to be created.

Q. Did you hear or maybe you weren't here yesterday when the Directors of the company, one of the Directors, Mr. Haughey, said that he signed whatever documents were put in front of him by your office, and that it was your office directed him as to how he should go about this?

A. Perhaps he was referring to the documentation to affect what he requested in his primary letter, which I have absolutely no doubt that I prepared or arranged to have prepared, and submitted him for the purposes not of signing, but of conducting the meeting and getting the consensus contained in them, making the application or having the application made and all the other paraphernalia that's related to creating, issuing shares.

Q. Mr. Ciaran Haughey left the Tribunal in no doubt it was his evidence that he relies on his professional advisors as to how every step should be taken, including the steps involved in the writing of the two letters I have just mentioned to you and put up on the monitor?

A. Yeah, but the two letters we have been looking at bear no have no part whatsoever in the creating and issuing of shares. They are a client to advisor instruction to do, I mean the looseness of the wording is such that it couldn't be considered as a legal document, or a step in a legal procedure of creating and issuing shares.

Q. Mr. Haughey said that it was your office that in fact prepared this documentation?

A. Are you sure that it is this documentation he was referring

to?

Q. Yes.

A. Well then I'm afraid he was mistaken.

Q. And you are absolutely certain you did not prepare it?

A. I am absolutely certain that the documentation which are contained in the minute book and which you have attached as a Schedule No. 1 to my affidavit contain the documentation which were prepared with my, by my office for the purposes of implementing the instructions received in his letter of the 14th, letters of the 14th and 15th of February.

Q. Well then can we take it step-by-step.

CHAIRMAN: Sorry to interrupt you, Mr. Healy. Mr. McDarby, these were two small companies, one a Haughey family company by way of dealing with the finances, and the other a small helicopter company in which young Mr. Haughey was co-principal and founder. On the face of matters it might have seemed to me that these would not seem particularly spontaneous or colloquial forms of communication between effectively members of the same family, this is why it occurs to me would it not seem reasonable to infer that there was some measures of professional advice, according to various members of the family, to process this set of procedures?

A. I understand what you are saying, Chairman, however I don't think that either of these two letters contributed in anyway to affecting what was the conversion of the sum of

money received into shares of a type and category if I had had a part in that, the sum is, I presume, correct, but the description of the shares is not, and the reference to the sum advanced in 1991 is inaccurate. You know, I would like to believe and I do believe, that the documentation prepared by my staff and I are a little more precise and may be seen to be in the implementing of the procedures that were necessary to create and issue the shares, and in fact issue the shares to MS Nominees and not to Larchfield.

Q. MR. HEALY: Did you hear the evidence of Mr. Carty a moment ago, that these two documents, neither of these two documents reflect what is, in fact, the true position of the company?

A. I did.

Q. And he knew that from looking at them?

A. Yes.

Q. Had he any role at all in the preparation of these documents?

A. He may have had, although I can't recall, some discussion in the nature of the preference shares, as I say these instructions are inaccurate, for example the coupon on the preference share is not referred to, that is an essential element, the terms on which the shares one must remember that these shares were not created at this time, these letters are dated the 5th of February, the 29th of March, before those shares were created, there clearly was a great deal of discussion in the intervening period about

the terms of those preference shares, they had to be discussed, and then written up in terms of the rights, created the articles changed etc., etc., and I am sure he had a part in the discussion with the Directors or with myself and the Directors as to what those rights might be.

Q. How many meetings were there to arrive at the point where the share issue could take place or could be implemented in the way in which you described?

A. Without counting them I haven't there was a Directors meeting convening, an extraordinary general meeting, an extraordinary general meeting and a further Director meeting, the extraordinary general meeting being for the purpose of no.

Q. No, can we get into the real world, Mr. McDarby, we were describing the manner just hold on a minute, described things that had to be agreed, were members of were the Directors of this company, including Mr. Haughey, Mr. Barnacle and some of the shareholders, were they meeting with Deloitte and Touche to get advice or were they meeting with Deloitte and Touche to give instructions, which was it?

A. I have no record of meetings of the nature you describe. It would probably be something more in the nature of a telephone call or a discussion with somebody associated with the company, one of the two Directors perhaps, more likely Mr. Ciaran Haughey, to establish the terms of preference shares.

Q. We better go through the documents one by one.

Could I ask you to look at a minute of the meeting of Directors held at Knockseedan, County Dublin, on the 29th of March of 1996. I am told it is to be Knockseedan?

A. Yes.

Q. Do you have that document in front of you?

A. I do.

Q. It says "Meeting of Minutes of meeting of Directors held at Knockseedan, County Dublin, on 29th of March, 1996. Present John T Barnacle, Ciaran G Haughey"?

A. That's right.

Q. Who prepared that document?

A. My staff under my direction.

Q. And who gave Mr. Barnacle and Mr. Haughey the advice that they would have to go through the step of holding this meeting?

A. We, we did in response to their request in their letter of the 15th of February.

Q. What the resolution does is to authorise an increase in share capital?

A. That's right.

Q. From 80,000 to 580,000 divided into 500,000 7 percent non-cumulative redeemable preference shares of one pound each?

A. That's correct.

Q. And so forth?

A. Yes.

Q. Now, presumably neither Mr. Barnacle or Mr. Haughey came up with this configuration of the shares?

A. They had indicated the number of shares that they sorry, the number of shares they were proposing to issue.

It is customary to create excess authorised share capital above that which is required to be issued, that would be a matter of discussion or agreement or perhaps recommendation. And after that it is a matter of taking just the steps necessary to do it. Perhaps

Q. You advised him to go through those two steps, to pass that resolution, and they did that?

A. Yes, let me perhaps be a little more to save us going through all of these documents one by one. All of the documents would have been prepared, the procedure in order to guide people who may not be familiar with the detail and procedure that is necessary to do these things effectively, is to prepare agendas in the form of draft minutes with the attendant forms, which you will see there like consensus from class meetings, consensus to holding meetings at short notice, notice, etc. etc., all these things. They are prepared in advance, they are left blank as to the venue, possibly the date and the persons who will be present. They are presented to the client and the client then by arrangement with their fellow Directors and shareholders, go through laid out procedure in their own time, in their, at a place of their choosing and not necessarily with anyone in attendance from their professional advisors. As

you can see if the advisors were present on this occasion they would be recorded as being present, or in attendance, as I think you may have seen in other minutes prior.

Q. Well, you prepared a large number of documents all intended to bring about on the 29th of March of 1996 the increase in share capital that we mentioned a moment ago, and which also were intended to bring about a number of other changes in the company on that day; isn't that right?

A. I am sorry, I am not sure what changes in the company you are referring to. The only business I think was the creation and issue of the shares and the adoption of the Articles of Association to reflect the rights of those newly created shares.

Q. Yes. So those documents were definitely given by you or by your staff to Mr. Ciaran Haughey and Mr. John Barnacle as Directors of the company to, assuming they could get the consensus of the various people mentioned in the documents to bring about the steps we described a moment ago?

A. Absolutely.

Q. And you say that you had nothing to do with the two letters that I mentioned at the outset of this discussion?

A. No, sir at all.

Q. Can you be sure that your firm, that Deloitte and Touche had nothing to do with it?

A. Yes, I can be fairly confident that they came as they were, they were the initiating instructions. May I point out that they are somewhat unusual in that one, you know,

giving irrevocable instructions, one does it or one doesn't. I have, you know, it is not the sort of letter I think that I would

Q. It doesn't seem to me to be the kind of letter you would write having regard to how carefully you have gone through these documents?

A. Thank you.

Q. And what is more having regard to what you just told us, an instruction to convert a loan into preference share capital wouldn't be enough of an instruction to you to do what it is you did?

A. Precisely.

Q. But is it possible that the two Directors were informed "simply write a letter like this and the changes that are necessary or that we deem are necessary will be brought about"?

A. Now, it is a possibility if they telephoned say and said "we want you to issue shares" and we say "perhaps you could put that in writing", you know, but it is an elaborate means of putting it in writing.

Q. If you looked at the accounts of the company, would I be right in saying that you could not have come to the conclusion that Larchfield Securities had advanced a loan to the company in 1991 or 1992 for that matter?

A. I'm am afraid I didn't then nor have I now recently looked at the accounts I am not sure what they say, it would not have been necessary for me to look at the accounts. One

relies on the Directors, as I think I indicated earlier in that regard, if they say they are owed money or if they say they owe money one assumes they are correct, we are as the Chairman put it, dealing with family companies, dealing with their own affairs, so one relies on them in regard to how they have arranged those financial affairs.

Q. But I think to be reasonable, I think as the Chairman also said, they were technical people in the sense that they were pilots, helicopter pilots, not people versed in the intricacies of company law or the intricacies of balance sheets and company accounts. Where did they get the impression that they had advanced a loan to the company or are you suggesting they would have got that themselves?

A. Well, I think in the course of his evidence Mr. Carty did say that the accounts which they presumably had seen or approved, perhaps even signed, if I recall correctly, in 1995 did refer to a loan, so they were perhaps still carrying that memory.

Q. I see. So they could have been legitimately under that impression?

A. It was their accounts. They had said it was a loan then, they might a year later have still thought it to be.

Q. Those accounts had been prepared by Deloitte and Touche?

A. In connection with the Directors.

Q. Deloitte and Touche were involved in getting the œ290,000 for the company?

A. I beg your pardon?

Q. Deloitte and Touche were involved, Deloitte and Touche itself, Mr. Carty, was a member of Deloitte and Touche and was involved in the

A. Sorry, perhaps you could explain what you mean by the involve, involved?

Q. Did you hear the evidence this afternoon? .

MR. ALLEN: Sorry, Chairman, if I might briefly intervene. At no stage was it put to Mr. Carty that he was involved in getting the œ290,000. I know that it is desirable not to interrupt these proceedings any more than absolutely necessary, but I do feel that on reflection My Friend may come to the view that he has just made a representation in relation to Mr. Carty which he certainly didn't put to Mr. Carty and which Mr. Carty very firmly dealt with in his answers to me. Mr. Carty was in no, or Deloitte and Touche had no involvement whatever in the raising of the funds.

CHAIRMAN: Well, I have certainly noted the full tenor of Mr. Carty's evidence, Mr. Allen.

MR. ALLEN: Thank you, Chairman.

Q. MR. HEALY: You heard the evidence of Mr. Carty?

A. I did.

Q. That he was dealing with Mr. Traynor in 1992, 1993?

A. Yes.

Q. And that in 1992, 1993 he was aware that the company was

seeking to raise substantial sums of money by way of new capital?

A. Yes.

Q. And he was informed by Mr. Traynor in 1993 that œ290,329 had been invested in the company by five people?

A. Yes.

Q. And he was asked by Mr. Traynor to do some calculations and to put together some proposals for the configuration of the shareholding of the company to reflect this new investment?

A. That's what I understood him to say.

Q. Yes. So, in 1993 Mr. Carty knew and his staff presumably knew, that the œ290,000, œ290,329 that we are talking about was money that was apparently invested in the company?

A. If you use the word "invest", to mean given to the company with a view to being put into share capital, I agree with you.

Q. And as far as Mr. Carty was aware, Mr. Traynor was to consider the proposals that, Mr. Carty had put to him some quite detailed proposals suggesting how the share capital would be restructured to take account of this new investment, you heard that evidence?

A. I did indeed.

Q. You heard Mr. Carty say that nothing came of this and Mr. Traynor again spoke to him and suggested that the 7 percent, that the shares should now be reissued as 7 percent, that the new investors, sorry, should be issued with 7 percent preference shares?

A. Yes, this was a point of discussion or a point of

Q. This is what Mr. Traynor suggested to him?

A. Yes.

Q. He didn't hear further from Mr. Traynor in relation to the matter?

A. I recall that, yes.

Q. And as far as he was concerned the money was always to be taken by the company in the form of shares, and that it was to be parked somewhere in the accounts until such time as agreement could be reached or proposals put in place to issue shares. You heard that evidence?

A. I did indeed.

Q. And in 1996 there was pressure from a bank to have this preference to loan capital in the company's accounts dealt with now that the bank were being asked to provide another advance for the company. You heard that evidence?

A. I did indeed, may I make a point on it?

Q. Yes.

A. Would that account for the letter from Larchfield?

Q. Possibly.

A. Was that letter written not for the purposes of Celtic Helicopters and strictly as instructions to us to satisfy the whim, sorry the needs of the bank?

Q. I don't know, I am interested in your view?

A. That is it. I mean a bank could be interested to see that instructions had been given and would be, it is the irrevocable word in there is the sort of thing that banks

like to hear, it has absolutely little or no meaning, as I am sure you will agree, in law. I mean if I were to draft such a letter, it would certainly link the irrevocable instructions to the issue of shares or something of that nature.

Q. In carrying out the instructions that you got, did you have any sight of any of the documents, including the accounts mentioned by Mr. Connolly when he was asking questions of Mr. Carty a moment ago, when he drew his attention to the reference in the accounts to an unsecured loan?

A. In anticipation of coming up here I went briefly to the bathroom, Mr. Connolly was addressing Mr. Carty so I am not quite sure what he said.

Q. I see. The accounts drawn up by Deloitte and Touche referred to this sum of money as being in the nature of an interest free loan?

A. Yes.

Q. I take it from your evidence that if the accounts contained that description of the money it was on the basis of what the accountants were informed by the Directors?

A. That would have been my assumption or something that may well have been discussed with a view to incorporating them in the accounts.

Q. Lastly, on a point of perhaps secretarial or company secretarial practice; you say that you had nothing to do with this letter that was produced in evidence and to which I referred from Larchfield Securities to the Directors of

Celtic Helicopters?

A. Yes.

Q. Giving irrevocable instruction that a loan be converted into preference share capital?

A. Yes.

Q. You weren't advising Larchfield Securities?

A. No.

Q. And they weren't a client of yours?

A. No, they weren't sorry, we have we helped yes we assisted the dates maybe, I can't remember offhand. I know that we, I think attempted to help with some of the records of Larchfield Securities at some stage, but I really, without reference to my records I couldn't tell you that, but I have certainly no recollection of that, Larchfield Securities is, of course, a shareholder and a registered shareholder of this company, so we would have had dealings with them and we would have I think you produced when Mr. Ryan was here, you produced a

Q. Letter?

A. No, a minute.

Q. Yes.

A. Of Larchfield Securities appointing Ciaran Haughey as the representative for the purposes of the meetings, that would have been part of the documentation, it was an actual extension, Larchfield Securities is a voting shareholder, it votes and indeed it consents, because these meetings were, as you would have seen, held at short notice, so its

consent to holding the meeting at short notice and its representation at the general meetings would have been required, and therefore in my opinion, an actual extension of the documentation prepared for Celtic Helicopters would be that minute which was prepared for Larchfield Securities, to put it in the way, of being able to be represented and acted to effect what was required in Celtic Helicopters.

Q. Yes. Looking at it from the point of Celtic Helicopters, which was now being issued with a substantial number of shares, preference shares; isn't that right?

A. That's right, sorry Celtic Helicopters were issued.

Q. Larchfield Securities was being offered with a substantial number of Celtic Helicopters' preference shares?

A. That's not true. The shares were actually issued to MS Nominees.

Q. Yes, issued to MS Nominees to be held in trust for Larchfield Securities?

A. That is, as I think I pointed out earlier, is not something the Registrar need concern himself with, which I do accept from evidence which I have heard here today that is so.

Q. On the 23rd of January I think Deloitte and Touche wrote to Mr. Ryan, he referred to this letter this morning, Deloitte and Touche wrote, saying it was their understanding that MS Nominees holds the shares, meaning the 7 percent non-cumulative preference shares, in trust for Larchfield Securities?

A. That's well that's, that is yes, that is a letter I

heard presented this morning.

Q. Yes, which was in turn holding them in trust for somebody else?

A. So it says.

Q. Wouldn't I be right, again I am only asking for your view on this as a person experienced and practiced in company secretarial matters, Larchfield Securities would obviously have had to have the consent or the authority of the person for whom it was holding these shares in trust to consent or to agree, if you like, in a contractual sense to the manner which the shares were issued; isn't that right?

A. I am not consent or instructions, I think you in essence I think you are probably right, that one would expect if one was acting as a nominee to take the instructions of a principal as to how one would behave.

Q. Yes. If you had been advising Larchfield Securities, I am not saying you were, I am merely asking you as a person versed in this area of expertise, if you were involved or acting for them you would have made sure that the person on whose nomination you were to hold these shares or the person you were to hold them in trust would know what you were doing, to put it in its broadest terms?

A. Yes, again as the Chairman said we are dealing with family companies, there are certain essential formalities and legalities one must observe, as was done here, for the creation and issue of shares. Taking instructions, as

indeed without the same formality between February and

March, one does it in a less formal manner.

Q. Yes, of course, in the case of a family company. At least

where the family company owns all the shares or owns all

the money in question that is to be subscribed or the

shares?

A. I wasn't making that distinction, but you may of course.

Q. If you didn't own the money, if all of this œ290,000 wasn't

Larchfield's money, then it wouldn't be a simple matter of

perhaps a slightly more curable approach to matters where

you have a family company rather than a purely commercial

enterprise involved?

A. The more commercial the more arms length the relationship,

the more formality one is obliged to observe I think.

Q. Wouldn't you agree with me where you see less formality

then the reasonable inferential is that all of this money

must have been Larchfield money, or certainly the people

involved in Larchfield felt it was their money, and that

would account for perhaps a more easy going approach to

it?

A. I think you could, it would not be unreasonable for you to

make that assumption.

MR. HEALY: Thank you.

THE WITNESS WAS EXAMINED BY MR. QUINN AS FOLLOWS:

Q. MR. QUINN: Just one or two questions, Mr. Chairman, with

your permission.

Mr. McDarby, I think prior to 1990 there was nothing in the register of companies which showed Larchfield as registered as a shareholder in Celtic Helicopters?

A. Prior to 1990, did you say? When you say in the company's office that is very likely, not alone that it is unlikely to have been reflected in the company's office for some considerable time afterwards, it was a transfer of shares not an allotment.

Q. Exactly. There was a transfer by Mr. Cruse-Moss who at the time according to this stock transfer form was the Chairman and Chief Executive of GAC to Larchfield Securities on the 24th of May, 1990, and it appears to have been stamped on the 18th of September of 1990; is that correct?

A. Sorry, the 28th of September I have here is the date of the transfer, but then again perhaps the stamping of the transfer form is quite aside from the approval of the transfer by the Directors.

Q. Yes, they would have, as I understand it, there would have been approval first of all by the Directors of the transfer and then the registration of the transfer by way of stock transfer form?

A. Again the Registrar ought not to register a transfer until it has been stamped, so there might be a further delay.

Q. I see. And I think Larchfield then became registered sometime after 1990 as the owners of the two sets of

shares, an A Share and a B Share; isn't that correct, five

A Ordinary Shares?

A. No, I have the 28th of September of 1990 as the date it was registered as the holder of five A Ordinary Shares and 4987

B Ordinary Shares.

Q. Other than that registration there appears to be no other registration of Larchfield in the register as owner of shares in the company?

A. I don't want to delay you while I check, but looking at the register proper or the copy I have of it, but certainly from the summary that seems to be the case.

Q. And in relation to the allotment of shares, as I understand it, one becomes a member of a company either by taking a transfer of existing shares or applying for an allotment of new shares; is that right?

A. That would be, that would be correct, yeah, well applying doesn't give you the shares, the shares are at the issue of the Directors, the Directors resolve to issue in response to an application.

Q. Yes, but it commences by way of application for the issue of shares?

A. That's right.

Q. So therefore the persons investing in the company in 1992 who expected to get a shareholding in the company, under normal circumstances would make an application to the Directors for the issue of shares in the company?

A. That is that would be the normal thing to do, yes. In

point of fact the issue of the shares was preceded by an application completed by those who became registered preference shareholders in 1996.

Q. I am talking about 1992 now?

A. There are occasions where companies invite people to take shares which is not, it is a response to an invitation rather than an application.

Q. Either way, the application for the shares which would precede the approval and ultimately the presentation of the shareholding, would be for the application for a particular type of shares; isn't that correct?

A. One would expect that, yes.

Q. Also for an amount of shareholding; isn't that correct?

A. Absolutely.

Q. Now, Mr. Murphy in his evidence said that he told the investors that the investor would have five shares issued in your name which would represent approximately 8 percent of the company?

A. Yes.

Q. Isn't that correct?

A. I don't know.

Q. Well, if that evidence were given, and taking the hundred thousand pounds worth of preference shares issued, does that represent 8 percent in the company?

A. I am not an accountant, but if you like to add 200 to there is about 370,000, so 100,000 would be considerably more in my opinion than 8 percent.

Q. But of course 8 percent of the company might mean 7 percent of the control?

A. There is no control in the preference shares, they don't have votes.

Q. It appears that prior to 1996 the idea of a preference share issued hadn't arisen?

A. Well, that is an assumption you are making.

Q. Yes. It appears from your documentation prepared that there was certainly no application to you?

A. We received no instructions in I don't know how long the evidence to which Mr. Healy referred, it would appear that there was some considerable discussion about the nature of the shares between the receipt, first receipt of the funds and the subsequent issue of shares, so there was discussion.

Q. So three years you say?

A. Exactly.

MR. QUINN: Thank you.

CHAIRMAN: Mr. O'Donnell, Mr. Shipsey, Mr. O'Moore?

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

Q. MR. O'DONNELL: Sorry sir, if I can just ask one brief question. Naturally I don't want to detain Mr. McDarby.

Can I ask you is there a Brendan Doyle who works or did work in 1996 for Deloitte and Touche?

A. There is, there was and there still is.

Q. And in what capacity does he work there?

A. He is a Director Manager in our audit section.

MR. O'DONNELL: Thank you very much.

CHAIRMAN: Anything Mr. Allen?

THE WITNESS WAS THEN EXAMINED BY MR. ALLEN AS FOLLOWS:

Q. MR. ALLEN: Just very briefly, Mr. Chairman, if I may.

Mr. McDarby you indicated in one of your last answers to My

Friend that you are not, in fact, a chartered accountant;

isn't that correct?

A. Yes.

Q. Your a chartered Secretary?

A. Among other things.

Q. Quite, I will leave that to yourself. In any event you are

a Chartered Secretary as you have described yourself. You

were in charge of that section of the business of the

partnership comprising Deloitte and Touche; isn't that

correct?

A. That's correct.

Q. As I understand you are absolutely adamant that the two

letters, and I want to distinguish between the two sets of

documentation. We have two letters, one of the 14th of

February and one of the 15th of February; isn't that

correct?

A. These are the letters to Celtic Helicopters from Larchfield

and to Deloitte and Touche from Celtic Helicopters.

Q. Indeed. Now, you, as I understand it, are absolutely

adamant that those letters certainly did not emanate from your, from the department of which you are head; isn't that correct?

A. Absolutely.

Q. And indeed you went on to say that you would be satisfied, as I understood it, beyond any doubt, that they didn't come from your firm?

A. I would be quite satisfied about it.

Q. Yes. I think it would be fair to describe you, would it not, Mr. McDarby, as being, being a somewhat punctilious and precise man in your approach to matters of business?

A. It is nice of you to say so, but careful I would have thought would be a more modest description.

Q. Very good. I will accept careful. In relation to one of the letters, what would your practice be in relation to letters which would leave your office? Would you simply have them typed, I beg your pardon, would you simply have them signed in your absence or would it be your practice to read them?

A. No letter leaves my office sorry, no letter of consequence giving advice, leaves my office without my signature or the signature of a senior member of my staff who would be qualified enough to approve them understand and approve the contents.

Q. Including presumably in spelling?

A. This is something on which the modern word processor has made our life considerably easier.

Q. I see. Because I do note that in one of the letters the word "preference" when it is applied to shares is misspelt; isn't that correct? So is the word "amount", and so is the title of the company, in that they have omitted a capital letter in the first and the it refers I am not quite sure no it was, it is an unlimited company at the time, so Larchfield Securities is its correct title. In any event I take it that you would not spell the word P-R-E-F-E-R-A-N-C-E; is that correct?

A. That's not the way it is spelt in this letter.

Q. It is in the second of them, but of course?

A. Yes, you are looking

Q. Of course I don't want to argue with you. It is in one of them?

A. Yes, you are quite right, I would try not to do that.

Q. You would expect to succeed?

A. More often than not.

Q. Yes. Now, in terms of what has been described as documentation, am I correct in thinking that there are two types of documentation in the sense, we have on the one hand the two letters to which I am referring, that is of the 14th of February, and those of the 14th February and the 15th of February; isn't that correct?

A. Yes.

Q. We then have the actual, or real documentation as I would suggest it is, which is the documentation which you have said without any hesitation of any kind was documentation

which was prepared under your supervision, either directly by you or under your supervision by staff?

A. That is correct.

Q. Isn't that correct?

A. Absolutely correct.

Q. That documentation is the documentation which is contained in the schedule, the first schedule to your Affidavit of Discovery; isn't that correct?

A. That's correct.

Q. That is documentation which would have been given in the ordinary way to the Directors of the company, and in fact would be sort of, as one would expect that they would require, would be hand feeding them all of the steps necessary to give effect to the decision which has been taken in relation to the 7 percent preference loan sum?

A. The creation and issue thereof, absolutely.

Q. Isn't that correct?

A. Absolutely.

Q. Would it be fair to say if one were to scrutinize for the avoidance of doubt, I am not inviting you to do so, but you have obviously looked at it; if one were to compare the documentation prepared by you directly or under the, by your staff under your supervision with the two letters, those 14th and the 15th of February, one would find them of a different to be of a very different character, and very different tenor; isn't that correct?

A. I think in modesty I can admit to that.

Q. Yes, and again, and finally I think for the avoidance of doubt, you have a particular responsibility or role in the position which you occupy within the partnership; isn't that correct?

A. Role in as, yes as the partner in charge of the company secretarial department, that's true.

Q. Indeed. What has been considered this afternoon has been your discharge of your responsibilities in connection with share registration and also the creation of a new class of shares; isn't that correct?

A. That's right.

Q. In order for you to discharge those obligations is there any necessity at all for you to consider the accounts of the company?

A. In this instance there is not, no there are other occasions in the course of performing similar duties such as the proofing of accounts where one would make reference to them, not in this instance.

Q. That's precisely the point I wished to lay some emphasis on. Am I correct in thinking in this particular instance there was no question, there was no question whatever about the approval of any accounts?

A. No, there was no approval of accounts involving the meetings prepared on that occasion.

Q. But the task which was delegated to you by Mr. Carty was the, to give, to produce or generate the documentation necessary to enable the Directors of the companies

concerned to give effect to the steps which would legally put in place the category of shares which it was within their contemplation to create?

A. I think that's a fair description.

Q. That's the position?

MR. ALLEN: Thank you.

CHAIRMAN: Thank you very much, Mr. Healy.

MR. HEALY: Nothing sir.

CHAIRMAN: Thank you for your attendance, Mr. McDarby. We are just on 4 o'clock, gentlemen. I see the transcript has reached 130 pages, unless something

MR. HEALY: Just one small matter, sir. It would be in ease of Mr. Carty, just in fairness to Mr. Haughey, when I was speaking to Mr. Carty about the two letters that Mr. Allen has just been speaking to Mr. McDarby about, Mr. McDarby about, he mentioned that Mr. McDarby would be dealing with this matter. I think in fairness to him and in the light of what Mr. McDarby said in evidence, I should have Mr. Carty comment on whether he, himself, or his section of Deloitte and Touche had anything to do with the preparation of these documents for the purposes of getting a yes or no answer from him, as there is a conflict between what he is saying and what Mr. Ciaran Haughey says. There appears to be

CHAIRMAN: It seems not unreasonable, Mr. Allen, since Mr. Carty is here and we can deal with it in a limited aspect rather than recalling Mr. Carty on a further occasion.

MR. ALLEN: I am perfectly happy, Chairman.

CHAIRMAN: You might put the matter, Mr. Healy.

PAUL CARTY RETURNED TO THE WITNESS-BOX AND CONTINUED TO BE EXAMINED BY MR. HEALY AS FOLLOWS:

Q. MR. HEALY: Mr. Carty, you know the two documents I am referring to. Just so there is no doubt about it, it is the letter from Celtic Helicopters addressed simply to Deloitte and Touche, Deloitte and Touche asking Deloitte and Touche to prepare the documentation to convert an existing loan into non-cumulative preference shares and with that was the enclosure from Larchfield Securities?

A. Yes, Mr. Healy.

Q. Now, just so there will be no doubt about it, do you know anything about those documents?

A. No, Mr. Healy.

Q. They were not sent to you?

A. No, Mr. Healy.

Q. If a document from Celtic Helicopters arrives into Deloitte and Touche with no reference on it to whom would it be delivered?

A. Well, the person would be the assignment individual on that client.

Q. Who would that be?

A. It can be either, it depends on, it could be, in that situation somebody in the secretarial department. I think Mr. McDarby is saying nobody prepared that, I in turn checked to see had we any involvement in that and I was advised that no we hadn't.

Q. Can I take it your inquiries with your firm and the members of your staff have shown that as far as, as far as you are concerned you did not prepare that letter or the letter that was enclosed with it?

A. That's correct.

Q. And you did not give any instructions in relation to the wording of the letters?

A. That's correct.

Q. Nor did you give any advice in relation to the letter or the type of letter that should be sent?

A. As I understand it, that's correct.

Q. That's not your own evidence but the evidence of the inquiries you have made?

A. I made inquiries, yes.

MR. HEALY: Thank you very much.

CHAIRMAN: Nothing you want to raise, Mr. Allen?

MR. ALLEN: No, Mr. Chairman.

CHAIRMAN: Thank you again, Mr. Carty. Half past ten tomorrow morning.

THE HEARING WAS THEN ADJOURNED UNTIL THE FRIDAY, 12TH OF
FEBRUARY, 1999.