

THE TRIBUNAL RESUMED AS FOLLOWS ON TUESDAY, 2ND MARCH 1999,  
AT 10:30AM.

CHAIRMAN: Good morning. Before our business commences this morning, ladies and gentlemen, I have one short but not unimportant matter to mention briefly. When the sittings were adjourned some 12 days ago, this was done with a view to maximising the adjournment period of approximately one and a half weeks to enable compliance with the reasonable requests of the Tribunal's legal advisers to obtain further statements and documents.

Whilst certain practitioners have toiled very considerably to comply with those requests, in some cases the documentation that was hoped for has come in on a somewhat last-moment basis or has not been completed in accordance with what was anticipated. I appreciate that practitioners are under considerable pressures, as are indeed the Tribunal's legal team, in compliance with the time limits that have to be set in a public inquiry of this nature. I also appreciate that those practitioners have their duties to comply with in relation to their clients, but this matter is not one of an idle or academic nature. It is essential to the fair conduct of the Tribunal on an ongoing basis that the requisite documentation can be obtained by the Tribunal in sufficient time to serve parties or persons whose interests may be affected by these matters with sufficient time to meet the requirements of

fairness.

Accordingly, I am not going to go into matters of possible recriminations or individual cases, but I simply say that I would be extremely grateful if from henceforth practitioners could please seek to go that extra mile to maximize cooperation with the Tribunal in enabling the due discharge of the overall business to be attended to.

FURTHER OUTLINE STATEMENT OF MR. JOHN COUGHLAN, SC.:

MR. COUGHLAN: May it please you, Sir. At your direction, Sir, I propose to make a further outline statement dealing very briefly with the work the Tribunal proposes to do over these particular sittings. Broadly, sittings will deal with two types of material.

Firstly, the Tribunal will seek to complete the examination of evidence in connection with a number of matters which were dealt with in the sittings which commenced on the 28th January, but were for a number of reasons evidence that was not available or had to be deferred.

Secondly, the Tribunal have examined witnesses and documents which relate to matters already touched on but which were not available at the Tribunal's last sittings or where the relevance of those documents was not then apparent.

Lastly, a number of novel matters arose in the course of

the evidence at the Tribunal's adjourned sittings which require further investigation. These investigations have been instituted and are continuing. However, rather than delay the inquiry, it seems preferable to produce as much of the relevant material as the Tribunal has been able to assemble to date.

Further material which is in the course of being assembled will be produced during the course of these sittings.

This may entail short notice in some cases where this can not be avoided. However, where any person likely to be affected by any such evidence finds himself or herself in difficulties, the Tribunal will consider whether it may be necessary in those cases to adjust its programme of witnesses.

The evidence to be given at these sittings will be dealt with under a number of headings, corresponding to those employed at the last sittings with one exception to which I will refer to in a moment.

Under the heading "Tripleplan," turning first to Tripleplan, the Tribunal will examine the evidence of two further witnesses in order to complete its inquiry into the circumstances surrounding the payment of sterling  $\text{œ}282,500$  from Dunnes Stores Bangor to Tripleplan, the sum, the bulk of which ultimately found its way into the account of Mr. Charles Haughey. This is a fact which Mr. Haughey now

accepts based on the evidence produced before the Tribunal.

Mr. Michael Irwin, who was the financial controller of Dunnes Stores, will give evidence which will deal further with the circumstances so far as is known to Mr. Irwin surrounding the making of this payment and the subsequent treatment of this payment by Dunnes Stores.

Mr. Hughes, from Oliver Freaney & Company, will give evidence concerning attempts made by Dunnes Stores and Oliver Freaney & Company to establish the identity of the payee of the cheque, in other words, the identity of Tripleplan.

Mr. Irwin will also deal in part in his evidence with the writing of bearer cheques and also deal with the circumstances in which the Carlisle Dunnes Stores cheque, that is the three cheques drawn on Dunnes Stores Grocery Account in the sum of €180,000, were written.

In addition to the matters mentioned above, evidence will be given in relation to the Dunnes Stores Carlisle payments with a view to examine one of the issues of fact addressed in the evidence in the course of the adjourned sittings, that is the state of knowledge of Mr. John Byrne and Mr. Patrick McCann concerning these payments and the time in which they acquired any such knowledge.

A number of issues of fact have already been addressed in

the evidence of witnesses called in connection with the payments made on the Dunnes Stores Grocery account described as the Dunnes Carlisle payments. In the course of the evidence given at the adjourned sittings, additional information came to hand concerning Celtic Helicopters and the manner in which that company was both funded and controlled in the period under review in this inquiry.

Further evidence will now be given in relation to the initial funding of that company in 1985 and the later funding of the company in 1992/1993. As was stated in evidence at the adjourned sittings, nearly €300,000 was paid to the company in 1992/1993 and the treatment of this sum in the books of the company was the subject of evidence given by a number of witnesses at the adjourned sittings.

The Tribunal will now call evidence in relation to payments made to Celtic Helicopters in 1985 amounting in all to some €75,000. This sum, which formed part of the initial capital of the company, appears to have been sourced from an account under the control of the late Mr. Des Traynor.

Evidence has already been given by Mr. Joseph Malone concerning the sum of €15,000 which he invested in the name of his son in the setting up of the company at the request, as he stated, of Mr. Charles Haughey. It appears from information on documents made available to the Tribunal that the source of the lodgement of €75,000 to the Celtic Helicopters account in Guinness & Mahon at that time was a

transfer from another Guinness & Mahon account. That account was current account number 08116008, which was an account in the name of Amiens Securities Limited. This was an account controlled by Mr. Des Traynor. It had been opened on the 17th January 1985 and was closed a short time after on the 17th April 1985.

From documentation which has come into the Tribunal's possession as a result of orders made against Guinness Mahon, it appears that between the 26th March 1985 and the 28th March 1985, five lodgements were made to the account amounting in all to €70,000. These lodgements were as follows:

1, on the 26th March 1985, a sum of €10,000;

On the 26th March 1985, another sum of €15,000;

On the 27th March 1985, a sum of €10,000;

And again on the 27th March 1985, a further sum of €25,000;

And on the 28th March 1985, a sum of €10,000.

There was, it appears, another smaller lodgement on the 26th March 1985 of €1,034.50.

From documents made available to the Tribunal by Guinness Mahon, it appears that the source of the €10,000 lodgement on the 26th March 1985 was a cheque in that amount payable to Mr. Michael Dargan and drawn on the account of

Mr. Magnier, GS No. 14 with Allied Irish Banks Limited, St. Patrick's, Bridge Street Branch, Cork. Dr. Michael Dargan has informed the Tribunal it was never his intention to make any such investment in Celtic Helicopters or any payment towards the setting up of that company. He has informed the Tribunal that the sum in question was due to him by Coolmore Stud under the control of Mr. Magnier. There would appear to be no suggestion other than that the cheque was, in fact, drawn in respect of sums legitimately due by Dr. Dargan by Coolmore Stud, but Dr. Dargan has further informed the Tribunal he has no knowledge how the cheques came to be lodged to the account in question and/or as I have already stated, came to be transferred to the account of Celtic Helicopters.

And I'd like to stress here that the payment of the cheque from Mr. Magnier of Coolmore Stud to Dr. Dargan appears to be a completely legitimate payment arising out of nomination fees.

The payments of €10,000 and €15,000 and €25,000 on the 26th March 1985 and on the 27th March 1985, respectively, were sourced from Ansbacher accounts.

The final lodgement to that account was in the sum of €10,000. This sum was transferred on the 28th March 1985 from a Guinness Mahon account, No. 055-19055. The Tribunal has been informed by Guinness Mahon that this appears to be an account of Mr. Seamus Purcell. It seems

that a number of issues of fact would have to be addressed at this stage; namely, as to who, in fact, made these payments/investments; whether these payments resulted in the conferral of a benefit on Mr. Charles Haughey; whether they constituted payments to connected persons; whether they constituted payments to a company with which Mr. Haughey was associated or over which he had control.

A similar issue would have to be addressed in relation to a payment of €100,000 made by Mr. Michael Murphy in 1992.

From evidence already given at the Tribunal, and from information made available to the Tribunal, it will be necessary to establish whether in the first place this was a direct payment to Mr. Haughey. It will be recalled that evidence was given that the sum of €100,000 was lodged to an account in Zurich controlled by Mr. John Furze, namely an Ansbacher account, and that at the same time, a sum approximately equivalent to the sterling equivalent of €100,000 Irish at the then-rate of exchange was debited from an account in Dublin in Irish Intercontinental Bank under the control of Mr. John Furze and credited to the memorandum account known as the S8 account, which was the account in respect of which evidence has already been given, payments were made for the living expenses of Mr. Charles Haughey.

The Tribunal will also need to examine further evidence and further documentation with a view to addressing the issue

as to whether, as was suggested by one of the witnesses, Mr. Paul Carty, this investment was held by Mr. Michael Murphy and a French investor on a 50/50 basis; whether it was, in fact, beneficially exclusively for Mr. Michael Murphy as has been stated by Mr. Ciaran Haughey and Mr. John Barnicle.

In addition, it will be necessary to consider, in light of the information now made available by Mr. Murphy, whether, in fact, the sum was in the nature of an investment held beneficially to the extent of 100% on behalf of a Mr. David Gresty of DB Agency, a Monaco based company. In any event, however, the investment was made, or by whomsoever it was made, it would be necessary to consider whether it was a benefit to Mr. Charles Haughey or to a connected person or to a company with which Mr. Haughey was associated or a company controlled by him.

Under the heading Allied Irish Banks. Evidence will be given by directors and former directors of the bank and one former executive concerning a settlement of Mr. Haughey's indebtedness to the bank at €750,000 in 1979/1980 and the publication of the statement concerning his account in 1983. Evidence will be given by the directors of the bank concerning the state of their knowledge of the settlement or of the indebtedness on the account and also concerning a statement of their knowledge of the press release of 1983.

The issues of fact which will continue to be addressed in the evidence of these witnesses are whether the settlement amounted to the forbearance by the bank of a very substantial sum, the forbearance amounting to a sum somewhat short of €400,000; whether the operation of the account from 1976 onwards, in a way in which interest on the account was put into suspense, amounted to a grant of an indulgence and, effectively, an indirect payment.

The facts will have to be addressed whether the settlement was commercially justifiable in circumstances in which there was a genuine apprehension on the part of the bank that Mr. Haughey had the will and the capacity to inflict damage on the bank's interest if a settlement was not achieved or his account with the bank was not terminated without resort to litigation or the enforcement of security.

Other matters have been investigated by the Tribunal in respect of which evidence may be given as further material being sought by the Tribunal comes to hand. A further indication of the nature of that evidence will be given as and when necessary.

CHAIRMAN: Thanks, Mr. Coughlan.

MR. HEALY: Mr. Gerry Hughes.

MR. GERARD F. HUGHES, HAVING BEEN SWORN, WAS EXAMINED AS

FOLLOWS BY MR. HEALY:

CHAIRMAN: Thanks for your attendance, Mr. Hughes.

Q. MR. HEALY: Thank you Mr. Hughes, you have made a statement for the assistance of the Tribunal, and I think I just saw you take a copy of that statement from your pocket?

A. That's correct.

Q. I just want to take you through your statement. You say that you are a qualified chartered company secretary and senior manager in Oliver Freaney & Company, in the firm's company secretarial services area?

A. That's correct.

Q. And you have been asked to give evidence and you have been asked to assist the Tribunal in connection with inquiries being made by you in 1994 concerning the cheque which has come to be known as the Tripleplan cheque in this inquiry?

A. That's correct.

Q. And you say that in or about May of 1994, you were requested to carry out a company's office search on a company called Tripleplan in respect of the Republic of Ireland and Northern Ireland by John Morrison, a staff member at the time; that's correct, isn't it?

A. That's correct.

Q. You say the search was done by a member of your staff in Dublin Castle in the company's registration office and by phone to the companies registration office in Belfast?

A. It was.

Q. And the result of the search is that no company of this name was registered in either jurisdiction?

A. That's correct.

Q. You brought this to the attention of Mr. Morrison, you didn't make a note of the search at the time as the search had proved negative?

A. Correct.

Q. Can you confirm one thing for me, you referred to Mr. Morrison as a staff member; was he a staff member under your control or was he somebody superior to you?

A. No, I had my own staff in the secretarial department, he was a member of the audit team.

Q. I see. It was from the audit team that the request came in connection with presumably some audit work that was being carried out?

A. That's correct.

Q. And that, is that something that would frequently happen in the secretarial area you run, you would be asked to conduct searches of this kind?

A. Yes, on ongoing basis these searches on behalf of clients or on behalf of the audit team.

Q. And searches by Oliver Freaney are conducted by you in general?

A. Searches in the Republic of Ireland are conducted by my staff and Northern Ireland and other countries by agents.

Q. Are searches instituted by your staff, whether they are

conducted outside the jurisdiction or not?

A. They are indeed.

Q. If somebody in Oliver Freaney wanted to conduct a search outside the jurisdiction, would he nevertheless institute it by asking you?

A. That's correct.

Q. You would go ahead and do the search?

A. That's correct.

Q. Now, you say you made no note of the search as it had proven negative. Is there some reason why a negative search was one you wouldn't make a note of it?

A. Well, we might complete 200 searches a week so it's insignificant to us whether a search actually proved positive or negative; if it proved positive, we would have a copy of the search and if it proved negative, we would refer to the client.

Q. You say in November of 1997, Mr. Kevin Drumgoole asked you to carry out a search in the UK, Northern Ireland and the Republic of Ireland in the companies registration offices or companies for the name Tripleplan Limited and Tripleplant Limited, that's Mr. Kevin Drumgoole from whom we have heard evidence and who worked, I presume, at that time in the audit department?

A. Correct, he is a fellow manager in the audit department.

Q. You told him a similar search was being conducted in Ireland and Northern Ireland sometime previously and it had proven fruitless?

A. I did.

Q. How did you remember that in 1987?

A. Basically because although I conduct many searches in the companies office in Dublin, the number of searches in the north would be very few and Tripleplan and Tripleplant appeared to be an actual company name rather than a shelf company and that's how I recalled the name.

Q. But out of you say you were doing 200 searches a week; is that right?

A. Yes. Business people conduct up to 200 searches per week in Dublin.

Q. Presumably you must conduct some searches outside the jurisdiction or institute searches outside the jurisdiction on a regular basis?

A. Very few, maybe one or two a month, no more than that.

Q. You say it was for that reason because there was a search being conducted outside the jurisdiction that you remembered Tripleplan?

A. Correct, and because of the name itself, Tripleplan seemed to be the name of a company rather than a shelf company name.

Q. What caused you to form that view?

A. Tripleplan, it was the title itself, just rang a bell when I was asked for it the second time.

Q. I see. And you were able to tell that without resorting to a note, you were able to say I did a search and it proved fruitless?

A. I recalled a search in Belfast and it proved fruitless.

Q. He told you that no information was available for the audit team on this company or the payment made to it by Dunnes Stores and you then requested one of your staff to carry out a search in the Republic, you contacted Northern Ireland companies registration office by phone and you got the same result?

A. Correct.

Q. Why did you do that twice seeing as you got a fruitless

A. Because Mr. Drumgoole advised me he was confident the company did exist and a cheque had been drawn on that company, so to satisfy his request, I basically reorganised the search all over again.

Q. You then requested Eurolife Company Services Limited, which I take it is an English company?

A. Correct.

Q. To carry out a search on the UK registry; and at the time those searches were requested, you believed it would comprise both extant and dissolved companies?

A. That's correct.

Q. Eurolife confirmed to you no such company existed in the UK registry and you so informed Kevin Drumgoole?

A. That's correct.

Q. Was all that done in November 1997?

A. That's correct.

Q. And you say that, as you have already confirmed here in your statement, you say that your understanding was that

the firm was in the process of finalising audits for Dunnes Stores Ireland for many years at that time?

A. That's correct.

Q. Those were the audits going back to 1989 I think; is that right, or 1987 perhaps?

A. It's possible, yes.

Q. In early February of 1998, you say that you were requested by Mr. Paul Wise to carry out a search on the company, this is the same company in various jurisdictions, namely the Isle of Man, Guernsey and Jersey, and you again requested Eurolife to carry out a search and once again the search proved fruitless?

A. That's correct.

Q. That was in early February. In mid February you received a request from Mr. O'Hanrahan, a partner of Mr. Wyse, asking you to confirm that Eurolife had checked that Tripleplan was not a dissolved company?

A. That's correct.

Q. And you stated that you would be surprised if they had not carried out a complete search of existing and dissolved companies, but then you, in fact, found out from Eurolife that their searches were carried out on their own software?

A. That's correct, that database is split into two, dissolved and current companies.

Q. That's the first time you ever became aware of that?

A. That's correct.

Q. Eurolife wrote to you having carried out a search and

indicated to you that Tripleplan had been dissolved in 1988

as we have learnt in evidence at this inquiry?

A. That's correct.

Q. That it had been a UK registered company dissolved, I think, for failure to make annual returns?

A. That's correct.

Q. Now, just one other matter. Did you discuss this with Mr. Pat O'Donoghue at any time of Dunnes Stores?

A. No.

Q. Do you ever recall an inquiry from him concerning it?

A. No.

Q. An inquiry mediated by someone else to you as a result of a conversation with Mr. O' Donovan?

A. No. All requests came through members of Oliver Freaney & Company.

Q. And there was no request to you for any assistance in relation to this company between '94 and '97?

A. No.

Q. Nobody thought of requesting you to repeat between '94 and '97 the searches you had already carried out?

A. No.

Q. And you are satisfied there was no request prior to 1994?

A. I am indeed, yes.

Q. And of course as the company was dissolved in 1998, had the search been made in 1998, even on the Eurolife software, it would have produced an answer in 1998 or presumably prior to the striking off?

A. That's correct, yes.

MR. COUGHLAN: Thanks very much, Mr. Hughes.

CHAIRMAN: Anyone got any questions to ask Mr. Hughes arising from his evidence?

Thank you very much for your time, Mr. Hughes.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Mr. Michael Irwin. I should say, Sir, Miss O'Carroll has informed me on behalf of Oliver Freaney & Company she wishes to reserve her position until her counsel are in a position to assist her.

MR. MICHAEL IRWIN, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY MR. COUGHLAN:

CHAIRMAN: Thank you Mr. Irwin.

Q. MR. COUGHLAN: Mr. Irwin, I think you have furnished a statement to the Tribunal. Do you have a copy of that statement?

A. Yes.

Q. Do you have it in the witness-box?

A. No. I will get it.

Q. Mr. Irwin, we have one here for you.

(Document handed to witness.)

Now, Mr. Irwin, I think you have informed the Tribunal that

you're a chartered accountant by profession having served your articles with Oliver Freaney & Company from 1976 to 1981?

A. That's correct.

Q. I think you also informed the Tribunal you were involved in the audit of the Dunnes Stores Group of companies between 1981 and 1984?

A. That's correct.

Q. In 1984, you were seconded on a full-time basis to Dunnes Stores on agreement between Mr. Bernard Dunne, the Chairman of Dunnes Stores, Mr. Noel Fox, senior partner in Oliver Freaney & Company, and a trustee of the Dunnes Stores settlement trust, and yourself; is that correct?

A. That's correct.

Q. And in particular, your role was to install and oversee new accounting systems and procedures in 1991.

A. 1984.

Q. You became chief accountant of the Dunnes Stores Group?

A. That's correct.

Q. And that was in 1991; is that correct?

A. That's correct.

Q. And your role in Dunnes Stores ended in October of 1993?

A. That's correct.

Q. Now, I think you have been asked about a number of payments; isn't that correct?

A. That's correct.

Q. And if I might deal with them one by one. The Dunnes

Stores (Bangor) Limited, otherwise known as Tripleplan payment. I think you informed the Tribunal that the intercompany account between Dunnes Stores (Bangor) Limited and Dunnes Stores Southern Ireland group of companies contained transaction which affected the financial affairs of the company in each jurisdiction?

A. That's correct.

Q. This intercompany reconciliation was carried out to ensure that the movement of both goods and funds between the Southern Ireland companies and Dunnes Stores Limited (Bangor) was agreed?

A. That's correct.

Q. Typical transactions would be the movement of goods or monies which invariably affected the drapery, grocery and hardware divisions within the group and would be reconciled and agreed by the accountants of these divisions and Mr. Matt Price, the financial director of Dunnes Stores (Bangor) Limited?

A. That is correct.

Q. Frequently there would be cheques written for and on behalf of the directors by Mr. Price?

A. That's correct.

Q. During the process of reconciling the intercompany as each year, you would in the first instance seek from Mr. Price any documentation to support these cheques?

A. That's correct.

Q. Any cheques not properly supported at this stage would be

charged to a suspense account?

A. That's correct.

Q. I think it's been referred to also in this Tribunal as the intercompany account; is that correct?

A. Not the suspense account.

Q. That is a different

A. That's a separate account.

Q. We will come back on that and I'll ask you about that in a moment. You have informed the Tribunal that towards the end of each audit, you would meet with Mr. Kevin Drumgoole, a chartered accountant from Oliver Freaney, and who was the audit manager in charge of the Dunnes Stores audit?

A. That's correct.

Q. In the context of finalising the audit, you and Mr. Drumgoole went through a number of queries in order to clear all outstanding points prior to having the auditor's report signed off?

A. That's correct.

Q. Both yourself and Mr. Drumgoole would agree between you which one of you would intend to clear these outstanding issues with Mr. Bernard Dunne?

A. That is correct.

Q. In respect of year 1987, you agreed to meet with Mr. Bernard Dunne to resolve the outstanding queries?

A. That's correct.

Q. You subsequently did so, that is you met Mr. Dunne; is that correct?

A. That's correct.

Q. And you were told by Mr. Bernard Dunne that you would have to ask Mr. Noel Fox about some of them?

A. That is correct.

Q. Sometime following that meeting, you contacted Mr. Drumgoole and relayed the conversation between Mr. Bernard Dunne and yourself and asked Mr. Drumgoole to ask Mr. Fox about it; is that correct?

A. That's correct.

Q. And you have informed the Tribunal that to the best of your knowledge, Mr. Drumgoole and Mr. Fox dealt with the matters subsequently?

A. That is correct.

Q. I think you have informed the Tribunal that you have no specific recollection of the cheque, I think you have referred to in your statement as Multiplan/Tripleplan as the cheque and been charged to the suspense account and dealt with as I described above?

A. That's correct.

Q. Now, turning to the No. 2 account cheques or the bearer cheques, I think as they have been described. I think you have informed the Tribunal that each store in the Dunnes Stores Group had a number of bank accounts opened when it commenced trading.

A. That's correct.

Q. One of these was referred to as the No. 2 account?

A. That's correct.

Q. These accounts were generally referred to as being private to the directors?

A. That's correct.

Q. To the best of your recollection, the bank statements and returned cheques for these No. 2 bank accounts were remitted by the banks to the offices of Oliver Freaney & Company and Deloitte & Touche the joint auditors of the Dunnes Stores Group.

A. Generally speaking.

Q. In other words, they didn't come back directly to Dunnes Stores?

A. Some did.

Q. Yes. I think you have informed the Tribunal that you have no knowledge of the six cheques dated the 28th January 1987, payable to cash and drawn on six different Dunnes Stores No. 2 accounts?

A. That is correct.

Q. You have seen the cheques, and I will come back to them in a moment, if we just go through the statement.

The signature and the figures on the cheques are, you believe, Mr. Bernard Dunne's?

A. That's correct.

Q. The handwriting on the cheques appears to be that of Mr. Noel Fox?

A. That's correct.

Q. I think you have informed the Tribunal in your experience it was not unusual for Mr. Bernard Dunne to have different

individuals in the company fill in cheques for him and it

was not unusual for Mr. Fox to write cheques?

A. That's correct.

Q. All cheques written on the No. 2 accounts were referred to

Mr. Bernard Dunne in order to establish the beneficiary of

the cheque?

A. That's correct.

Q. Any cheque written on a No. 2 account for a material sum of

money which was not satisfactorily identified, would be

charged to the suspense account?

A. Correct.

Q. Is that the same suspense account we are talking about?

A. Yes, it is.

Q. As relates to a Dunnes Store Bangor dealings between Dunnes

Stores Bangor and Dunnes Stores

A. Yes.

Q. To the best of your recollection, every cheque written on

the No. 2 account was scrutinised by the auditors?

A. That's correct.

Q. Turning now to the Dunnes Stores Ireland Company Grocery

account and the three cheques amounting to €180,000 which

ultimately were lodged to the bank account of Carlisle

Trust in the Rotunda branch in Dublin, I think you have

informed the Tribunal that in the course of your work as

chief accountant, you had frequent operational meetings

with Mr. Bernard Dunne?

A. That's correct.

Q. These meetings would be either weekly, fortnightly or monthly, or whenever Mr. Bernard Dunne was available.

A. That's correct.

Q. At the end of these meetings, Mr. Bernard Dunne would often asking you complete documentation on his behalf or to write out cheques.

A. That's correct.

Q. I think you informed the Tribunal that while you have no recollection of filling out the cheques in question, you confirmed that the handwriting on the cheques is yours?

A. Correct.

Q. The dates, and of course the signature, is Mr. Bernard Dunne's?

A. That's correct.

Q. It is probable in your view that the cheques were written by you at one meeting rather than on different occasions because the pen looks the same?

A. That's correct.

Q. I think you have informed the Tribunal that certainly Mr. Bernard Dunne's practice to have cheques written out for him by a number of individuals who included yourself, his private secretary Ms. Maher, Mr. Fox, trustee, Mr. Bowen, another trustee, Mr. Price, Mr. Donaghue, the group financial controller now deceased, and many others.

A. That's correct.

Q. I think you have informed the Tribunal that for the purpose of litigation against Mr. Bernard Dunne, Price Waterhouse

prepared a report?

A. That's correct.

Q. I think you assisted personnel from Price Waterhouse with various questions they put to you?

A. That's correct.

Q. These three cheques, in other words, the Grocery Account cheques amounting to €180,000 were among the queries raised by Price Waterhouse?

A. That's correct.

Q. I think you have informed the Tribunal that you informed Price Waterhouse that you did not know what Mr. Bernard Dunne had done with these cheques and that you were unaware of any bank account in the Rotunda branch of Bank of Ireland.

A. That's correct.

Q. And I think they must have informed you, and we know now they were lodged to an account in that branch; isn't that right?

A. That's correct.

Q. And I think until you were informed by this Tribunal, you were unaware who the beneficiary of these cheques was?

A. That's correct.

Q. Now, I think you also provided a supplemental memorandum of information; isn't that correct?

A. That's correct.

Q. And do you have a copy of that?

A. I don't.

Q. I will give you a copy.

(Document handed to witness.)

I think in the memorandum prepared for the Tribunal, you informed the Tribunal that as already stated in your statement of the 18th January, you had no recollection of the cheques referred to as the €32,200 made out to various Dunnes Stores No. 2 bank accounts.

A. That is correct.

Q. And I think you have informed the Tribunal that you can state with certainty that you did not receive any bearer cheques from Mr. Dunne in 1987?

A. Correct.

Q. I think you have informed the Tribunal that the first occasion on which you became aware of any cheques being written on No. 2 accounts would have been at the time of the preparing Dunnes Stores annual accounts around one month after the financial year ended.

A. That's correct.

Q. Usually, fund transfers from any of the Dunnes Stores major bank accounts to various No. 2 bank accounts indicated, in the first instance, that cheques were written on these accounts; is that correct?

A. That's correct.

Q. Usually, one of the financial accountants would request copies of bank statements from the banking institutions in question.

A. That's correct.

Q. And that in other instances, original bank statements would come from either Oliver Freaney & Company and/or Deloitte & Touche?

A. That's correct.

Q. And I think you have informed the Tribunal that a schedule of any cheques not readily identifiable in respect of any No. 2 account would be prepared?

A. That's correct.

Q. And in due course, you would ask Mr. Bernard Dunne for any supporting backup in relation to every cheque on the schedule?

A. That's correct.

Q. But that generally, very little would be provided?

A. That's correct.

Q. I think you have informed the Tribunal that you can state with absolute certainty that you were never involved in writing any cheques on any No. 2 account or their transmission to any third party or their lodgement to any bank accounts on behalf of any third party?

A. That's correct.

Q. And I think you have informed the Tribunal that in or around 1988, you initiated major changes to Dunnes Stores corporate structures; a major by-product of this reconstruction was elimination of these original No. 2 bank accounts?

A. That's correct.

Q. Now, if I might just deal with the bearer cheques drawn on the No. 2 bank accounts, Mr. Irwin.

Can we take it that from 1988 onwards, there would have been no bearer cheques written?

A. Out of No. 2 accounts?

Q. Out of No. 2 accounts.

A. In or around 1988/'9, '88/'9, we made lots of changes to the corporate structures of Dunnes Stores. We eliminated the individual branch No. 2 accounts, they were consolidated back to four regional No. 2 accounts and bearer cheques were written out of those accounts.

Q. Now, the No. 2 accounts in which these bearer cheques were written, we have already had evidence that all of these chequebooks for No. 2 accounts were kept in Mr. Dunne's office?

A. That's correct.

Q. And that at the end of the financial year, they would be written out and he would keep some and give some to other people, that's the evidence we have had so far.

A. That's right.

Q. Were these No. 2 accounts used for any other purpose, to your knowledge?

A. Yes. They were written generally when tax payments was due in respect of different branches, tax cheques were written out of these accounts. On other occasions, purchase of cars were taken out of those accounts also.

Q. Did monies always have to be transferred from other

accounts into the No. 2 accounts or were the accounts kept in credit to your knowledge?

A. No. The position was, with the banks, was if any money was written out of these accounts, they would be immediately credited from other accounts.

Q. From other accounts. Now, you say that these cheques drawn on the No. 2 accounts, the bearer cheques would, in most instances, be returned to Messrs. Oliver Freaneys and Deloitte & Touche by the bank, but not in all cases?

A. Not in all cases.

Q. And was it normal that Dunnes Stores cheques were returned to Messrs. Oliver Freaney & Company and Deloitte & Touche in ordinary trading circumstances?

A. No. Specifically these accounts only.

Q. And how was that affected, how did the bank know where to return them?

A. I think there was an understanding in the banks way before my involvement with Dunnes Stores with these accounts were sent to those people.

Q. But in any event, a schedule of them would be drawn up to your knowledge?

A. A schedule of the cheques.

Q. Of the cheques?

A. Yes.

Q. They would all be made payable to bearer?

A. No. Some of those cheques would be for purchase of a car, for argument's sake.

Q. I am talking about the bearer cheques.

A. Yes, they were all schedule.

Q. Yes. And you would seek backing documentation in respect of cheques drawn on the No. 2 account, readily identifiable in the case of a purchase of a car, for example, or dealing with the Revenue?

A. Correct.

Q. But the bearer cheques would never have any backup documentation?

A. Very seldom. Basically, the procedure I would meet with Mr. Dunne, he would take out the chequebooks and generally there would be nothing written on the stubs and that would be the answer.

Q. Then you say they would be placed in a suspense account?

A. In the the custom and practice in the group before my involvement was that they would be charged to travel and entertainment. If they exceeded a certain amount, possibly 8 to 10,000, they would be put in suspense account pending auditor's decision as to what to do with them.

Q. Can you just explain the suspense account because you knew the distinction and I will come back to it on the Tripleplan payment, the distinction between being posted to a suspense account, as in the case of Tripleplan, it being posted to the intercompany account?

A. Let me deal with the bearer cheques first.

Q. Yes.

A. There was only one suspense account in the group and

anything that wasn't verifiable in any way would generally get put there pending discussion with a director at a subsequent stage. In relation to Bangor, any payments not identified during the process of the reconciliation would end up being put into the same suspense account pending sitting with the director to find out what the nature was.

There was just one suspense account.

Q. But a payment from Bangor would ultimately have to find its way into the intercompany account if it couldn't be recognised by way of backing documentation or explanation from one of the directors?

A. In order that the intercompany, that any payment from Bangor would be, you know, they would come into the Southern Ireland operation figures, it must first come through intercompany and then subsequently put into whatever its ultimate destination was.

Q. Yes. I think you now know that €32,200 worth of bearer cheques ended up in an account in Guinness Mahon in Dublin; is that correct?

A. That's correct.

Q. And you know that the signature, the sum of money in numbers and the dates are in the handwriting of Mr. Bernard Dunne; is that correct?

A. That's correct.

Q. And that the written portion is in the handwriting of Mr. Noel Fox?

A. That's correct.

Q. Do you know or do you have any knowledge as to how these bearer cheques may have left Dunnes Stores and ended up in a Guinness Mahon bank account?

A. Absolutely none.

Q. Before this Tribunal, had any of these matters been brought to your attention in the course of carrying out the business of Dunnes Stores as financial controller or advisor?

A. In 1988 when I would have been preparing the accounts in respect of the year 1987, I have no doubt that they would have come up on the schedule whereas I have no recollection of them because

Q. I know.

A. I wouldn't have got any information in respect of them.

Q. When the bearer cheques were returned to either Dunnes Stores or Oliver Freaney and Deloitte & Touche and the schedule was prepared, would all cheques eventually come into your possession?

A. Yes, I think generally in the earlier years that would have been the case up to 1988 or 1989.

Q. Yes. We know the practice ceased from at probably '89 onwards. These particular cheques of course, if you were looking for information as who the beneficiary of any given cheque was, you say that Mr. Bernard Dunne never filled in the cheque stubs so there wasn't any information there?

A. Correct.

Q. But they would all have been negotiated through various

bank accounts, wouldn't they?

A. Lodged in various bank accounts?

Q. Lodged.

A. Course.

Q. And they would in those days, you were receiving the cheques, the returned cheques?

A. Yes.

Q. And they would have some indication on them where they had been negotiated, not necessarily negotiated, they would have a stamp on them?

A. Perhaps.

Q. And these cheques all have the Guinness Mahon stamp on them of course. Was that a bank which you regularly saw being used for cheques made payable by Dunnes Stores to anybody?

A. No, I have really no recollection of dealing with Guinness and Mahon, personally I never did. I have no recollection of the group either.

Q. They would perhaps be unusual in that respect?

A. Yes.

Q. They wouldn't have been lodged to one of the main banks?

A. Perhaps, yes.

Q. And that wouldn't have stimulated any inquiry by either yourself or anyone in the firm of accountants to ascertain

A. No.

Q. who had received them and for what purpose?

A. No.

Q. What would be done with the cheques after you had completed your work on them?

A. They would have been just filed as part of the working papers in preparing the accounts.

Q. Would you, when you were seeking information from Mr. Dunne on the No. 2 accounts, would you have, at that stage, have the cheques, would you think?

A. No, not necessarily. I would bring the summarized schedule to him and he would take out the chequebooks and see what he had written on his stubs.

Q. And where would the cheques be?

A. The cheques would generally be with one of the financial accountants who would have put the schedule together.

Q. And apart from looking at the cheque stubs, would any other inquiry be made

A. No.

Q. as to what they were for?

A. No.

Q. Why was that?

A. Because usually that's where it ended with Mr. Dunne.

Q. With Mr. Dunne?

A. Correct.

Q. Can you say whether these cheques were returned directly to Dunnes Stores or whether they were sent to Messrs. Oliver Freaneys or Messrs. Deloitte & Touche?

A. I couldn't say at this stage.

Q. Now, if I may turn for a moment to the Dunnes Store

(Bangor) Limited cheque, that was the cheque made payable to Tripleplan. I think at this stage we all know who Tripleplan was and who the directors of that company were and we also know from evidence given that this was posted to the intercompany account?

A. It came through the intercompany account.

Q. It was posted to the intercompany account?

A. That's where it originates and it gets put into the suspense account thereafter.

Q. Yes. And when this was raised as an audit issue by Mr. Drumgoole, I think he would have been preparing the accounts, he thinks sometime between, say, St. Patrick's Day 1988 and up to, say, May or June of that year?

A. That would be correct.

Q. That this was raised as an audit issue?

A. It would have been raised as audit issue, into the suspense account.

Q. And there was a significant sum of money?

A. Correct.

Q. And we know from the evidence Mr. Noel Fox knew what this cheque was for at the time, it subsequently went out of his mind because of matters he explained which happened subsequently.

Did Mr. Drumgoole, in the first instance, raise all of the matters relating to Dunnes Store (Bangor) with you for the 1988 audit?

A. In my discussion with Kevin Drumgoole in the process of preparing the accounts, seven items along the way would be part effectively in the suspense account awaiting a meeting with a director to clarify what it was. By the time I would meet with Kevin Drumgoole, most of the suspense items would perhaps have been cleared up, the residue of what was left behind would have stayed there until myself and Kevin finally met and said who is going to deal with these issues and how are we going to sort them out.

Q. I think we have had evidence there would be very few issues.

A. That would be correct.

Q. And that this was a significant one?

A. Correct.

Q. And you went to Mr. Bernard Dunne about this at the time; is that correct?

A. Yes. My only recollection is that the reason I recollect that is because in the same year, in the same suspense account, there was also a cheque for John Furze.

Q. The John Furze cheque?

A. And that's how I recollect I went in the first instance to sort that out.

Q. Yes. And you said in your statement that Mr. Dunne referred you back to Mr. Noel Fox about it?

A. Correct.

Q. Can you remember what he said?

A. It was unusual for Mr. Dunne to do that. Normally he

would say what it was or so on and in that case it was unusual to be told to go see Mr. Fox about it.

Q. I see.

A. That's really all I can say on that.

Q. That's what he said to you, go and see Mr. Fox about it?

A. Yes.

Q. Whereas his normal practice was to be able to inform you of what

A. Correct.

Q. And can we take it that when you raised matters on audits on previous occasions and subsequent occasions, Mr. Dunne was invariably in a position to give an answer?

A. That's correct.

Q. That he appeared to have a full knowledge of what things were about in the

A. Correct.

Q. Was that your experience?

A. That was my experience.

Q. And when you were raising we know there was this issue and there was the John Furze cheque, would both issues have been raised at the same time, do you think, by you?

A. Yes.

Q. And did you just take it on face value, so, or did you press the issue or did you see it as your role to press the issue with Mr. Dunne?

A. Because I was just being referred to Mr. Fox, I felt that we were

Q. I think you said you felt?

A. We would get a solution to the issue by going to Noel Fox.

Q. What did that indicate to you, that you were being referred to Mr. Fox, that he must have known what it was for?

A. Of course, yes.

Q. And did you inform Mr. Drumgoole about it?

A. Yes. I can't remember precisely, but I would have imagined that it would have been following the meeting I would have come back to my office and phoned Kevin and relayed he would have to bring these issues up with Mr. Fox.

Q. We know that Mr. Fox also knew about the John Furze cheque and what that was for. Did anybody ever tell you what they were for?

A. No.

Q. We know that Mr. Drumgoole continued to raise the matter on subsequent audits, I think, and did you or do you have any recollection of discussing the matter further with him?

A. No.

Q. Or with Mr. Fox?

A. No, I never discussed with Mr. Fox at all.

Q. In your experience of dealing with matters on the audit, was it was Mr. Dunne a person who tended to have a good memory for these things?

A. Yes.

Q. And just generally, was it your experience that Mr. Dunne had an awareness and a good memory for the running of the business?

A. Absolutely.

Q. And particularly in relation to the financial affairs of the business?

A. He was top class, second to none.

Q. Now, the Grocery Account cheques, I think that's something that you heard about prior to this Tribunal because these issues were raised by Price Waterhouse?

A. Correct.

Q. Isn't that correct? And we have had evidence from Mr. Cummins and Mr. Dunne about this and Mr. Dunne accepts that he requested the cheques and did you have any knowledge at that stage as to what these cheques were about?

A. Absolutely none.

Q. I think you had awareness about bearer cheques being drawn on No. 2 account and bearer cheques being drawn subsequently in another manner?

A. Correct.

Q. Was it unusual to have cash cheques of this size drawn on the Grocery Accounts?

A. Yes, it was.

Q. Mr. Cummins also referred to the fact that they are unusual in that they are handwriting; normally the Grocery Accounts would be generated on a computer printout?

A. That would be correct.

Q. Yes. Now, I think you never asked Mr. Dunne what these were for and he never told you?

A. That's correct.

Q. But again, something unusual?

A. That's correct.

Q. Very unusual. And again, in your dealings with Mr. Dunne, and I want to particular reference to the period when these cheques were written. Did you have any difficulty in dealing with them in terms of his recollection or memory or ability to deal with the company's affairs?

A. There were 20 accountants approximately employed in the Dunnes Stores Group from full-time accountants to consultants. There was a general rule the accountant of the division looked after that division and any cheques written in that division were his responsibility. So the accounts from the Grocery Division would have reflected where these cheques were, and I wasn't made aware of how they were dealt with. After I left Dunnes Stores I discovered how they were dealt with.

Q. You know now how they were dealt with?

A. I do.

Q. Would you have any doubts as to Mr. Dunne knowing what he was doing with these cheques?

A. No, I would not.

MR. COUGHLAN: Thank you very much.

MR. QUINN: Can I just ask one question, Sir, on behalf of the Revenue Commissioners?

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. QUINN:

Q. Mr. Irwin, just in relation to the suspense account, we know that this Tripleplan payment eventually came into the Dunnes Stores suspense account?

A. That's right.

Q. As being a payment having been made on its behalf by Bangor Limited; is that correct?

A. That is correct.

Q. And I think it's fair to say that there was also a director's loan account or accounts within the company, is that correct, for payments made on behalf of the directors?

A. Yes, there were.

Q. Was it ever the case that payments in the suspense account might be explained by being put into the director's accounts?

A. Yes.

Q. What would have to happen for a suspense account payment to find its way into a director's account?

A. Let me give you an example. In previous dealings with the Bangor Group, the cheque was identified being, say, the purchase of a horse box and that was subsequently put into the suspense and identified at a later stage and identified to a particular director and charged to that particular director.

Q. Yes, but would a person charging it to the director require the director's permission to regard it as a correct payment to be charged to his account?

A. Generally, once something was in the suspense account and had to be identified as a director level what it pertained to and once it was identified, it would be charged to that particular director.

Q. Yes. So once the director, for example, accepted it as a payment made on his behalf, then it went into the director's account; is that right?

A. Yes, that would be my understanding.

MR. QUINN: Yes. Thank you.

MR. GALLAGHER: Very briefly if I may, Mr. Chairman.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. GALLAGHER:

Q. Just in relation to that matter, Mr. Irwin, if it was a personal payment by a director, it would then be put into the director's own account with Dunnes; is that correct?

A. If I was informed by a particular director that it was personal, of course it would.

Q. It would be put in?

A. Yes.

Q. The other matter I want to ask you, when you said you brought the schedule of bearer cheques to Mr. Dunne for identification, I think you made it clear that what you would have is the schedule and not the individual cheque, the returned cheque?

A. That's correct.

Q. And there would be no returned cheque showing the bank in

which that cheque had been negotiated?

A. No, there wouldn't.

MR. GALLAGHER: Fine.

CHAIRMAN: Is it fair to, in reply, Mr. Irwin, when you mentioned having been instrumental in the elimination of the particular No. 2 accounts around 1988, it was on the basis of your own view that it would be preferable from the transparency and overall accountancy efficacy to eliminate them?

A. That's correct.

CHAIRMAN: In the cheques that you have referred to, we have sight of both cheques made payable to bearer and payable to cash. There was some mention at earlier sittings of the Tribunal to these different designations.

From your own experience as a professional accountant of considerable standing, and from your considerable time seconded to a senior position in Dunnes, can you comment on that distinction?

A. Not really. I think it was, it didn't there was really no distinction. It depended actually who wrote the name.

I would write cash and somebody else would write bearer.

CHAIRMAN: There was some suggestion it might be a more old-fashioned approach to designate bearer. Thank you.

MR. COLLINS: Just a short number of questions on behalf of

Oliver Freaney & Company and Noel Fox.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. COLLINS:

Q. I think in your evidence this morning, in the statement dated the 18th January 1999, Mr. Irwin, in relation to the cheques that had become known as the bearer cheques, you say it wasn't unusual for Mr. Fox to write cheques on Dunnes Stores No. 2 account; is that correct?

A. It wasn't normal practice for Mr. Fox but it wouldn't be unusual if he wrote a cheque.

Q. I see. It's just that in your earlier memorandum of evidence furnished to the Tribunal and I don't know whether you have that in front of you it's an undated document memorandum of evidence to be given by Mr. Michael Irwin.

A. I haven't got that, no.

Q. I am sure a copy can be provided to you.

(Document handed to witness.)

If I could ask you to turn to the second page of that document, Mr. Irwin, paragraph 5, and the latter half of that paragraph reads: "In my experience, it was most unusual for Mr. Fox to write cheques for Mr. Dunne. Cheques were frequently written for Mr. Dunne, either by self, Mr. Frank Bowen, or Mr. Dunne's private secretary." That doesn't seem to be quite the same statement as the statement contained in your dated statement of

MR. COUGHLAN: Sorry, Sir, while Mr. Irwin considers the question, My Friend knows that memorandum of evidence are furnished to the Tribunal. This was not the statement or evidence given by Mr. Irwin, and the Tribunal itself would never attempt to use a memorandum for the purpose of suggesting to somebody they said something different to them.

The function of the Tribunal is to establish the facts and to encourage people to be as frank as possible at all stages up to the time they give their evidence. This is the memorandum which was furnished to everybody, but not for the purpose of allowing somebody to be cross-examined and suggested that something in the memorandum is inconsistent with the evidence. And My Friend is in exactly the same position and his client would be afforded the ^ statement in respect of the workings of the Tribunal.

CHAIRMAN: Well, I think you should bear in mind that distinction, Mr. Collins. It's not a question of purportedly conflicting statements. It's a question of a memorandum which necessarily somewhat divorces the author from the actual content of what is in the statement, but I certainly won't stop you seeking to inquire what may be the witness' overall considered view.

MR. COLLINS: Of course. I am grateful, Mr. Chairman.

Q. Mr. Irwin, it may be the statement contained in the earlier

memorandum is one when you saw it, you thought ought to be amended and adjusted, and I am simply trying to explore how it was

A. That is correct.

Q. I see. So your position now is it wasn't usual or normal, but it wasn't unusual either; is that correct?

A. It wasn't common practice for Mr. Fox to write cheques.

Q. Because it is Mr. Fox's evidence to the Tribunal that these six bearer cheques were, in his words, effectively a one-off transaction or a one-off event, if I may put it that way?

A. I have no recollection, what I see in front of me as cheques written by Mr. Fox from the No. 2 accounts.

MR. COLLINS: I see. Thank you very much.

CHAIRMAN: Thank you very much.

THE WITNESS THEN WITHDREW.

MR. HEALY: Mr. Michael Curneen.

MICHAEL CURNEEN, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS  
BY MR. HEALY:

MR. HEALY: Thanks, Mr. Curneen.

CHAIRMAN: Which tab, Mr. Healy, is it?

MR. HEALY: Yes, sir, it's 3.13. It's under the additional heading Mr. Coughlan mentioned this morning of

Celtic Helicopters.

Q. Mr. Curneen, you have made a statement for the assistance of the Tribunal, and I think you have made it in response to queries from the Tribunal concerning a document to which I will refer you in a moment.

Now, what do you work at, at the moment? What's your present position?

A. I run a printing business.

Q. Pardon?

A. I run a printing business.

Q. At the time referred to in the statement you have provided, you were working for Smurfit Paribas; is that right?

A. Yes, lending officer.

Q. Do you have a copy of that?

A. Thank you.

Q. Now, you were asked to consider a document which relates to a period in 1996; is that right?

A. 1986.

Q. 1986, I beg your pardon. And in your statement at paragraph 3, you say: "At the relevant time, I was a lending officer with Smurfit Paribas."

A. Yes.

Q. You were the person, therefore, who processed applications for advances or loans or whatever, or one of the people who would do that?

A. That's correct.

Q. And how long had you been in that position at that time?

A. Just over two years.

Q. You say that in or around June of 1996 should that be 1986?

A. 1986.

Q. Smurfit Paribas were asked to guarantee half the amount of the lease of a helicopter by Celtic Helicopters; is that correct?

A. That's correct.

Q. And at the time you had a meeting with Mr. Ciaran Haughey and Mr. John Barnicle of Celtic Helicopters and you think the meeting was sometime in or around the 4th or 5th June of 1986?

A. That's correct.

Q. And you remember the meeting particularly because you say it was the one and only time that you ever met either Mr. Ciaran Haughey or Mr. John Barnicle?

A. That's correct.

Q. Your recollection is that you met Mr. Haughey and Mr. Barnicle on the morning of the 4th or the 5th and you recall you did not have any documentation in advance of the meeting. You believe that at the meeting you were given a number of documents including financial projections prepared by Haughey Boland, you think possibly by Mr. Paul Carty. Why do you say possibly?

A. I have never met I have never met when I was going through the file and when the question was asked me, it was

a name that came to my mind.

Q. I see. A draft set of accounts and letters from a number of individuals indicating they did use or would use the services of Celtic Helicopters?

A. Correct.

Q. You say the meeting would have lasted about one half or between one and two hours, and your recollection is that following the meeting, you prepared a typed written memorandum out like the application and essentially out like what had transpired at the meeting; is that right?

A. That's right.

Q. And the meeting also contained a recommendation to the credit committee of the bank you were then attached to recommending that the facility would be granted?

A. The application, yes.

Q. That the application be granted?

A. Yes.

Q. Now, if I could turn to the memorandum you prepared, do you have a copy of that there?

A. Yes.

Q. You may have a complete copy of the memorandum. What is going to go up on the screen is a copy of the memorandum with certain, what would appear to be irrelevant names and other references removed, but I hope that you have a complete copy so you can understand what you are looking at?

A. Yes.

Q. And what you say in your memorandum, or what you said at the time was, and this was for the benefit of the people to whom the application was effectively being made, the credit committee, who were going to have to say yea or nay to it on the basis of your recommendation; is that correct?

A. Correct.

Q. "We have been requested to provide a five-year €90,000 leasing facility to the above company." You described the company as, "Celtic Helicopters operate a rental helicopter business using a Bell 206 Jet Ranger machine which was purchased from Irish Helicopters Limited. The company now wish to expand their base by leasing a second helicopter, a Bell 206 B Jet Ranger. This particular machine will cost approximately US\$115,000."

And you go on to say: "The company has three main shareholders, Mr. Ciaran Haughey, 30%, Mr. John Barnicle, 30%, and Mr. Charlie Haughey, TD or Mr. Charlie Haughey TD, 12.5%. The balancing equity is held by a number of small investors. Ciaran Haughey and John Barnicle are both helicopter pilots. John Barnicle has been flying with Irish Helicopters for a number of years and has established some very good contacts, many of whom have moved their business to Celtic."

And then in the section to the document that's been obliterated, there's a reference to a number of substantial businessmen in Irish business life who were in the habit of

using the services of the company; isn't that right?

A. Yes.

Q. And this was presumably to understandably impress upon you that they were getting business from the type of people you might know to use helicopters on a regular basis?

A. That's correct.

Q. It goes on then: "Enclosed is a summary of the company's audited financial statements, covering the first 12 months of operation."

You go on to describe the turnover in the year to March 1986 at €140,585. You say that from the information you had presumably the company flew 403 commercial hours and 52 unpaid hours for Irish Helicopters Limited as part of the original purchase Agreement. "The break-even point on a single machine is 512 hours and therefore the company reported a loss of IR €44,435 in its opening year. Included in this figure are a number of extra ordinary startup costs, depreciation costs and transfers to a maintenance reserve. The latter two costs alone exceed the loss incurred.

On the 31st March 1985 Celtic Helicopters Limited had bank borrowings of IR €57,000. Guinness Mahon provided the facility secured by a first-fixed charge on the company's helicopter. The company's current assets are mainly stocks and debtors. Stocks consist of a few spare parts and fuel, while debtors refer only to blue chip names. With the

exception of good regular customers who receive 30 days credit, all others must pay in advance. Payments for fuel and maintenance are made monthly in arrears."

He then referred to the projections. "The break-even point for operating one and two helicopters is 512 hours and 700 hours respectively. The recent reduction in fuel prices will further reduce this break-even point. VAT which may be recoverable has been excluded from the projections."

You then go on to the projected sales for 1986 at 1,000 hours of which 419 have been confirmed. I am simply going to take you to the end of the document even though not every detail is relevant.

"In addition to this, Celtic have tendered for a 170-hour ESB contract which they are confident of being awarded.

This particular contract was available last year, but the company did not have the capacity to carry it out. In total 470 ad hoc/joyriding hours are projected for 1986.

While this figure may appear high, it is attainable in view of the fact that 105 hours have been completed in just two months. A through-put of 1,000 hours would generate a pre-tax profit of IR €73,000.

Prior to any commitment, we will receive an independent engineer's certificate stating the condition and value of the helicopter to be purchased. Post-purchase servicing would be carried out by Irish Helicopters Limited. We

recommend approval."

I think, as you say in your statement, the information contained in that memorandum that you prepared at the time presumably came from either documents you were given on from what you were told by Mr. Haughey and Mr. Barnicle; is that right?

A. That's correct.

Q. You had access to no other information and you had never met either of them prior to that time?

A. That's correct.

Q. And who was the person, do you remember, who provided or took you through the financial information? Was it Mr. Barnicle or Mr. Haughey?

A. I can't remember. It's likely it would have been both. We were at a meeting for maybe, I would think about an hour, an hour and a half maybe, and I would have been speaking to both of them.

Q. And one of the critical things you would have wished to establish is precisely who owned this company, is that right, at the outset of your discussions with the two gentlemen?

A. It would be one of the issues, yes.

Q. You were not after all dealing with a public company, and therefore the question was who was I loaning to in terms of who were the individuals I was lending to? And you were informed, you have no doubt about this, I take it, that both Mr. Haughey and his father Mr. Charles Haughey were

shareholders of the company?

A. That was my understanding.

Q. And was that a feature in your recommending the company for approval, the fact that one of the owners was a prominent person in Irish life at the time?

A. It would have added to the credibility of the application.

Q. Yes. Would it have affected you at all if Mr. Haughey had not been a shareholder, would it have affected the application?

A. It's 13 years ago.

Q. I see. I am not going to push you on it.

A. You know, it's part of the jigsaw that paints a picture.

Q. Of course.

A. The final picture was a good one, so we the credit was approved. It's possible, had he not been there, it would also have been approved, the business fundamentally looked profitable.

Q. One of the things you were told by the two gentlemen was that they were doing well and they had good contacts and contacts is an important thing in a business of this kind when you were presumably depending on a small number of people to use your

A. They had access to good client base, large client base.

Q. Can I take it you were impressed by the fact that one of the major shareholders in this company was, in fact, the then leader of the opposition?

A. As I say, it was part of an overall picture.

Q. Thanks very much. Thank you very much.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MS. COSTELLO:

Q. Mr. Curneen, I am appearing for Celtic Helicopters and I have just a few questions to ask you. I don't believe you were present on previous public sittings at the Tribunal, Mr. Curneen; is that correct?

A. Yes.

Q. So you may not have heard both Mr. Ciaran Haughey and Mr. John Barnicle have each given evidence to the Tribunal to the effect that Mr. Charles Haughey was never a shareholder in the company. So I am just wondering in relation to your memorandum which Mr. Healy has taken you through, is there any possibility that Mr. Haughey might have been mentioned as a contact of the company rather than as a shareholder?

A. I think it would have well, I think it unlikely, I would have no reason to put it on the application that he was a shareholder.

Q. You see, in addition to the direct evidence of Mr. Ciaran Haughey and Mr. John Barnicle, evidence has been given by accountants in relation to the shareholding of Celtic Helicopters and there isn't a 12.5% sharehold for one thing, and for that period, so it doesn't seem to tie in with any of the other information. And I am just wondering whether there would have been an error in relation to it or some confusion?

A. I think what I wrote down was what I understood to be the case.

Q. And Mr. Barnicle and Mr. Haughey when they were clearly with you, they were indicating the people who they expected to get business from; isn't that correct?

A. That's correct.

Q. And they weren't moulding out them as being investors of the company?

A. No.

Q. Well, as I say, it will be the evidence of Mr. Haughey and Mr. Barnicle that this memorandum is incorrect, and I am just asking you again, could it have been a misunderstanding and maybe that this was a connected person that they were this was a possibility I am not saying there was any intention to mislead.

A. I think it unlikely.

Q. No further questions.

CHAIRMAN: Anything to raise further with Mr. Curneen?

Thank you very much indeed for your attendance.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Mr. Owen Binchy, please.

MR. OWEN BINCHY, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS

BY MR. COUGHLAN:

CHAIRMAN: Thank you very much, Mr. Binchy.

Q. MR. COUGHLAN: Mr. Binchy, I think you were a practicing solicitor?

A. That's correct.

Q. And I think your firm acted as solicitors to Mr. Patrick Butler?

A. That's correct.

Q. And I think in that regard submitted the inland Revenue affidavit in respect of Capital Acquisition Tax Act 1976; is that correct?

A. That's correct.

Q. And I don't want to put the affidavit up, Mr. Binchy, so perhaps you it being a public document nonetheless, but I just want to ask you: Is there any return made in that affidavit of Mr. Butler being the owner of any shares in Celtic Helicopters?

A. There is not.

Q. And do you know of any records or an investment by Mr. Butler in Celtic Helicopters in or about November of 1992?

A. No.

Q. And to your knowledge, was there any records of him being a creditor?

A. No.

Q. Have you come across any records of any correspondence from Celtic Helicopters, Mr. Desmond Traynor, Deloitte & Touche, Larchfield Securities, MIS Nominees, M.S. Nominees or any other persons relating to the manner in which any

investment made by the late Mr. Butler was to be treated in the accounts of Celtic Helicopters?

A. No.

Q. Can you say whether the estate of the late Mr. Patrick Butler received any correspondence and notification from any of the persons or companies or firms I have mentioned regarding the issue of 7% noncumulative preference shares in Celtic Helicopters in or about March of 1996?

A. I can say that they didn't.

Q. You can say that they didn't?

A. Yes.

Q. Of course there is no reference in the inland Revenue affidavit to any shareholding?

A. No.

Q. And if there had been any knowledge or documentation, it would have been included; isn't that correct?

A. Yes, we would have certainly pursued an investigation.

MR. COUGHLAN: Thank you very much.

CHAIRMAN: Any matters to raise with Mr. Binchy? Thank you very much indeed.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Mr. William Corrigan please.

MR. WILLIAM CORRIGAN, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY MR. COUGHLAN:

CHAIRMAN: Thanks very much, Mr. Corrigan.

Q. MR. COUGHLAN: Mr. Corrigan, I think you are a practicing solicitor; is that correct?

A. That's correct.

Q. You are a principal in the firm of Corrigan & Corrigan?

A. That's correct.

Q. I think your firm acting as solicitors as personal representative of the late Mr. P.V. Doyle?

A. That's correct.

Q. And I think in that capacity filed the Inland Revenue Affidavit?

A. That's correct.

Q. And can you just inform the Tribunal, Mr. Corrigan, whether or not there was any shares returned in Celtic Helicopters in the Inland Revenue Affidavit of Mr. Doyle's?

A. No.

Q. At no time?

A. At no time.

Q. And can you say, Mr. Corrigan, whether any records of an investment, by the late Mr. P.V. Doyle in Celtic Helicopters in March 1985 or any time prior to his death, existed to your knowledge?

A. We haven't been able to find any documentation in relation to Celtic Helicopters, no share certificates, no receipts, no acknowledgements, nothing. We never even heard of it until we got a memo from your good selves.

Q. From the Tribunal.

A. Yes.

Q. So can you confirm so whether there are any records of any correspondence from Guinness Mahon Limited, Mars Nominees limited, the late Mr. Desmond Traynor, Haughey Boland & Company or Larchfield Securities, or any other person in relation to the issue of shares in Celtic Helicopters or the manner in which the shares were to be held?

A. No. We have had absolutely nothing relating to Celtic Helicopters from anybody.

Q. You can therefore confirm that the estate received no correspondence from any of the above persons regarding the transfer of shares in Celtic Helicopters held by Mars Nominees Limited to MIS Nominees Limited or MS Nominees Limited in 1992?

A. Nothing, nothing.

Q. And you have confirmed that the Inland Revenue Affidavit is signed on that issue?

A. Yes.

MR. COUGHLAN: Thank you very much.

CHAIRMAN: Thank you very much indeed for your attendance,

Mr. Corrigan.

A. Thank you.

THE WITNESS THEN WITHDREW.

MR. HEALY: Mr. John Barnicle.

MR. COUGHLAN: I take it Mr. Binchy and Mr. Corrigan are free to go?

CHAIRMAN: Oh, I intended to make that absolutely clear.

Thank you very much, Mr. Barnicle. You are already sworn.

JOHN BARNICLE, PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS

BY MR. HEALY:

Q. Mr. Barnicle, you prepared a further memorandum of evidence for the assistance of the Tribunal supplemental to the information that you gave the Tribunal for the purposes of its last sittings. Do you have a copy of that memorandum?

A. I don't.

Q. We will get a copy for you.

(Document handed to witness.)

Now, as with the material you made available to the Tribunal on the last occasion, I want to take you through the memorandum, and you may go back over parts of it and perhaps look at some of the documents in due course.

You say that this memorandum sets out your understanding of matters which you brought to the attention of the lawyers acting for the Tribunal arising out of the report of the Tribunal of Inquiry Dunnes Payments of 1987 and in particular, Page 54 of the report, and for ease, you have referred to that Tribunal, and I think it's usually known as the McCracken Tribunal. You say that Mr. Ciaran

Haughey, your fellow shareholder and director of Celtic Helicopters Limited, gave evidence to the McCracken Tribunal regarding certain roll-over loans which the company obtained initially from Guinness & Mahon in March of 1991 and thereafter from Irish Intercontinental Bank.

He stated, and you say correctly, meaning that you agreed with him, that he and you borrowed the monies set out in the report on the security of your personal guarantees.

Now, what you are talking about, I think, is a borrowing of €150,000; is that right?

A. That's correct, yes.

Q. From Celtic Helicopters in 1991 from IIB, I beg your pardon.

A. Yes.

Q. Of €150,000 from IIB in 1991?

A. Correct.

Q. You say: "We were unaware of the existence of a special deposit held in IIB as security for these loans which money apparently was taken out of the S8 Ansbacher account."

Now, the borrowing, as far as you were concerned, and as far as your knowledge was concerned, was €150,000 backed by your own personal guarantee and that of Mr. Haughey?

A. Correct.

Q. As far as you were concerned, that was the only security the bank sought and it was the only security as far as you were concerned that was given?

A. Correct.

Q. And how did you acquire that knowledge, the security consisted solely of your personal guarantee?

A. How did I acquire it?

Q. How did you come to believe that was the situation?

A. That he was the only security we put up?

Q. Did you make the application yourself?

A. I believe we both probably made it together.

Q. Did you have any assistance from Mr. Traynor in making the application?

A. Possibly. I don't actually remember.

Q. I see. You then referred to one of the to a passage in the report which goes as follows, this is a report of the McCracken Tribunal: "In mid February of 1992, the loan was repaid on the instructions of Mr. Desmond Traynor out of the Ansbacher Cayman Limited general deposit with Irish Intercontinental Bank and the monies which had been placed in the special deposit account were released back into the Ansbacher Cayman Limited general account."

So that they both know we are talking about the same thing here, perhaps we could just expand on this just a little.

What is being referred to in the passage in the McCracken Report, I think the fact that the loan of œ150,000 was backed by a deposit of Ansbacher funds; is that right?

A. That's correct.

Q. So that what is being referred to is an additional security

consisting of a lien or some right over a part of the

Ansbacher deposit which could be a resort as a security for the borrowing of yourself and Mr. Haughey; is that right?

A. That statement is a bit incorrect.

Q. What you mean by "statement" or the statement here?

A. The statement here.

Q. I appreciate we are coming to that and you may rest assured

I will come to your own view of it, but just so we know

what is meant by the statement, whether the statement is

correct or not as far as you were concerned, what was meant

was that your borrowing was being backed by or secured by a

deposit from the Ansbacher account?

A. Correct.

Q. You go on to say that the report notes: "That Mr. Haughey

in evidence denied any knowledge of the use of the

Ansbacher funds to secure or repay this loan." When you

referred to Mr. Haughey, who did you refer to?

A. Ciaran Haughey.

Q. You say that you: "Confirm having investigated the matter

further. Mr. Haughey's evidence meaning Mr. Ciaran

Haughey's evidence to the McCracken Tribunal was, in

fact, correct and that the company paid off its borrowings

without recourse to the backing deposits of both which he

and I were ignorant at the time and that the company did

not directly benefit from these deposits."

I just want to get this straight, absolutely clear. You

say that you have investigated the matter further; I take it that you have examined further documents, have you?

A. No, I haven't, no.

Q. Well, how did you investigate the matter further?

A. No, at the time of the McCracken Tribunal, we were, Mr. Haughey wasn't sure of

Q. Maybe I could make it a little easier for you. Perhaps the language of this, you may have been assisted in this language by your lawyers and maybe I can, without meaning any disrespect to your lawyers because I think I understand what is meant, help you with it.

I think what you are saying is that your impression and Mr. Haughey's impression is that you both, or the company, paid off the money you owed Irish Intercontinental Bank without recourse to the backing deposits, that you paid it off, as far as you were concerned, from money which had nothing to do with the Ansbacher accounts?

A. Correct.

Q. Are you saying, therefore, that when you said or when Mr. Ciaran Haughey said that the money was paid off otherwise than from independently of the Ansbacher accounts, that that was your belief at the time?

A. That's correct.

Q. You go on to say, on the other hand: "I confirm that as appears now, the company did receive monies through Mr. Desmond Traynor whose origin appears to have been the Ansbacher Cayman Limited general deposit with IIB and this

money was used to repay the Celtic Helicopters loan from Irish Intercontinental Bank."

So are you saying that you accept that Ansbacher money was used to pay it, but at the time you didn't think that that was the case?

A. I accepted Ansbacher money was used to take over an insurance claim and to pay for hours which we then used to repay the loan.

Q. I see. And then I think you go on in your statement to describe that situation that you have just alluded to in your evidence just this minute.

A. Yes.

Q. You say: "The situation is as follows: In the summer of 1991, pursuant to an oral agreement between Celtic Helicopters Limited and Irish Company Incorporated, Celtic Helicopters hired a Bell 206 Jet Ranger Helicopter to Irish Company Incorporated. Irish Company Incorporated was to pay the fire charge and to use the helicopter to film the coastline at Dingle Bay on the 24th September 1991 as part of the making of the film "Far and Away." Irish Company Incorporated is a company incorporated in the state of Delaware but registered in Ireland as an external limited company pursuant to Section 325 of the Companies Act 1963." You say it appears that Irish Company Incorporated was incorporated solely for the purposes of making a film and is a wholly owned subsidiary of a well-known American

film company.

You go on to say: "Unfortunately on the 24th September 1981 the helicopter was hit by a huge wave and crashed into the sea and the helicopter sank and was not recovered. The company's insurance companies were Church & General and in December of 1991 they paid the company the sum of €95,000 being €100,000 less and excess of €5,000."

A. That's correct.

Q. Celtic Helicopters had the helicopter insured for €100,000 with an excess of 5,000?

A. Yes.

Q. And that insurance, I think, was taken out through your then brokers; is that right?

A. Correct, yes.

Q. Was it Mr. Mike Murphy placed that insurance?

A. Mike Murphy Insurance, yes.

Q. "On the 3rd October 1991, the company's insurance brokers made a claim against the film company, Irish Company Incorporated, and against the American company in the amount of €200,000 in respect of the loss of the helicopter and consequential losses arising out of the destruction of the helicopter. To the best of my recollection the figure of €200,000 was based on the net book value of the helicopter in the accounts of the company being €162,000 together with an estimate of loss of earnings arising by reason of its destruction."

Can I just take you through that. Your brokers, presumably on your instructions, is that right, made a claim against the film company Irish Company Incorporated and against the American company and your claim was for €200,000 for the loss of a helicopter and consequential losses. Now, the net book value, in other words, would that mean the written down value of the helicopter in your books; is that what that means?

A. Yes.

Q. The helicopter was in your books, in any case, valued at 162,000.

A. Correct.

Q. Because you presumably had some out of it from the time you bought it?

A. Correct.

Q. Does that mean that the balance of €38,000 represented loss of earnings?

A. Correct.

Q. The company obtained the opinion of junior counsel for the question of a cause of action against Irish Company Incorporated or its American parent. The opinion given on the 3rd February 1992 was to the effect that the company had a good claim against both Irish Company Incorporated and its American parent and the claim was valued in excess of 200,000.

You go on to say: "As I have already stated, the company was endeavouring to raise finance."

What you are referring to here is the evidence you gave at the adjourned sittings of the Tribunal where you then mentioned that you were raising finance in 1991 and 1992; is that right?

A. Correct.

Q. And this is the finance that ultimately resulted in nearly €300,000 being raised?

A. Correct.

Q. You say: "The company was endeavouring to raise finance and had been in contact with Mr. Desmond Traynor in this regard. In addition to raising investment finance, Mr. Traynor suggested that the company assign its claim against Irish Company Incorporated and for its American parent, either to him or to him on behalf of a third party for the sum of €100,000."

You say that yourself "and Mr. Haughey, on behalf of the company, agreed to assign the company's claim to Mr. Traynor for the sum of €100,000 and accordingly, Mr. Traynor furnished the company with a cheque to the value of €100,000. The receipt was recorded on the company's cash book and on the 8th February 1992, it was lodged together with two other cheques totalling €54,366.54 to the company's current account at Bank of Ireland, Dublin Airport branch.

"The two other cheques totalling €54,366.54 were in respect

of flying hours."

A. They were actually three other cheques.

Q. Three other cheques?

A. Yes.

Q. How do you know that?

A. One was for I don't think I have the actual figures in front of me, but it was one for 100, one for 50 and then two cheques made up made up the sum of 4,366.

Q. I see. So that is one for 100, one for 50?

A. And

Q. Amounting to a total of 4,366, I see. "Once these three..." should now read four cheques, I presume?

A. Correct.

Q. "Had been credited to the company's account, the company was able to pay the sum of €153,868.54 to Irish Intercontinental Bank in discharge of its borrowings. Thus Mr. Ciaran Haughey's evidence to the McCracken Tribunal to the effect that the company discharged the borrowing from Irish Intercontinental Bank out of its resources and without recourse to the backing deposits apparently arranged by Mr. Traynor for the company."

A. Correct.

Q. If I could just clarify one or two things about this portion of your statement at this point. The €100,000 was a cheque made payable to the company by Mr. Traynor or obtained for the company by Mr. Traynor?

A. That's right.

Q. Was that, in fact, a cheque that came from Irish Intercontinental Bank?

A. I don't remember exactly where that came from.

Q. Well, are you aware from other documents that have been furnished to you by the Tribunal that it, in fact, consisted of monies which came from Irish Intercontinental Bank and that, in fact, it came from an Ansbacher account in Irish Intercontinental Bank?

A. I wasn't aware of that.

Q. And the €50,000 came from funds in Ansbacher account in Irish Intercontinental Bank?

A. I am not aware where the cheque originated actually.

Q. And one of the cheques which brought the total amount up to 154,366.54 also came from Ansbacher account in Irish Intercontinental Bank?

A. I am aware they came from it now, but I wasn't at the time.

Q. I appreciate that, I am sorry.

CHAIRMAN: Mr. Healy, without interfering, might it be arguably preferable if you were just to deal with the last two paragraphs of the statements that's given. Perhaps Mr. Barnicle may have over lunch

MR. HEALY: I think in any case he may have been confused when I refer to now

Q. What you are saying is now you understand that to be the case, but at the time you didn't understand it to be the case?

A. Correct.

Q. At the time of the McCracken Tribunal you didn't understand it to be the case, but you do understand it now to be the case?

A. Correct.

Q. "Proceedings have been brought in the name of Celtic Helicopters Limited against the American parent company who say that it was deemed not commercially worthwhile to pursue Irish Company Incorporated in view of the fact that it is a shell company. The company no longer has any interest in these proceedings as it has assigned its interests in these proceedings to Mr. Traynor. It is my understanding that initially the proceedings were commenced by John S. O'Connor, the company's former solicitors. However, as they ceased to practice, I understand that the solicitors now conducting the litigation are Keans Solicitors of 2 Upper Pembroke Street. The company does not give Mr. Kean instructions in regard to the prosecution of the claim, though it is prepared to assist with any requests for information and to give evidence at the trial of the action in due course.

"Since the assignment of the company's claim in respect of the crashed helicopter, the company has no further financial interest in the litigation and will not retain the proceeds of any award of damages."

So that as far as you were concerned the company has ceased

to have any interest in the litigation and it has recouped all of the losses it believes it's entitled to out of the crash; is that right?

A. Well, that's correct except that the only thing we still have to represent the plaintiff in the court case.

MR. HEALY: I fully accept that. Of course.

CHAIRMAN: Perhaps we will break now until ten to two.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AS FOLLOWS AT 1:50PM:

CONTINUATION OF EXAMINATION OF MR. BARNICLE BY MR. HEALY:

Q. Thanks, Mr. Barnicle. Now in your statement this morning, in particular in the latter part of your statement, you dealt with how the sum of €153,868 and 54 pence found its way to Irish Intercontinental bank in discharge of the company's borrowings from that bank and what you say is that your understanding at the time was that this came from, as to €100,000 at least, came from an assignment of a cause of action the company had arising out of an accident in which one of its helicopters was crashed.

A. Right.

Q. Now when this helicopter crashed, you made a claim on your insurance and out of that claim you got €95,000.

A. Right.

Q. At the same time you say that you or in or about the same time, you obtained an opinion from junior counsel on

the question of a cause of action against Irish Company Incorporated or its American parent. Now, Irish Company Incorporated was the company that was flying the helicopter at the time, is that correct? Well, it was the company to who you hired out the helicopter.

A. Yeah.

Q. Now, you say that the company obtained an opinion to the effect that it had a good claim against both Irish Company Incorporated and its American counterpart and that opinion you got on the 3rd of February of 1992.

A. Right.

Q. I presume the opinion was furnished to your solicitors?

A. It was.

Q. Did you read it or were you

A. I did read it.

Q. You did read it. I don't think we need to go into the details but what the opinion said was that the company had a good cause of action against the man who was flying the helicopter and perhaps his company or whatever.

A. Right.

Q. It didn't deal with whether you'd ever be able to recover against him or whether he had any money to repay you, is that right?

A. No.

Q. All you knew and all your lawyers at that point knew was that because of the way the helicopter was flown, you had a cause of action but that doesn't necessarily mean, I'm sure

you understand that yourself, that doesn't necessarily mean you're going to recover any money.

A. No, but we had a chance to.

Q. Pardon?

A. We had a good chance to.

Q. You had a chance of winning the case, of course. And a good chance of winning the case according to the opinion, but that's not the same thing as collecting.

A. No.

Q. To collect you must win a case against somebody who's got the money to pay you, isn't that right?

A. Correct.

Q. At that time, in fact, you had no information at all to suggest that the person to whom you'd hired the helicopter would be able to pay you, isn't that right?

A. I had no idea.

Q. Mr. Traynor, you say, suggested that the company would assign its claim, its cause of action, to himself or to him on behalf of a third party. How did that suggestion come about?

A. I'll have to correct that slightly. The third party, I don't remember him saying on behalf of the third party.

Q. That didn't arise?

A. At that time, no.

Q. So what you remember is that he suggested that he would take an assignment?

A. Correct.

Q. And how did that suggestion come about?

A. Well, he knew we were looking for finance, he knew we had a court case against the Irish company, and that it looked like we had a good chance of winning the case. And as in any of these cases, it could take six, seven years to collect your money and he suggested a way of helping the company was buy the assignment, taking over this assignment, the claim.

Q. How did Mr. Traynor, or indeed who arrived at the value of €100,000 for the claim?

A. That's what we thought we we decided, with the help of Deloitte & Touche, that basically we were out of pocket 200,000, and we had received 95, another hundred would have amply compensated us.

Q. As we said this morning, your claim was 200,000 in total to include the loss of helicopters and

A. I knew they were trying for 500,000, but 200,000

Q. Where did you get the impression they were trying for 500,000?

A. That would have been through Mr. Murphy

Q. Are you sure of that, Mr. Barnicle, or are you thinking of something that occurred later?

A. May have occurred later, but I don't know exactly when. But I was under the impression that they were going for a much higher amount.

Q. It's not what they were going for, it's what you were going for, isn't it?

A. Yeah.

Q. You had a claim. You were going for €200,000, the loss of your helicopter and the cost or the cost to you of being without it, isn't that right?

A. 200,000.

Q. €168,000 was the value of your helicopter, and you had with the balance made up the loss of earnings.

A. Correct.

Q. Loss of profit, in other words.

A. Profit.

Q. Profit?

A. Profit.

Q. Your total claim was 200,000 and you got 100,000, there or thereabouts?

A. 95.

Q. What was left in the claim was €100,000?

A. €105,000.

Q. That's what was left in the claim?

A. Right.

Q. Mr. Traynor gave you a €100,000 for that?

A. Correct.

Q. And was he aware at the time that the claim was only worth €100,000 to him?

A. I believe so, yes.

Q. So he gave you effectively

A. €105,000.

Q. He gave you effectively 100 percent almost of the value of

your claim?

A. Correct.

Q. Knowing that he wouldn't get this money for many, many years.

A. I don't know if he knew that or not, or what he whether he thought about it.

Q. Without knowing whether he could ever collect a penny from the man you were to sue to recover the loss from.

A. Correct.

Q. He was prepared to do all of that for you?

A. Correct. He did that for us.

Q. At his own suggestion?

A. At his own suggestion, yes.

Q. And you're certain that you gave him an opinion from counsel to enable him to make up his mind?

A. Correct.

Q. You got an opinion from counsel dated the 3rd of February 1992, that's Mr. Herbert's opinion?

A. Correct, yeah.

Q. And we know that Mr. Traynor was drawing down the money for you from the 7th of February. We'll come to that in the evidence of another witness. But I think you know it yourself from documentation that has been made available to you. I'm sure your counsel will correct me if I'm wrong.

MS. COSTELLO: In fairness to the witness, Chairman, he only got to see the documentation this morning and he may

not have had the chance to deal with the full volume of the detailed

CHAIRMAN: I'm prepared to allow that, Ms. Costello.

Q. MR. HEALY: Assuming for the moment that I'm correct, Mr. Barnicle, I don't know when you saw these documents, I think you may have seen them before but they were only brought to your attention this morning in the past few hours, or maybe yesterday, I don't know. But assuming I'm correct that Mr. Traynor started to work on collecting this œ100,000 around the 7th of February, it must mean there was very little time for you to give him the opinion and for him to make up his mind.

A. Most of the detail of the most of all the details were passed on to Mr. Traynor through Deloitte & Touche.

Q. Sorry, I didn't pick that up?

A. Most of the details of the claim were passed on to Mr. Traynor from Deloitte & Touche.

Q. Who in Deloitte & Touche was dealing with the claim?

A. Mr. Carty.

Q. So you think that as a result of whatever Mr. Carty told Mr. Traynor, Mr. Traynor decided to go ahead and give you œ100,000?

A. Correct.

Q. Have you ever been involved in litigation yourself?

A. No. Sorry?

Q. Have you ever been involved in litigation yourself? Have

you ever had to make a claim or has a claim ever been made against you or your company? I'm not suggesting in relation to debt or anything like that, but a claim in relation to damage to a helicopter or against your company or whatever.

A. Prior to this, I don't think so.

Q. Have you been

A. That I can't remember. I don't think so. I have since, yes.

Q. And I'm sure that you must know that in litigation nothing is certain.

A. Of course.

Q. Even in the best claim, you can't be certain to recover all of your losses.

A. Of course.

Q. And were you surprised that in this case Mr. Traynor was prepared to give you a hundred percent of the value of the claim without even knowing whether the person against whom you were claiming would be able to pay?

A. I wasn't surprised. I was very happy about it.

Q. I see. From your point of view it was an outstanding deal, wasn't it?

A. I was satisfied with the deal, yeah.

Q. If everyone involved in litigation could get a deal like that, they'd be selling their cases all over the place, wouldn't they?

A. Possibly, yeah.

Q. Mr. Traynor didn't sign any documents or you didn't sign any documents in relation to this deal?

A. No.

Q. Who described it to you as an assignment, Mr. Traynor himself, is it?

A. More than likely, yes. I don't know for sure.

Q. At the time that Mr. Traynor was to take the assignment, did you seek the advice of your solicitors?

A. Would you repeat that, Sir?

Q. At the time Mr. Traynor suggested to you that he would take an assignment of the cause of action you had, did you involve your solicitors?

A. I would have explained it to them, I'm sure.

Q. Who were your solicitors at the time?

A. John S. O'Connor.

Q. And assuming that no writing has come into existence, can we take it that they didn't advise you to put this agreement into writing?

A. No.

Q. In any case, after the agreement you got a cheque for €100,000 from Mr. Traynor?

A. Correct.

Q. You say that the receipt was recorded on the company's cash book and on the 8th of February 1992, it was lodged together with two other cheques totally €54,000-odd to the company's current account in Bank of Ireland, Dublin Airport branch.

A. Three other cheques.

Q. Three other cheques as you corrected this morning. I think I might put up the bank account of Celtic Helicopters to have you confirm the lodgement to the account. There's a lodgement 3 of 3, €154,366. Can you see there's a cheque for €153,868.54. Can we start with the cheque first. You are aware yourself and there will be evidence that was the full amount that was due from Celtic Helicopters to IIB, correct?

A. Correct.

Q. And the lodgement consists of that €153,868.54 plus the other cheque, the fourth cheque you mentioned a moment ago.

A. Correct.

Q. And I think to put this in bare repetition, you agree that that €153,868, part of the lodgement came from an Ansbacher account even though you didn't know at the time that that was happening?

A. Right. I know it now.

Q. You know it now?

A. Yeah.

Q. Could I take you to paragraph 13 of your statement. I just want to clarify one or two statements you made there. You say that "Proceedings have been brought in the name of Celtic Helicopters Limited against the American parent company. You say that it was deemed not commercially worthwhile to pursue Irish Company Incorporated in view of

the fact that it is a shell company. The company..." if I can stop there for a moment. You may wish to correct that?

A. Yeah. I never deemed that.

Q. Pardon?

A. I never deemed that.

Q. I did not follow you.

A. I did not deem it not commercial.

Q. Do you know which company is, in fact, now being pursued for this money? I think I can assist you. I have no desire to trap you but don't you know that it is, in fact, Irish Company Incorporated that is being pursued?

A. Yeah, the American company.

Q. Well, I don't want to prompt you anymore. Perhaps you'll tell me precisely what your understanding is of which company is now being pursued in an action to recover this money.

A. The Irish company in America.

Q. Which company is that?

A. That's the Irish Company Incorporated.

Q. Can we just go through your statement then. "Proceedings have been brought in the name of Celtic Helicopters against the American parent company", isn't that correct?

A. Correct.

Q. It is correct?

A. I believe so, yes.

Q. That's your knowledge in any case?

A. That's my knowledge.

Q. The next statement: "It was not deemed commercially worthwhile to pursue Irish Company Incorporated in view of the fact that it is a shell company."

A. Oh, I see, yes, of course. Yeah.

Q. Well, perhaps you'd make clear what your understanding is now.

A. That the Irish shell company no longer exists or had any funds or anything, they had to go to the American company to pursue the claim.

Q. That's your understanding, in any case?

A. Yes.

Q. And if that's your understanding, how did you get that how did you form that impression?

A. I believe that was related to me by I would say it was Gerald Kean & Company that related that to me.

Q. As I said, I don't want to trap you and you may not have any huge interest in this action, but I do not think

A. Most of the dealings were handled by Mike Murphy Insurances with Gerald Kean so I didn't really follow it, to be quite honest.

Q. The rest of your statement deals with your involvement. Perhaps we'll go over it. You say "The company..." and I think you're referring to Celtic Helicopters?

A. Where?

Q. At paragraph 13. "The company no longer has any interest in these proceedings as it has assigned its interests in

the proceedings to Mr. Traynor."

A. Right.

Q. Not to any third party but to Mr. Traynor himself.

A. Correct.

Q. You go on, on the next page of your statement, to say that

"you understand that the solicitors conducting the

litigation are Keans." And you go on to say: "The company

does not give Mr. Kean instructions in regard to the

prosecution of the claim, though it is prepared to do so,

of course."

A. Right. We basically agreed to stay with the litigation

because we had to act as the claimant.

Q. What does that sentence mean: "The company does not give

Mr. Kean instructions in relation to the prosecution of the

claim"?

A. That's a good question.

Q. Thank you.

A. We are just going along with Mr. Kean with any information

he needs that we can give him, we'll help him in any way we

can to help him make the claim come true, if you like, or

whatever.

Q. Well again, I think some further documentation was made

available to you last night, though it is, in fact,

documentation with which you'll be familiar already, and

you've been given extracts from it some short time ago

which shows that, in fact, you are giving Mr. Kean

instructions, isn't that right? Or you are involved with

Mr. Kean in the litigation?

A. Of course we are, but that would be done mainly through Mike Murphy Insurances.

Q. We'll go through those documents in a moment. You go on to say that: "Since the assignment of the company's claim in respect of the crashed helicopter, the company has no further financial interest in the litigation and will not retain the proceeds of any award of damages."

A. Right.

Q. That simply makes sense in the light of the your earlier statement, you got your œ95,000 and you got your œ100,000 and there was an excess of œ5,000.

A. Correct.

Q. And you effectively sold that to Mr. Traynor?

A. Correct.

Q. So now the person who should be entitled to any damages, if this action were successful, is Mr. Traynor, isn't that right?

A. I believe

Q. His estate?

A. Mr. Traynor and Church & General.

Q. Of course, yes. Church & General should get their œ95,000?

A. Correct.

Q. And Mr. Traynor's estate should get the balance of the 105,000?

A. Correct.

Q. Do you have the blue folder?

A. No.

Q. We'll get a copy for you. (Folder handed to the witness.) Now, this document goes from 1998 this file of documents or folder of documents goes from 1998 backwards in time. So the first document you see is dated the 24th of June of 1998. Do you see that?

A. I do, yeah.

Q. And it's a letter from Mr. Mike Murphy, M.C. Murphy, to Mr. John Barnicle, managing director, Celtic helicopter, Knocksedan, Nether Cross, Swords, Co. Dublin. It says "Irish Company Claim:

"Dear John, I enclose herewith copy of Gerald Kean's letter together with statement of claim for your information. Perhaps you would contact me to advise how you wish to proceed in this matter."

Do you recall receiving that letter not along ago?

A. Maybe not.

Q. You

A. I do not.

Q. You don't recall receiving it. Are you suggesting you never received it or that you may have received it but don't remember it?

A. I don't remember it.

Q. There's no reason to believe that you didn't receive it?

A. No.

Q. Doesn't the letter clearly suggest, whether this is correct

or not, doesn't it clearly suggest that Mr. Murphy is under the impression that you are the person or at least one of the people who can advise him what to do or how to go further in relation to this claim?

A. That's right.

Q. So Mr. Mike Murphy certainly seems to be under the impression that you are the person who would decide what should be done in relation to this matter?

A. Correct.

Q. And you see it says "Irish company claim"?

A. Correct.

Q. It doesn't mention any that's the shell company, if you like. It doesn't mention any American parent. So, again, he seems to be under the impression that it was the shell company only that was being sued and not the American parent. How did you get the impression that it was the American parent?

A. I'm just trying to think. I believe I read it somewhere in Gerald Kean's correspondence.

Q. If you go to the letter that's behind it. I think this is the letter that was sent with it, it's from Keans Solicitors, addressed to Mr. Peter Caprani, Mike Murphy Insurance Services Limited, Ardfinnan House, 17 Trinity Street, Dublin 2. Aviation Claim: Celtic Helicopters Limited.

"Dear Peter, I refer to previous correspondence in relation to the aforementioned matter. Would you please

read through the attached statement of claim and let me know if you're satisfied with same.

"If so, I will arrange for the document to be served on Arthur Cox & Company, solicitors, who have entered a confidential appearance to draw up proceedings. We've received the air accident investigation report from the Department of Transport, Energy and Communications and on foot of same, this statement of claim has been prepared and finalized by counsel.

"Please check the particulars of damage and let me know if there is any other costs and expenses that should be included."

"Yours sincerely." Do you recall reading that?

A. I do not.

Q. Can I go back to the next document in the file of documents you've been handed. It's a letter of the 10th of June of 1996, do you see that?

A. Yes.

Q. It's from M.C. Murphy, director, again from Mike Murphy Insurances re: Irish company. It's addressed to yourself and Ciaran Haughey, Celtic Helicopters, Celtic Heliport.

How do you pronounce the next word?

A. Knocksedan.

Q. Swords Co. Dublin. "Dear Ciaran/John, I enclose herewith papers omitted from my letter of the 29th of May together with Gerry Kean's response from the 6th of June. It would

appear that I may have struck a cord." If you go back to the document that was enclosed with that letter.

A. Which document?

Q. It was enclosed with the letter which I just read out.

This is a letter from Mr. Kean to, as far as I can see, to Mr. Michael Murphy. "Dear Michael, I thank you for your letter of the 29th of May"

A. Sorry, which?

Q. Let's be sure we're all on the same letter. Don't worry about the monitor.

A. 51.

Q. Go to your own blue file in front of you and find the letter from Keans Solicitors dated the 6th of June 1996 to Mike Murphy Insurances Limited, Ardfinnan House. Do you have that letter?

A. Yes.

Q. That is the letter which I think was enclosed with the letter I've just read you, read out to you. It says:

"Dear Michael, thank you for your letter of the 29th of May 1996, which I have just received. I concur with the contents of your letters and in fact there is a precedent decision in the House of Lords on this decision which may be of assistance. I've requested a copy of the decision.

"In the meantime, I am continuing with the service of proceedings and will be applying for a judgement on foot of a notice of motion, if we do not receive a defence within the time allowed.

I will continue to keep you advised." Now, do you recall receiving that?

A. No.

Q. That letter was addressed to both or that letter was contained with or attached to a letter that was addressed both to yourself and to Mr. Ciaran Haughey. Is there any reason to believe that you didn't get the letter to begin with?

A. No.

Q. Is there any reason to believe that Mr. Ciaran Haughey wouldn't have brought it to your attention?

A. No.

Q. Is it possible, therefore, that you simply have forgotten that you received the letter?

A. I don't remember reading it or seeing it.

Q. In relation to this claim, would you have had regular dealings with Mr. Mike Murphy over the years from 1991 onwards?

A. I can remember getting correspondence now and again about it, but we were allowing Mike Murphy Insurances to really look after it for us.

Q. What was Mike Murphy looking after for you?

A. He was an insurance broker, he was handling all the if you notice all the correspondence from Keans goes to Mike Murphy Insurances, doesn't go directly to us. So he was

Q. He was handling it for you?

A. Yes.

Q. What was he handling for you? You had no further interest in this claim. You had no claim, you had no financial

A. He'd be answering Mr. Kean's letters.

Q. Why would he be asking you about the claim? Why would he be asking you whether you wished to pursue the claim or not? It wasn't your claim, is that right?

A. Correct, but we were acting we were the plaintiff, if you like, in the claim.

Q. But weren't you merely the people who were going to assist in giving evidence in relation to the claim?

A. Correct. It was Celtic Helicopters who was suing.

Q. Can I ask you to look at a letter now from Mike Murphy Insurances to Mr. Gerry Kean dated the 10th of April of 1995: It says re: Celtic Helicopters. "Dear Gerry, thank you for your letter of the 13th of March and the 21st of April in the above. Perhaps you would please give me a ring to organise a meeting with Ciaran Haughey and John Barnicle to discuss the situation and to see if it is worth their while going forward on this issue. I look forward to hearing from you."

Now, Mr. Murphy was handling this matter for you?

A. Correct.

Q. In his letter he's saying to the solicitor who was dealing with the claim, "I would like to organise a meeting with Ciaran Haughey and John Barnicle to discuss the situation and to see if it is worth their while going forward on this

issue." What does that mean?

A. Well, is it worth our while going ahead with the claim and winning the claim.

Q. Yes. But you didn't have any claim at this stage, isn't that right?

A. But we were continuing a claim on behalf of Mr. Traynor.

Q. What value did the claim have to you? How was it worth your while?

A. That was his choice of words, I don't know. We were continuing the claim on behalf of Mr. Traynor.

Q. And for no other reason?

A. Well, except for the reason that he so kindly bought the assignment for €100,000.

Q. Can we take it then that Mr. Murphy was well aware that this claim was not your claim, but that it was a Celtic Helicopters claim that Mr. Traynor had bought for €100,000 and you were nevertheless pushing it forward for him, for Mr. Traynor?

A. Well, I would have thought he knew, but he claims he didn't, so I can't contradict him.

Q. How did he get the impression how could he possibly have got the impression this was

A. It was in our interests to win the claim on behalf of Mr. Traynor.

Q. It was in your interest to win the claim on of course it was. Why was it in your interest to win the claim on behalf of Mr. Traynor?

A. Because Mr. Traynor was kind enough to buy out our claim for œ100,000.

Q. But you never told Mr. Murphy that?

A. I don't know if I did or I didn't.

Q. Would it surprise you to know that Mr. Kean never knew that either?

A. No, it wouldn't surprise me. We never discussed that.

Q. So it doesn't surprise you to know that neither the broker who was acting for you nor Mr. Kean, the solicitor, was aware that you had actually sold the claim?

A. Mr. Kean probably was not whether Mr. Murphy was or wasn't, I'd have to rely on his own statement.

Q. Wouldn't I be correct in saying that if you look at the letter of the 10th of April of 1995, the one that's up on the screen, that looking at that letter and what is contained in that letter, it seems to suggest that Mr. Murphy thought it was your claim.

A. Correct.

MS. COSTELLO: Mr. Chairman, I think the witness has been asked to speculate on the state of mind of Mr. Murphy and Mr. Murphy will be in a position to give evidence on that himself if called by the Tribunal. I think it's a bit unfair to ask the witness to give speculative evidence on some other person's state of mind.

CHAIRMAN: Well, all right, it's a matter for me ultimately, Ms. Costello. We'll proceed in any event.

Mr. Healy, I think you can perhaps pass from that.

Q. MR. HEALY: Yes. Mr. Traynor died in 1994, isn't that right?

A. I'm not sure of the date.

Q. May of 1994.

A. Is that correct? Yeah.

Q. And did you make any contact with Mr. Traynor between 1991 and 1994 in relation to this claim?

A. No.

Q. Did you make any contact with his estate or perhaps with his family after 1994?

A. No.

Q. And nevertheless you were extremely anxious to prosecute this claim on his behalf?

A. Right.

Q. Without any contact with him or with his family, his estate?

A. Correct. I wouldn't say I was extremely anxious, I was proceeding on his behalf or Celtic Helicopters was proceeding on his behalf.

Q. During all of this time, Deloitte & Touche were the company's accountants, right?

A. Correct.

Q. During this time did you tell the auditors where this œ100,000 had come from and between 1991 and 1998, if necessary, have you informed the auditors that you assigned

a claim for €100,000?

A. We did that in our books, in our ledgers. And they knew of it, it would be March '92, at the end of the '91/'92 account year.

Q. I now want to read from a portion of advices given to your solicitors by counsel who was grappling with this issue at one point solely for the purpose of going through the manner in which this payment was treated in the company's accounts. And I'll just put up on the screen the relevant portion of the opinion: Do you see the paragraph that begins: "The assignment is not in writing"?

A. Yes.

Q. We know that to be a fact, isn't that right?

A. Right.

Q. "There does not appear to be a resolution of the board of directors recording the decision to assign the claim." We know that to be correct. I'll give you a copy to make it easier. "While no receipt in respect of the €100,000 was issued to Mr. Traynor, Celtic Helicopters recorded the receipt of the €100,000 in its cash book." You already stated that in your supplemental statement. "Further, the receipt of the €100,000 was reported by the directors to the auditors and recorded in the audited accounts, though it is not actually described as payment in respect of assignment of the claim.

"The letter of the 27th of July 1995 from Celtic Helicopters Limited to its auditors says as

follows: 'Insurance claims in respect of the crashed helicopter amounted to £195,000. These have been received in full and are reflected in the extraordinary gain of IR £33,000.'

"In the accounts for the year ended 31st March 1992, these figures are entered as an extraordinary item plus £33,000. Note number 5 describes them as 'gain over book value on helicopters which crashed during the year.'"

Now, those two slightly different descriptions of what that £195,000 in your account was represented by make no reference to assignment, isn't that right?

A. Correct.

Q. And you were the people who you were the individuals, yourself and Mr. Haughey were the individuals reporting to the auditors what this was about.

A. I don't remember when I realised that they called in the assignment. They bought the claim is the way I would have put it. Mr. Traynor bought the claim, he bought the claim against the now, you'd have to ask Deloitte & Touche about how they put it in the accounts.

Q. Well, it's your letter that I'm referring to, your letter describes it as an insurance claim.

A. Well I would have been advised on that letter by Deloitte & Touche.

Q. I see. And who in Deloitte & Touche would have so advised you?

A. Paul Carty.

Q. And at that time you say that you mightn't have called it an assignment yourself; isn't that right?

A. I don't remember when it was called an assignment, for document purposes.

Q. Is it, in fact, likely that it was not called an assignment until much, much, much later altogether, perhaps within the last

A. No. It was an assignment as part of the insurance claim.

Q. Would I be right in saying that there was no discussion of an assignment in 1991 or 1992 or 1993?

A. As I said, I don't remember when the word assignment was used for the first time.

Q. Was it

A. But the actual fact of the matter is what happened, and it's now called an assignment, was purchased by Mr. Traynor for 100,000 and it went into our books as part of the insurance claim. And it was treated as such by the accountants.

Q. Well, it's it's eight years ago since the crash occurred, close to it anyway. At what point, over that period of time, was it described as an assignment for the first time?

A. I don't recall.

Q. Is it likely that that description only was only applied to it in the recent past, in the past few years?

A. I'd be speculating if I said I knew when it came up for the

first time.

Q. Am I right in saying that certainly you didn't have the word "assignment" in your mind at any time in 1991, 1992, 1993, 1994, 1995?

A. I can't be certain when it first came up. Originally it was to purchase the claim.

Q. To purchase your claim?

A. Yes.

Q. If you had used that expression, purchase your claim, wouldn't the accountants have applied some technical description to it?

A. You must ask them that.

Q. You're certain that's what you told the accountants?

A. I can't be certain of what I told the accountants. I can only explain what I just explained to you.

Q. Is it the case that Mr. Traynor probably did all your dealings with the accountants?

A. Once he had agreed to purchase it, all the dealings were done, really, through Mr. Carty and Mr. Traynor, as far as the details

Q. You needed the money at the time, you needed the finance, you'd lost your helicopter, and Mr. Traynor set about finding the money for you.

A. Correct.

Q. And came up with the £100,000 which we're now calling an assignment.

A. Correct.

Q. Mr. Traynor came up with the other money for you from the other 300 people or four or five people came up with œ300,000?

A. Correct.

Q. Again, without much reference to you.

A. Correct.

Q. And Mr. Traynor came up with the money for you in 1985 to set up your company, again without much reference to you.

A. He had a hand in it, yes.

Q. And each time that the company needed money to set up, to keep going, or to survive, without much reference to you, it was Mr. Traynor got that money together for you?

A. What do you mean without much reference to myself?

Q. Well, you didn't get the money?

A. No.

Q. You didn't make a play to any of the people from whom the money was obtained?

A. Correct.

Q. You didn't know how it was obtained?

A. Correct.

Q. You didn't know how it was to be treated in the accounts, you left all that to Mr. Traynor?

A. The accounts were left to Deloitte & Touche.

Q. It was they who decided in the final it was the accountants who decided and Mr. Traynor who decided to issue seven percent non-cumulative shares? Have you seen a copy of the memorandum of evidence to be given by Mr. Mike

Murphy?

A. I think I briefly went through it, yes.

Q. In 1992, were you having some difficulty paying the insurance premium on your insurance?

A. Yes.

Q. And is it the case that Mr. Mike Murphy arranged finance for you or arranged a loan, in fact, to pay for this insurance?

A. Correct.

Q. And is it not in fact the case that Mr. Mike Murphy paid the repayments on that loan?

A. Correct.

Q. The total amount of money raised, I think, was somewhere in the order of €95,563, is that right?

A. I think it's 92,000.

Q. Well, you may be better at making sense of these documents than I am. I'll put up the document and you can tell me what it means. Did you say 92,000, because I just realised I may have misread it. €92,563, does that ring a bell?

A. I'd have to see the document.

Q. I'll put up a copy of it. It's on the monitor as well there.

A. That's correct.

Q. That loan had to be repaid by installments in the order of €9,915 at a time?

A. Correct. Ten payments.

Q. Ten payments. And isn't it in fact the case that Mike

Murphy Insurances drew cheques in favour of Celtic

Helicopters as each of those installments came due and let you have the cheques?

A. Correct.

Q. And who organised that finance and that loan for you?

A. Mike Murphy Insurances.

Q. Did you talk to him and ask him to do it for you or did he do it of his own bat?

A. We would have discussed it. He would have come up with it, like.

Q. Well, what did you discuss with him?

A. That our cashflow was a bit short possibly and that I don't remember the exact conversation, but basically

Q. Well, if you wanted to pay your insurance, you needed the money, it was a vital thing to have, isn't that right?

A. Correct, but we didn't need that much at the time. So it was an extra it was a way of getting extra cashflow.

Q. You didn't need that much for insurance?

A. No. The yearly insurance would have been more around €60,000.

Q. I see. But you got cheques for the full amount of €92,553 or a little more, in fact, from Mr. Mike Murphy Insurances?

A. Correct.

Q. And if you hadn't got that money, you'd have been in some trouble. For starters, you couldn't have flown your aircraft, is that right?

A. If they're not insured, you can't fly them, no.

Q. If you can't fly, you can't make money?

A. Correct.

Q. Without this money you were going to have to cease operations?

A. Or find it somewhere else.

Q. Or find it somewhere else. Did you pay the money back?

A. Most of it was paid back.

Q. How much is most?

A. Well, we initially paid him œ50,000 in November.

Q. November of what year?

A. '92, I believe.

Q. '92?

A. Mm-hmm.

Q. Yes.

A. And then we would have I don't remember exactly how it was accounted for, but we would have paid him back over the following years. We'd still owe him some money, we have a running account with him and he has one with us. I don't have the figures.

Q. When you say he has a running account with you and you have one with him, do you provide helicopter services for him?

A. He'd fly maybe once a year.

Q. Is the account in his favour at the moment, then?

A. I haven't done a

Q. I'm sure we can find out how much of it is outstanding.

Would that be possible? You won't need to come back, if we

can find out how much is outstanding.

Did you hear the evidence of Mr. Curneen this morning?

A. I did.

Q. From what your counsel said in cross-examination of

Mr. Curneen, I take it that you agree that you met him,

that you agree that you were looking for finance, and that

you agree that you gave him some indication or a profile of

your company and of the customers.

A. Correct, everything except the 12.5 percent.

Q. You don't agree with that?

A. Absolutely not.

Q. How could he have got that impression?

A. I have no idea.

Q. I see. And

A. It relates to no shareholding in the company.

Q. I see. Isn't that the problem, that he couldn't have

picked that up by mistake, could he?

A. I have no idea where he got it. He did not get it from myself or Ciaran Haughey.

Q. But what did you both know about the shareholdings in the company at that stage?

A. I held 30 percent, Ciaran had 30 percent and Mars Nominees had 40 balance. And there was nothing relating to 12 and a half.

Q. Do you know to this day what shareholding the people who put up the €300,000 had in the company?

A. They hold seven percent non-cumulative.

Q. They do now as a result of an exercise carried out in 1996?

A. Correct.

Q. You didn't know in 1992 what they held, or in 1993?

A. No.

Q. You left all that to Mr. Carty and Mr. Traynor?

A. Correct.

Q. How can you be so certain that Mr. Haughey didn't have 12 and a half percent in 1985? How can you be so certain now that you didn't say that?

A. Well now that I know, but back then all I knew was there was there was 280 shares broken down 60 for myself, 60 for Ciaran Haughey, there was another 55 held by Mars Nominees, there was a five, ten, and whatever the other numbers were that added up to 80. And 12.5 would have added up to 25 shares, there was no 25 holding.

Q. Could Mr. Ciaran Haughey have informed Mr. Curneen of that?

A. No.

Q. What makes you so sure of that?

A. We had the meeting together.

Q. Do you have any note of that conversation?

A. No.

Q. Mr. Curneen does have a note of it?

A. I don't know where he got it. He didn't get it from myself.

Q. It's not a matter for me to decide which is correct but is there any reason to think that Mr. Curneen could have got

his note wrong?

A. Absolutely.

Q. There's a very good reason to think he got his note wrong, what is that?

A. Because I didn't tell him that. I don't know where he got it from.

Q. Because you don't remember telling him that?

A. No. I did not tell him that.

Q. You can remember the meeting that well?

A. No, I can't remember the meeting that well, I'm just saying I would not have said that. I couldn't have said it, I have no reason to say it. At the time I didn't know who the Mars Nominees were.

MR. HEALY: Thanks very much. Sorry, Sir, I'm reminded by Ms. O'Brien that I should have asked Mr. Barnicle just two other matters.

CHAIRMAN: Yes.

Q. Mr. Barnicle, in relation to that €150,000 debt to IIB that we've been discussing and the manner in which that was repaid, I'm not now dealing with the source of the funds from which the cheques used to repay the loan came but rather with the amounts. One amount was €100,000 which you say was because of the purchase of a claim by Mr. Traynor. The next amount was €50,000. What did you understand that to be?

A. Pre-purchased flying hours.

Q. A pre-purchase of flying hours?

A. Correct.

Q. Who told you it was a pre-purchase of flying hours?

A. Mr. Traynor.

Q. It was a pre-purchase of flying hours in a coded name, a Mr. Gary Heffernan?

A. Correct.

Q. Was that a code name for Mr. Haughey?

A. Correct.

Q. And you now know that, in fact, that œ50,000 came from an Ansbacher account as well, isn't that correct?

A. Correct.

Q. It was provided to you by Mr. Traynor, isn't that correct?

A. Correct.

Q. Have you seen the documentation concerning the evidence of Mr. Barnes from Irish Intercontinental Bank?

A. No, I don't think so.

Q. Well I don't want to go with that, Sir, at this point, it's merely technical evidence. If there's any difficulty with it, I'm sure Mr. Barnicle's counsel will be the first to advise the Tribunal. Thanks, Mr. Barnicle.

CHAIRMAN: Before Ms. Costello has an opportunity of clarifying any matters, any other party wish to raise any matters with Mr. Barnicle?

THE WITNESS WAS EXAMINED AS FOLLOWS BY MS. COSTELLO:

Q. Did Mr. Haughey fly with you the value of €50,000?

A. Yes.

Q. Did you bill him in respect of those or did you pay for

A. We would have issued a statement of decreasing value.

Q. So the €50,000 was credited to him in flying hours?

A. Correct.

Q. And I think in addition 3,800 was also flown off by him as well?

A. Right.

Q. In relation to the meeting with Mr. Curneen, it's been suggested that you meet not have remembered telling Mr. Curneen that Mr. Haughey was a shareholder in the company. Did you ever believe that Mr. Charles Haughey was a shareholder in the company?

A. I knew he wasn't.

Q. You knew he wasn't. Did you ever in any other negotiations in seeking finance represent that he was a shareholder in the company?

A. No.

Q. And so you don't remember that you did so in the meeting with Mr. Curneen?

A. No.

Q. You've given evidence to the Tribunal regarding the loan which the company received from Mike Murphy Insurance Brokers in relation to paying of premiums in 1992 and to the effect that the loan has been repaid over the years.

Have you ever had any complaint from Mr. Murphy with regard

to this outstanding loan?

A. No.

Q. In relation to the purchase by Mr. Traynor of the claim by Celtic Helicopters in respect of the crash in Dingle, did Mr. Traynor ever express any concern to you about recovering an award of damages in respect of this claim?

A. No.

Q. And I think just to clarify a point that may have led to some confusion, I think Irish Company Incorporated is, in fact, a company incorporated in the state of Delaware and registered as an external limited company in Ireland, is that correct, or do you know?

A. I don't know.

Q. If there is a successful conclusion of that claim, will the company be retaining any award of damages or settlement monies?

A. No.

Q. If I could turn then, Mr. Barnicle, to some evidence that was arose on a previous occasion. Mr. Michael Murphy, when he gave evidence at a previous sitting of the Tribunal, stated that he had been informed that an investment for €100,000 in Celtic Helicopters in 1992 represented a value of approximately eight percent of the company. Did you ever tell Mr. Mike Murphy this?

A. No.

Q. Did you ever discuss with Mr. Mike Murphy what a stake of €100,000 in Celtic Helicopters would be worth?

A. I did not, no.

Q. When Mr. Murphy was investing the €100,000, he was told to pay the cheque to a Credit Suisse account in Zurich. Did you ever tell Mr. Murphy to do that?

A. I did not, know.

Q. I think Mr. Paul Carty in giving evidence suggested that he might have contacted you with that instruction to pass on to Mr. Murphy, is that correct?

A. No.

Q. Mr. Carty in evidence also stated that Mr. Murphy had expressed a concern

MR. FULLAM: With respect, Mr. Chairman, I think Mr. Carty should be cross-examined on this aspect of the case. This is all fresh.

CHAIRMAN: Well, if it's necessary to reconsider recalling the witness, I'll give due consideration to this, Mr. Fullam, but I'm anxious not to inhibit Ms. Costello unduly. It's a problem that necessarily does occur from time to time, and I have to try and exercise a realistic discretion on it. But I feel I have to give Ms. Costello some leeway at this juncture.

MS. COSTELLO: If My Friend wishes, I can give it on another occasion, but if I can proceed...

CHAIRMAN: Well, fairly briefly, Ms. Costello.

Q. MS. COSTELLO: Mr. Carty said that Mr. Murphy had raised a

query in relations to a share certificate in Celtic

Helicopters to which he would have been entitled in respect of his investment of €100,000, and Mr. Carty's evidence to the Tribunal was that he passed on that query to you, was there a share certificate issuing to Mike Murphy in respect of his investment in Celtic Helicopters? Do you recall ever receiving such a query from Mr. Carty?

A. No.

Q. And did Mr. Mike Murphy ever make an inquiry directly of you in relation to a share certificate?

A. No.

Q. Mr. Carty also stated in evidence in relation to the conversion of the investment of just over €290,000 into shares, he gave evidence to the effect that while preparing the accounts of the company in July 1995, he raised the question with both you and Mr. Ciaran Haughey as to what was to happen to these shares and whether they were to be issued. Do you recall that being raised in connection with the finalising of the accounts of the company?

A. I do not.

Q. He said he gave further evidence to the effect that the director didn't seem to distinguish told him that the matter would be dealt with by March 1996. Do you recall stating that to him?

A. I don't recall that.

Q. Do you recall whether Mr. Haughey would have stated that to him?

A. I don't recall.

Q. No further questions, Mr. Chairman.

CHAIRMAN: Thank you, Ms. Costello.

I think, Mr. Barnicle, you stated that you hadn't repaid the entire of the €92,000 or thereabouts, that you state that Mr. Murphy facilitated you on the insurance premium.

How much, approximately, would still remain due or can you say with any accuracy?

A. I couldn't say with any accuracy, but it wouldn't be a lot. Eight to 10,000 maybe.

CHAIRMAN: All right. Thank you very much, Mr. Barnicle.

THE WITNESS THEN WITHDREW.

MS. O'BRIEN: Mr. Tony Barnes.

TONY BARNES, HAVING BEEN PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS BY MS. O'BRIEN:

Q. You're an associate director in the associate department of Irish Intercontinental Bank?

A. That's correct.

Q. I think you've given evidence before the Tribunal, week before last?

A. That's correct.

Q. On this occasion you've been requested on behalf of Irish Intercontinental Bank to give evidence to the Tribunal in relation to a series of documents which were produced by

the bank on foot of orders for discovery and production of documents made by the Tribunal?

A. That's right.

Q. I think we've numbered those documents number 1 to 17.

Perhaps we can go through those in turn. The first document is document number 1. I think the position there is, Mr. Barnes, that on the 7th of February, IIB received instructions from Ansbacher Limited. That was on foot of a letter signed by Mr. Traynor, isn't that correct?

A. That's correct.

Q. I think he was requesting that you would let him have three

Irish pound drafts for collection on the following

Wednesday, which is the 12th of February. I think each

draft is to be payable to Bank of Ireland, one was for

€100,000, the second for €50,000 and the third for

€3,819.16 and the total was to be debited from account

number 02/01087/81. And I think that was the principal

sterling account maintained by Ansbacher with IIB, is that

correct?

A. That's correct.

Q. And I think in fact subsequent to that, the instruction was

altered by a fax of the 13th of February 1992, is that

correct?

A. That's correct.

Q. That's document number 2. And I think the alteration of the

instruction related solely to the amount of the third

draft. And I think you were requested to substitute the

amount of €3,868.64 for the third draft, is that correct?

A. That's correct.

Q. And I think that was a facsimile directly from Mr. Traynor to Mr. Garrett Logan of Irish Intercontinental Bank.

A. That's correct.

Q. Now, I think the costs of the draft were to be debited to the Ansbacher account number 02/01087/81 and I think

A. That's correct.

Q. And I think the statement of that account, which is document number 3, I think that shows that on the 14th of February there was a debit of sterling €143,867.08.

A. That's correct.

Q. I think the position is that debit was to meet the Irish pound cost of the drafts, is that correct?

A. That's correct, yes.

Q. I think, in fact, document number 4, which is the foreign exchange ticket in respect of that draft, and that's for an exchange dealing ticket 101224, I think that shows that the sum of sterling, €143,867.08 was converted to IR €153,868.54, and I think on the lower left-hand side of that document, you can see that the client's instructions were to issue cheques for €100,000, €50,000 and €3,868.54, is that correct?

A. That's correct, yes.

Q. Now I think the position is that IIB is not a retail bank, is that correct?

A. No, it's not.

Q. So that you have no facility for issuing drafts yourself.

A. No.

Q. I take it the position is that if a client wishes to obtain a draft from you, that you, in fact, issue a cheque on an account that you maintain either with Allied Irish Banks or with Bank of Ireland?

A. That's correct, yes.

Q. I think on this occasion, in fact, three cheques were issued on your account with Allied Irish Banks.

A. That's right.

Q. And I think we can identify each of those three cheques in turn. The first one is document number 5, and that's a cheque in the sum of €100,000 dated the 14th of February of 1992.

A. That's correct.

Q. And that's drawn on your account, Irish Intercontinental Bank account with Allied Irish Banks Limited?

A. Yes.

Q. And paid to the Bank of Ireland?

A. Yes.

Q. I think the next cheque was in the sum of €50,000, and I think it's a poor copy, but it's a similar cheque payable to Bank of Ireland drawn on your account with Allied Irish Banks at College Green, Dublin 2, and also dated, although it's very faint in the copy on the monitor, also dated the 14th of February.

A. That's correct, yes.

Q. And I think then the final of those three cheques, which were issued on foot of the instruction which you received, was a cheque for €3,868.54 and that was also payable to Bank of Ireland also dated the 14th of February and also drawn on the same account, is that correct?

A. That's correct.

Q. I think moving on to the next transaction, I think the position is, as appears in document number 8, that on the 2nd of November, IIB received instructions, again from Ansbacher Limited, to arrange an Irish pound cheque for €50,000 also payable to Bank of Ireland and to debit the sterling cost to the same account, Ansbacher 02/01087/81?

A. That's correct.

Q. And I think although the signature is very faint, that it was, in fact, the signature of Ms. Joan Williams?

A. It is.

Q. And I think a copy of the statement of that account, which is document number 9, I think that shows the sum of STG €63,956.30 was drawn from the account on the 3rd of November of 1992?

A. Yes, €62,956.50.

Q. And I think the reference, although it may have been deleted on the copy, I think the foreign exchange reference was contract number 65801?

A. Yes, that's correct.

Q. And I think we have a copy of the foreign exchange dealing ticket which records that contract number, and that's

document number 10. I think there it shows that the contract number is 655801 and the date of the transaction is the 3rd of November of 1992, that the contract involved the sale of sterling, £62,956.50 which yielded in punts, £57,000. And I think there again on the lower left-hand side of the document you can see that the client's instructions were cheques to be issued to Bank of Ireland in the sum of £5,000, £2,000 and £50,000.

A. That's correct.

Q. And I think that that contract number 655801 was written on a copy of the instruction letter the 2nd of November. If we can go back to document number 8. And I think that from that it's clear that the cheque referred to as 50,000 in contract 655801 is the same £50,000 cheque which was requested in that letter of instruction?

A. That's correct, yes.

Q. Now, I think on the last occasion which you gave evidence, you referred to an instruction that was also received from Ansbacher on the 2nd of November, it was the same date as the instruction we're looking at at the moment.

A. Yes.

Q. I think that instruction on that occasion was to issue an Irish pound cheque for the equivalent sum of sterling £52,500?

A. That's correct.

Q. And I think you gave evidence on that occasion that the sterling £52,500 was to be with drawn from the Ansbacher

No. 2 Account?

A. Yes.

Q. That was the trading account. I think you indicated as well during the course of your evidence on the last occasion that the cheque which was issued on foot of that other instruction the 2nd of November was in the sum of €47,532.82 in Irish pounds.

A. Yes.

Q. Now, I think similarly to the AIB account that you also IIB also maintained an account with Bank of Ireland, isn't that correct?

A. That's correct.

Q. I think in fact the cheques that were issued on foot of both of these instructions received on the 2nd of November, 1992 were actually drawn on the Bank of Ireland account.

A. That's right, yes.

Q. And I think in fact you've been able to obtain from Bank of Ireland copies of both of the returned cheques. I'm afraid the first, the quality of it on the overhead monitor is very poor, but the cheque was dated the 3rd of November 1992, is that correct?

A. That's correct.

Q. It was payable to Bank of Ireland. It was in the sum of €47,532.82 and it was drawn on IIB's Bank of Ireland account.

A. That's correct.

Q. And then the second cheque, which is clearer, I think, is

in the sum of €50,000 drawn on the same account, the same date, and it's also payable to Bank of Ireland.

A. That's correct.

Q. So in fact both of those instructions which you received on the 2nd of November 1992 gave rise to those two cheques that we've just looked at?

A. That's right.

Q. I want to move on to the final set of documents, Mr. Barnes, and they relate to a loan which was granted to Celtic Helicopters. I think the position is, and that is apparent also from the evidence given on the last occasion to the McCracken Tribunal, that in May of 1991, IIB agreed to provide a loan for €150,000 to Celtic Helicopters Limited?

A. That's correct.

Q. I think the position was that was repayable on the 31st of March 1992?

A. That's correct.

Q. And I think the security for the loan was the joint and several guarantee of Mr. Ciaran Haughey and Mr. John Barnicle and that the loan was also subject to the guarantee of Ansbacher Limited?

A. That's correct.

Q. I think the letter of the 29th of January 1992, if we could have that on the monitor, it's document number 13, I think you were instructed by Ansbacher that they wished Celtic Helicopters wished to clear that loan on the 10th of

February 1992 and you were requested to advise the figure required on that date would be, presumably to set the loan as of that date inclusive of interest?

A. Yes.

Q. That was, again, a letter which was signed by Ms. Joan Williams?

A. Yes.

Q. And I think then that you replied to that letter by letter of the 5th of November, and that's document number 14

A. 5th of February.

Q. Sorry, the 5th of February, I apologise. And there you're attaching the settlement figures for payment instructions related to payment of the above loan facility?

A. That's right, yes.

Q. And again you requested that they would confirm that the payment would be made on the 10th of February.

A. That's correct.

Q. And I think in the event payment was not received until the 14th of February, is that correct?

A. That's correct, yes.

Q. And I think, in fact, document number 16 is the letter under cover of which the cheque in settlement of the loan was received, that's a cheque the 14th of February of 1992, and it encloses a draft for credit to Celtic Helicopters account, it's a letter from Mr. Traynor. It is on Ansbacher headed note paper with an instruction to reply to 42 Fitzwilliam Square. I think it says "As arranged

herewith, draft for credit for Celtic Helicopters account,

I would appreciate if you could let me have in due course a copy of the enclosed statement."

A. That's correct, yes.

Q. And I think document number 15 is a copy of the draft that was furnished to you, that you were able to obtain and that's a draft issued on the branch Bank of Ireland at Dublin Airport, it's in the sum of €153,868.54.

A. That's correct.

Q. It's dated the 14th of February 1992. Now I think in fact that a further payment was made on the following Monday to make up for a short form of interest, is that correct?

A. Yeah, that's correct.

Q. And I think that was furnished to you under cover of letter of the 17th of February of 1992. I think that's document number 17. I think it says there it's a letter from Mr. Traynor to Irish Intercontinental Bank Limited. It's again on Ansbacher headed note paper, it's to Ms. Siobhan Lynch, manager - banking. "Further to letter dated 14th of February of which I enclose draft for IR €153,868.54, I enclose herewith cash amounting to IR €146.140 being the weekend interest incurred due to the lateness of the time we received the draft on Friday last.

"Hopefully this now concludes matters and apologies for the various changes in dates."

A. Yes, that's correct.

Q. And as a result of that the entire loan was cleared, is that correct?

A. That's correct.

MS. O'BRIEN: Thank you, Mr. Barnes.

MS. COSTELLO: Two very short questions.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MS. COSTELLO:

Q. Mr. Barnes, is it correct to say that all your correspondence in relation to this matter was with Ansbacher Limited?

A. Certainly in relation to anything to do with the deposit business was left with that. I'm not able to talk on the loan side. It's not my responsibility.

Q. In relation to the repayment of the loan, it was with Ansbacher Limited?

A. Correct, yes.

Q. Did you have any dealings directly with Celtic Helicopters yourself?

A. I certainly didn't but I can't comment on the loan side because I'm not involved in that area.

MS. COSTELLO: Thank you.

MS. O'BRIEN: One final matter.

THE WITNESS WAS EXAMINED FURTHER BY MS. O'BRIEN AS FOLLOWS:

Q. I just want you to confirm, Mr. Barnes, that all of the

correspondence that IIB forwarded to Ansbacher was to the address at 41 Fitzwilliam Square sorry, 42 Fitzwilliam Square.

A. 42 Fitzwilliam Square.

Q. And that was Mr. Traynor's office?

A. Yes. Certainly during Mr. Traynor's lifetime, that was the case. Subsequently it may have gone to another address, but during his lifetime it went to 42 Fitzwilliam Square.

Q. Very good. Thank you, Mr. Barnes.

CHAIRMAN: Thank you for your attendance, Mr. Barnes.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Mr. John Byrne, please.

JOHN BYRNE, PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS BY

MR. COUGHLAN:

CHAIRMAN: Thank you for attending again, Mr. Byrne.

You're already sworn. Thank you.

Q. MR. COUGHLAN: Mr. Byrne, I think you have provided a memorandum of information to the Tribunal on an investment in Celtic Helicopters, and I think you also provided a further statement about matters we went over on the last occasion. Do you have those with you, Mr. Byrne?

A. Yes, yes, I have.

Q. Yes, indeed. First of all, I think you want to make a correction in relation to evidence which you gave on the last occasion, I think on the 5th of February, is that

correct?

A. That is correct.

Q. And I think that on that occasion when I was questioning you, you were of the belief that you had asked Mr. McCann and your solicitors to make certain inquiries when you became aware that Dunnes Stores monies had gone through the Carlisle account, isn't that correct?

A. That's correct.

Q. I think you now wish to correct that and that

A. Yes, I do, Chairman.

Q. Yes. And I think that it's your understanding that you didn't ask your solicitors to make inquiries about that, isn't that correct?

A. Yes, that is correct.

Q. Nor did you ask Mr. McCann to make inquiries of Celtic Helicopters, is that correct?

A. Yes, that is correct.

Q. And just in relation to that, Mr. Byrne, I think can you now remember whether Mr. Traynor was alive or dead when you became aware that Dunnes Stores or Bank of Ireland were making inquiries of Carlisle's account at the Rotunda branch?

A. Yes, I can. I'm absolutely positive that Mr. Traynor was dead when that query came.

Q. I see. And when you became aware that an inquiry was made and you saw that Dunnes Stores monies had gone into Carlisle accounts and had come out immediately by cheques

drawn on the Carlisle account into Celtic Helicopters, I think that can we take it that you would have been aware that, even without making any inquiries, that Mr. Traynor must have done this?

A. Repeat that please again?

Q. Well, would you have been you knew an inquiry had been made and you knew that money that certainly wasn't Carlisle's money had gone into Carlisle's bank account, isn't that correct, and you knew that the same amount of money had come out of Carlisle's bank account and gone off to Celtic Helicopters, is that correct?

A. That's correct.

Q. And can I take it that without making any inquiry at all, you'd have been conscious of the fact that it was Mr. Traynor who did that?

A. Well, I would be. He'd be the only one that could do it.

Q. And also when we come to deal with your own investment in Celtic Helicopters, I think that took place around November of 1992 itself, didn't it, I think in the statement you furnished to us. Would that be right?

A. Could be right. I'm not sure.

Q. I'll take you through that in a moment, Mr. Byrne. But is it because you were aware that the payment had gone to Celtic Helicopters that you didn't make any further inquiries or inform anyone about it? Would that be fair to say?

A. The payment to Celtic Helicopters?

Q. Yes, out of Carlisle. Now, I'm talking about the payment out of Carlisle into Celtic Helicopters. Can I take it it was because it went into Celtic Helicopters that you decided not to take it any further yourself?

A. My recollection of the payment to Celtic Helicopters did not come out of Carlisle.

Q. No, sorry, perhaps I'm not explaining myself, Mr. Byrne. I'll take it step by step.

Now, we're talking about two separate payments to Celtic Helicopters. I'll come to talk about your own investment or payment into Celtic Helicopters in a moment. What I want to talk about is the Dunnes Stores money which went into Carlisle Trust bank account and then the same amount was withdrawn from Carlisle Trust and went into Celtic Helicopters, €100,000 went into Celtic Helicopters and the balance was withdrawn to cash and went into a company called Kentford, and we've dealt with that.

A. That's right.

Q. Well, what I really and that's it's that payment into Celtic Helicopters I want to ask you about now.

A. Yes.

Q. I think you told us that you were you were shocked, first of all, by this; isn't that correct?

A. That is correct.

Q. Can we take it that you were extremely disappointed with Mr. Traynor over this?

A. Well, I was surprised and perhaps disappointed.

Q. Disappointed. But you knew of Mr. Traynor's relationship with Celtic Helicopters and Mr. Traynor's relationship with the Haughey family, didn't you?

A. I did, yes.

Q. Can we take it it was for that reason this isn't a criticism it was for that reason you decided not to take the matter any further bearing in mind that Carlisle Trust was not out of pocket, would that be fair to say?

A. Well, it would certainly be the case that I didn't take it any further when I wasn't out of pocket.

Q. Yes, I know. And we've been over that ground over and over again, Mr. Byrne. But can we take it that it was because you knew the relationships that you decided not to take the matter any further?

A. I don't think so.

Q. Are you sure about that?

A. I was more or less quite happy when I discovered that the companies were not out of pocket.

Q. Now, if I may turn for the moment to your own payment to Celtic Helicopters. I think you've provided a memorandum of information to the Tribunal and if I could just take you through that. I think you've informed the Tribunal that in November 1992, Mr. Byrne invested the sum of approximately that's you €14,533 in Celtic Helicopters Limited. That's the Irish sum of money, isn't that correct?

A. That would be correct.

Q. And I think you informed the Tribunal that the circumstances of the investment were that in September or October 1992, Mr. John Barnicle, a director of Celtic Helicopters, made contact with you in connection with the company's need for investment.

A. That is correct, yes.

Q. And that in or around the same time, that's in or around September or October of 1992, you were approached by Mr. Traynor who was attempting to raise capital for Celtic Helicopters Limited, is that correct?

A. That is correct.

Q. And I think you've informed the Tribunal that Mr. Traynor persuaded you to invest approximately €50,000 in the company, is that correct?

A. That is correct.

Q. And I'll come back to that in a moment.

I think you've informed the Tribunal that you accept that your investment in the company is represented by part of the lodgement of €122,532.82 to the account of Celtic Helicopters with the Bank of Ireland on the 6th of November 1992 from documents that have been furnished to you by the Tribunal.

A. I believe so.

Q. I think you accept that your investment was the Irish pounds equivalent of €52,500 sterling, is that correct?

A. That is correct.

Q. And I think you left the details of the financing of this

investment to Mr. Traynor, but you're satisfied that the original source of the funds was from your family trust of which Ansbacher Cayman was the trustee, is that correct?

A. That is correct.

Q. And I think you informed the Tribunal that you had no knowledge of any Ansbacher account in Zurich?

A. None.

Q. I think you've informed the Tribunal that you accept from the documents provided by the Tribunal that the funds appear to have been paid from Ansbacher account number 02/01087/81?

A. Yes, I believe so.

Q. This is the payment to Celtic Helicopters.

A. Yes.

Q. And you've informed the Tribunal that you believe that you were not furnished with any written financial information relating to Celtic Helicopters prior to making your investment, is that correct?

A. That is correct.

Q. And you do not have any correspondence with Celtic Helicopters or any other person relating to your investment in November of 1992?

A. No.

Q. You do not recall receiving any documents issued by Celtic Helicopters Limited or any other person on its behalf to you or to any person on your behalf acknowledging receipt of such investment or the manner in which such investment

was to be treated in the accounts of Celtic Helicopters?

Nobody's ever

A. Nobody has ever I left all that to Mr. Traynor.

Q. Yes. I don't think you have any documents relating to any application for the issue of or allotment of preference shares in Celtic Helicopters?

A. No.

Q. And I think you've informed the Tribunal that you did not discuss this investment with any member of the Haughey family at the time.

A. That's correct.

Q. Now if I might just, Mr. Byrne, ask you a few questions. I think when you were approached by Mr. Traynor in September or October of 1992, it was he who persuaded you to make an investment in Celtic Helicopters, is that correct?

A. Yes, it was.

Q. And what form did the persuasion take place?

A. He approached me to know if I'd make an investment of approximately €50,000 and I informed him that it was impossible for me to make that type of investment; that my companies were not investment companies, they were investment companies but they were concentrating mainly in property.

Q. Yes.

A. And he then said did I mind if he approached the trustees or the trust itself to know would they make the investment.

Q. Yes.

A. And that's what he did and that's what happened.

Q. Yes.

A. And it was sometime afterwards, a good while afterwards, that he informed me that he had and that I was the proud possessor of shares.

Q. You never saw any shares?

A. Never saw any shares.

Q. You never saw anything.

A. Never saw anything.

Q. And the when he asked your permission to approach the trustees to make the investment, I take it that you just left all this in Mr. Traynor's hands, did you?

A. I left all this to Mr. Traynor.

Q. And Guinness Mahon Cayman Trust were the trustees, isn't that correct?

A. That's correct.

Q. And I think Mr. Traynor was the chairman of that company.

A. He was.

Q. More or less applying to himself as the trustee effectively, isn't that correct?

A. You might say that.

Q. Can we take it, Mr. Byrne, that if Mr. Ciaran Haughey hadn't been involved in this particular enterprise, Celtic Helicopters, you wouldn't have countenanced any type of investment?

A. It would be hard for me to answer that one.

Q. Well, you've been around business a long time, haven't you?

A. Been around a good while.

Q. And you'd have a fair idea if you looked at a balance sheet or if the auditors were to describe a company as not being in the healthiest of shapes, wouldn't you?

A. This is true.

Q. And can we take it that you didn't survive in business by making unwise investments in your own mind?

A. Yes. Well, this was when Mr. Traynor approached me on this, I considered it a very long-term investment, and perhaps high-risk, and hoping that it might turn out all right. That was my assessment at the time.

Q. It was more hope than a business decision, would that be the way

A. Well, it was 50-50.

Q. Can we take it that it really was a combination of Mr. Traynor and the association of Celtic Helicopters and Mr. Haughey that really would have swung you to, say, approach the trustees? Would that be fair?

A. That would be fair. That would be fair.

MS. COSTELLO: Could we clarify which Mr. Haughey, because we were talking about Mr. Ciaran Haughey earlier.

MR. COUGHLAN: We're talking about two Mr. Haugheys, Mr. Ciaran Haughey and Mr. Charles Haughey and Mr. Traynor, the combination of those.

Q. Now, I know you've said that Mr. Traynor may at some time have told you that you were the proud possessor of some shares but you've never received any shares, you've never received any communication from anybody about shares, and you've never been asked for your views about how those shares should be converted into anything; is that right?

A. Well, I left all that to Mr. Traynor.

Q. Of course. I suppose the reality of the situation is that have you ever been informed by the trustees that the trustees have any shares in Celtic Helicopters, the trustees of your family trust?

A. No, I'm not. The management of the trust has the sole responsibility of the trustees.

Q. Yes, yes, yes. And of course they were the ones who were making the investment as far as you were concerned.

A. Mr. Traynor said he would approach them, he would put the proposition to them.

Q. Yes.

A. And it probably took some while before they made up their mind. And it was sometime after that I was informed of that by Mr. Traynor.

Q. So I suppose the reality of the situation so is that you were never informed about anything, it now would appear that there are certain preferential shares being held on your behalf, but of course if you were to be really correct about this, the investment was never made by you personally

at all, is that right, it was made by the trust.

A. Well, it was made by the trust but I now find the shares are in my name.

Q. Well, they're not even in your name, they're in MIS' name, which is another nominee company, but that's I know we've been through matters in the Tribunal and MIS hold them

A. Yes.

Q. in trust for you. Sorry, in trust for Larchfield who in trust hold them in trust. Thank you, Mr. Byrne.

A. Thank you.

CHAIRMAN: Ms. Costello? Mr. Shipsey?

MR. SHIPSEY: No questions.

CHAIRMAN: I suppose, Mr. Byrne, when Mr. Traynor approached you in the first instance and you were reluctant to give a personal assent, he pressed you a little more, could he go to the trustees.

A. That's correct.

CHAIRMAN: You could have told them at that stage, no way do you want myself or my business to have any hand or part of it and you thought somewhat carefully before you told him he could approach the trustees.

A. That is correct, Chairman.

CHAIRMAN: Because as you said to Mr. Coughlan, you must have known his prospects were fairly reasonable if he went

to the trustees of which he was chairman.

A. That would be my...

CHAIRMAN: Thank you very much.

A. Thanks, Chairman.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Just checking to see if Ms. Kells is here.

She'll be here in five to ten minutes. I wonder would you rise.

CHAIRMAN: Her evidence, I think, would be quite short and should conclude today's sitting. If she's going to sit two days it would be pointless, but if we can conclude her evidence, we'll take it.

MR. COUGHLAN: Yes. I don't think My Friends will have any questions, so it should conclude in five minutes.

CHAIRMAN: Very good.

THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK AND RESUMED AS FOLLOWS:

SANDRA KELLS, PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS BY MS. O'BRIEN:

Q. Ms. Kells, you're finance director of Guinness and Mahon bank and you've given evidence to the Tribunal on two previous occasions and I think on this occasion the

Tribunal has asked you to comment, give evidence in relation to a number of documents relating to an account in the name of Celtic Helicopters Limited in Guinness and Mahon.

A. That's correct.

Q. And I think you have prepared and assisted the Tribunal by producing a supplemental memorandum of evidence.

A. That's correct.

Q. Perhaps if I could take you through that memorandum of evidence, Ms. Kells, and I'll hand up to you a copy of the documents referred to, they're documents numbered 1 to 21.

I think you have them.

A. Yes, I have them, sorry.

Q. Now, I think the first document which you refer to in your memorandum of evidence is document number 1, and I think you've informed the Tribunal that this is a copy extract statement of Celtic Helicopters Limited loan account number 08339037 and I think the account was described as a resident loan account and the bank's records show that the Celtic Helicopters was approved for a loan of €80,000, is that the position?

A. That is correct, yes.

Q. I think you informed the Tribunal that the statement shows that on the 29th of March 1985 there were four entries across that loan account.

A. That is correct.

Q. And I think on the overhead monitor you can see it, that

there were two debits in the sums of €142,065 and another debit on the same day of €17,935?

A. Yes.

Q. There were two credits, one the sum of €5,000 and one in the sum of €75,000?

A. That's correct.

Q. And those credits were described as lodgements?

A. Yes.

Q. And I think document number 2 is a copy of the bank's daily input log, and I think we have that as the original and also the reconstituted, and we can put up that form. I think that's a copy of the bank's daily input log for the 29th of May sorry, the 29th of March. And I think that shows the all transactions across the Celtic Helicopters's account on that date.

A. Yes, that's correct.

Q. And I think that again, which is an internal bank document, I think that also records the two debits and the two credits across the account.

A. There's just a slight typo, I think, on the first amount, €17,035, it should be 935, just for the record.

Q. I think it appears in the bank's records that the source of the lodgement of €5,000 to the Celtic Helicopters's account, that's the second of the entries shown, was the proceeds of a cheque for €5,000 dated the 25th of March of 1985. And I think that was drawn on an account of Pseudohead (?) Investments Limited with the Bank of Ireland

O'Connell Street branch and it appears to bear the signature of Dr. John O'Connell, isn't that correct?

A. 25th of March.

Q. And document number 3 is a copy of the microfiche record of the cheque in question?

A. That's correct, yes.

Q. And I think document number 4 is a copy extract from the bank's daily input log for the 29th of March 1985.

A. Yes.

Q. And I think that shows the again, I think we have that in a reconstituted version, which shows it more clearly. I think that shows both the lodgement of the €5,000 to the account of Celtic Helicopters.

A. Yes, through the cheques clearing account.

Q. Yes, and it shows the cheque and the sort number?

A. Yes.

Q. 90-07-97 and I think that goes with the €5,000 cheque that was on the monitor?

A. That's correct.

Q. That's how you can identify the particular account from your microfiche records?

A. Yes. You can see the sort code and that matches with the cheque previously shown. This is how we would cross-check cheques internally ourselves.

Q. I think you also informed the Tribunal that it appears from the bank's records that the source of the lodgement of €75,000 to the Celtic Helicopters's account was a transfer

from resident current account 08116008 and that was an account in the name of Amiens Securities Limited?

A. Yes.

Q. This was an account that was opened on the 17th of January 1985 and was closed on the 17th of April of 1985.

And I think document number 5 is a copy statement of the Amiens Securities Limited account. I believe that's on the monitor at the moment.

A. Yes.

Q. And I think that shows the debit there under the debit column of œ75,000 on the 28th of March of 1985?

A. Yes, the second of the last debit entry relates to the earlier transaction.

Q. And I think the next document is document number 6, and again I think we have it in the original form which is very difficult to read, and we have reconstituted it in identical form. If we could have the reconstituted one on the monitor. I think document number 6 is another extract from the bank's daily input log. I think that's for the 28th of March of 1985.

A. That's correct, yes.

Q. And I think that shows the first entry shows the debit to the Amiens Securities account 01880188?

A. Yes.

Q. And then 75,000 to an account 9662019. I think what you informed the Tribunal of that account, 90062019 is a Guinness and Mahon account which is designated outstanding

drafts account and in an ordinary account, that would be funds to meet funds debited to that account?

A. Yes.

Q. And I think the next document the Tribunal has asked you about is document number 7, and that's another extract from the Guinness and Mahon daily input log, this time for the 29th of March, which is the following day.

A. That's correct.

Q. And I think, again, we have that in we don't have that in reconstituted version. I think you have the original before you.

A. Yes, I have.

Q. And I think that input deal number 2024 and it shows that the sum of €75,000 was debited from the outstanding drafts account and was then credited to the Celtic Helicopters's account number 08339007.

A. Yes, that is correct.

Q. So the credit to the outstanding drafts account as shown on the daily input log for the previous day had the same number which was 702597. I think we can see it very faintly on the overhead monitor.

A. Yes, that's correct.

Q. And I think that matches to the number on the daily input log for the following day.

A. Yes, that is correct.

Q. And I think you informed the Tribunal that there does not appear to have been any apparent logical reason for the

routing of the money through the outstanding drafts account.

A. We normally expect monies to be routed there to match a draft drawn from the bank. In this case there was no draft drawn. There were periodic entries processed through this account.

Q. And then transferred on to the account of Celtic Helicopters?

A. That is correct, yes.

Q. If we go back turn to the copy extract statement from the Amiens Securities account. I think that's document number 5. I believe that should be on the monitor now shortly. You've informed the Tribunal that the as of the 26th of March of 1985, the statement shows that the account was overdrawn. And on the 26th, 27th, 28th, there were five lodgements to the account amounting in total to £70,000, and they appear to have funded the withdrawal of £75,000 over the 28th of March 1985.

A. Yes, that would be correct.

Q. And I think you've informed the Tribunal that the lodgements were in the following amount: Firstly, on the 26th of March, £10,000; secondly on the 26th of March also £15,000; thirdly on the 27th of March, £10,000; fourthly, on the 27th of March £25,000; and fifthly, on the 28th of March, £25,000. And I think you can see them on the right hand column under credits?

A. Yes.

Q. And you informed the Tribunal there was a small further lodgement on the 26th of March in the sum of €1,034.50?

A. That's correct.

Q. And I think in your memorandum you indicated that you would deal with each of those lodgements, the €10,000, the €5,000, the €10,000, the €25,000 in turn?

A. That's right.

Q. We'll deal with the first one on the 26th of March 1985 in the sum of €10,000. And I think the first document furnished which relates to that lodgement is document number 8 and I think we do have that in a reconstituted form. I think you've informed the Tribunal that document number 8 is a copy extract from the bank's daily input log for the 26th of March of 1985.

A. Yes, that is correct.

Q. And I think input deal number 3014 records the credit of the €10,000 on that date to the Amiens Securities Limited account?

A. Yes.

Q. And I think the entry immediately below that records the debit side of that transaction.

A. To the cheques clearing account.

Q. And it shows that the corresponding debit was to account 06306004 which is the bank's cheques clearing account. It also shows that the sort code of the cheque was 93-41-51.

Part of the collection system was to microfiche Irish pounds cheques lodged with the bank and the bank's

microfiche records for the 26th of March record a cheque for €10,000 sort code 93-41-51?

A. That's correct.

Q. And I think a copy that have is document number 10 sorry, document number 9. I think that's a copy cheque in the sum of €10,000. And again the copy is poor, dated the 19th of March 1985, and I think it's payable to Michael Dargan Esq, drawn on the account of J. Magnier, GS number 14 account?

A. Yes.

Q. And that account was with Allied Irish Banks Limited, St. Patrick's branch, Bridge Street, Cork?

A. Yes.

Q. Having regard to those documents we've referred to, you've informed the Tribunal it appears from the bank's records that the source of the lodgement of €10,000 to the account of Amiens Securities on the 26th of March was the cheque for €10,000 which you just referred to, which is now on the overhead monitor.

A. Yes.

Q. Then moving on to the second lodgement of Amiens's account which was also on the 26th of March 1985, but in the sum of €15,000, you've informed the Tribunal that document number 10 is another extract from the bank's daily input log for the 26th of March of 1985, and again I think we may we don't have that reconstituted, but from the copy which is on the overhead monitor, I think input deal number 3130

records a foreign exchange dealing; is that correct?

A. That is correct, yes.

Q. And I think that shows that a sum of STG €12,420 was withdrawn from account 03154297, is that correct?

A. That's correct.

Q. And I think that was the Guinness Mahon Cayman Trust account?

A. Yes, that's correct.

Q. And I think that sterling amount was then credited to Guinness and Mahon foreign exchange dealing account?

A. Yes.

Q. That's account number 90064011.

A. Yes.

Q. And I think it was then converted to IR €15,000?

A. That is right.

Q. And it was then credited to the bank's Irish pound foreign exchange account?

A. That's correct.

Q. I think that Irish foreign exchange account is account number 90065018?

A. Yes, that's correct.

Q. Then I think document number 11, which is the next document, and I think that is the original and we also have it in the reconstituted form, I think that's a further extract from the bank's daily input log for the 26th of March of 1985.

A. Yes. That is correct.

Q. And I think that records input deal number 5824, which is in the sum of €15,000.

A. Sorry, deal 4824.

Q. I apologise, that's in the sum of €15,000.

A. Yes.

Q. And I think that is the proceeds of the conversion of STG €12,400?

A. Yes, we actually know from the account that that relates to the proceeds of the conversion.

Q. And I think that was debited from the bank's foreign Irish pound foreign exchange dealing account on the 26th of March 1985, and I think the entry below that shows that the same amount was lodged to the Amiens Securities account.

A. Yes, that is correct.

Q. And I think the debit to the foreign exchange dealing account, the description does not reflect the reality of the transaction as there was no reverse deal?

A. No. It was a straightforward transfer from FX to the Amiens account.

Q. I think document number 12 is a copy of the foreign exchange dealing account. I think that shows both the credit to the account of the €15,000 and the debit to the account on the same date. I think that's the debit side, and I think there we have the credit side.

A. Yes. That is correct.

Q. And I think finally in relation to this transaction, we have a copy of the Guinness Mahon Cayman Trust sundry

subcompany account from which the bank's internal documents would suggest that a withdrawal of STG €12,400 was made?

A. Yes, that's correct.

Q. And I think that's document number 13, and I think document 13 shows that on the 26th of March there was a withdrawal of STG €12,420 and I think that's described as EXCH Guinness?

A. It was an exchange deal converted into Irish.

Q. And I think therefore the basis of the bank's records, you've informed the Tribunal that the source of the lodgement of €15,000 to the account of Amiens Securities on the 26th of March 1985 was a withdrawal of the sterling being equivalent from the Guinness Mahon Cayman Trust sundry subcompany account.

A. That's correct, yes.

Q. Moving on then to the fourth of the lodgements or credits to the Amiens Securities account, that was the credit on the 27th of March 1985 in the sum of €10,000. I think document number 14, if I could have that on the monitor, document number 14 is an extract, again from the bank's daily input log, for the 27th of March 1985. And I think that it records a foreign exchange deal in relation to the conversion of a sum of STG €8,200.

A. Yes.

Q. And I think the record of the log shows that the STG €8,200 was withdrawn from the Guinness Mahon Trust account 03154602?

A. Yes, that was the principal sterling.

Q. That was the principal sterling deposit account?

A. Yes, that's right.

Q. And I think that amount of STG €8,200 was then credited to the bank's sterling foreign exchange dealing account.

A. Yes, that is correct.

Q. And I think it was then converted to Irish pounds.

A. That's correct.

Q. And it yielded a sum of €10,000, is that correct?

A. That is correct, yes.

Q. And I think the €10,000 is then shown in the first of the two entries on that

A. That is correct.

Q. log entry.

A. Yes.

Q. And I think that was also credited to the Guinness and Mahon Irish pound foreign exchange dealing account.

A. That is correct.

Q. That's the same one to which the previous sum of 10 €15,000 was lodged?

A. Yes.

Q. And I think document number 15 is a further copy from the bank's daily input log for the 22nd 27th of March, and I think deal number 5239 records that the sum of €10,000, which was the proceeds of the conversion of STG €8,200 was debited from the bank's foreign exchange dealing account, and was then credited to the account of Amiens Securities

Limited.

A. Yes, that is correct.

Q. And I think the debit to the foreign exchange dealing account with the description reverse entry, again you've informed the Tribunal it does not reflect the reality of the transaction as there was no reverse deal.

A. No, it does not.

Q. I think again we can see in document number 16, which is another extract from the statements of the Guinness Mahon foreign exchange dealing account, I think again we can see both the debit and credit side of that transaction. We should be able to see the €10,000. The copy is poor. We can see it there, debited. And I think on the following page, we see the same sum being credited.

A. That's correct.

Q. And I think we can just make it out on the overhead monitor on the left under "Particulars" we have exchange Guinness Mahon Cayman.

A. That's correct, yes.

Q. I think document number 17 is an extract copy statement from the Guinness Mahon Cayman Trust deposit account with an account number 03154602?

A. That's the principal sterling account.

Q. And I think we can see the withdrawal there of STG €8,200 on the 27th of March 1985.

A. Yes, that's correct.

Q. And I think again that's described as exchange Guinness

Mahon Cayman.

A. Yes, that's correct.

Q. And I think on the basis of those documents you've also informed the Tribunal that the source of the lodgement of œ10,000 was the withdrawal of the sterling equivalent, œ8,200, from the Guinness Mahon Cayman account?

A. That is correct, yes.

Q. Then moving on to the lodgement of œ25,000 to the Amiens Securities account on the 27th of March, I think document number 18, which is now on the overhead monitor document number 18 is an extract from the daily input log again for the 26th of March. And I think it records a foreign again a foreign exchange transaction and it shows that a sum of sterling œ20,712.50 was withdrawn from the same Guinness Mahon Cayman Trust 602 account?

A. That's correct.

Q. And I think it went through the same bank internal accounts?

A. That's correct.

Q. Whereby it was converted from sterling into Irish pounds, and I think it yielded a sum of œ25,000 in punts.

A. In Irish, yes.

Q. And again that sum would have been or was credited to the Guinness and Mahon Irish pound foreign exchange dealing account.

A. That is correct, yes.

Q. And I think the next document, which is document number 19,

and again we do have that reconstituted so it's clearer on the monitor. There we are. Again, I think that's another extract from the daily input log for the 27th of March 1985. I think that shows the €25,000 being drawn from the bank's foreign exchange dealing account, that's the first entry, shows the account number 90065018 and it shows that being debited on the 27th of March.

A. That's correct.

Q. And I think the other side of the transaction, immediately below it, shows that the sum was lodged to account 09116008?

A. Yes, I think that's a typo there, its 08116008 which is the Amiens account number.

Q. And I think again we have a copy of both bank statements which we can go through. Document number 20, which is again another extract from the Guinness and Mahon foreign exchange dealing account, and that shows the credit of €25,000 on the 26th of March and the debit of the same amount on the 27th of March.

A. Yes. That is correct.

Q. And then I think finally in relation to that transaction we have a copy of document number 21 sorry, return to document number 17, which is again the same copy of the Guinness Mahon Cayman Trust 602?

A. That's correct.

Q. And I think that also shows a debit of STG €20,712?

A. For the 26th of March.

Q. For the 26th of March. I think that's actually shown above you see it there, for the 26th of March, €20,712.50.

A. Yes.

Q. And that's the same description, exchange Guinness Mahon Cayman?

A. Which indicates the money is removed through an exchange dealing.

Q. And I think again on the basis of those documents that you have informed the Tribunal that the source of the sum of €25,000, which was lodged to the account of Amiens Securities on the 27th of March, was a withdrawal of the sterling equivalent from the account of Ansbacher Cayman.

A. That's correct, the 602 account.

Q. Moving on to the last then of the lodgements to the account, that was on the 28th of March of 1985. If you go back to document number 21, I think you've informed the Tribunal that this was a copy extract, again from the bank's daily input log for that date, the 28th of March 1985.

A. Yes, that's correct.

Q. And I think you informed the Tribunal the deal whereby the sum of €10,000 was credited to the Amiens account is recorded as deal number 2004?

A. Yes, that's correct.

Q. And I think the first entry on the dealing shows that the corresponding debit of €10,000 was from account number

05519005?

A. That is correct, yes.

Q. 005?

A. No, 05519055.

Q. And I think that was an account in the name of a customer of Guinness and Mahon?

A. Yes.

Q. Could you tell us what customer that account was in the name of?

A. It was in the name of Seamus Purcell.

Q. And then I think the second entry on that transaction is the corresponding lodgement, again of €10,000, and that's to the account of Amiens Securities Limited. I think it shows the account number there 08116008.

A. That is correct, yes.

Q. I think based on that document you informed us that the bank records show that the source of the lodgement of €10,000 to the account of Amiens Securities Limited on the 28th of March was a transfer from account 05519055 which was in the name of Mr. Seamus Purcell?

A. Yes.

Q. And then just in summary, in relation to all five of the lodgements to the account, I think you've stated and informed to the Tribunal that the sources of the lodgements to the account amounting in total to €70,000 appear from the bank records to have been as follows: Firstly on the 26th of March 1985, sum of €10,000. I think you informed

the Tribunal was a cheque payable to Michael Dargan, Esq.?

A. That's correct, yes.

Q. And the second credit on the 26th of March 1985 in the sum of €15,000 was the withdrawal of the sterling equivalent from Guinness Mahon Cayman account number 03154297?

A. That's correct.

Q. And I think then on the 27th of March 1985, the third credit of €10,000, you've informed the Tribunal was the withdrawal of the sterling equivalent from the Guinness Mahon Cayman Trust, again the same account number 03154602?

A. That's correct.

Q. That's a different account.

A. This is the general account.

Q. And then the fifth in the sum of the €25,000 on the 28th of March 1985, I think you informed the Tribunal was the withdrawal of the sterling equivalent also from the same Guinness Mahon Cayman Trust account 03154602?

A. That's correct.

Q. And the final of the credits on the 28th of March 1985 in the sum of €10,000 was a transfer from account number 05519055?

A. Yes, can I I just want to correct what I earlier said.

That account was actually in the name of Purcell Exports Limited.

Q. Purcell Exports Limited?

A. Yes.

Q. I think on the last occasion, Ms. Kells, reference was made

to a Guinness and Mahon document relating to a credit committee meeting where it came before the credit committee for a sanction for €80,000 loan to Celtic Helicopters Limited. I think you may recall that evidence. I don't know if you were here at the time, but the evidence was certainly given. You don't?

A. I don't recall giving the evidence.

Q. No, I don't believe it was given by you. But there was a copy document which was put in evidence before the Tribunal which was a proposal which went before the credit committee meeting in relation to the sanctioning of €80,000 by Guinness and Mahon for Celtic Helicopters.

A. Possibly. Is there a copy of it so I could possibly see it?

Q. I can get one for you now, Ms. Kells. We've handed a copy of it up to you.

A. Yes, you have. (Document handed to witness.)

Q. I think that is dated the 31st of March, 1986. That was the renewal date. And I think it was a document which was put before the credit committee meeting. And I think you'll see that "The outline of the proposal refers to other funding will be provided by equity investors for €80,000." Now, on the basis of the bank's records and the accounts which you have seen, the €80,000 which you've given in evidence in relation to today which was lodged to the account of Celtic Helicopters Limited, is there any indication of any other sum on the amount of €80,000 being

lodged to that account or any other account of Celtic

Helicopters?

A. Sorry, your question is are you asking me to confirm what

Q. Yes, whether or not there's any other sum of €80,000 lodged to the account of Celtic Helicopters.

A. Not in the period in which we're talking about, and I'm only looking at the period we've discussed today.

Q. Of 1985?

A. Exactly. Not as far as I'm aware there's no other lodgement.

Q. Not as far as you're aware?

A. Exactly.

MS. O'BRIEN: Thank you, Ms. Kells.

CHAIRMAN: Gentlemen?

MR. GALLAGHER: No questions.

CHAIRMAN: Thank you, Ms. Kells.

THE WITNESS THEN WITHDREW.

CHAIRMAN: Half past ten.

THE TRIBUNAL THEN ADJOURNED TO THE FOLLOWING DAY,

WEDNESDAY, 3RD MARCH, 1999 AT 10.30AM.