

THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY, 3RD MARCH

1999 AT 10:30AM:

MR. HEALY: Mr. Gerald Kean.

GERALD KEAN, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY

MR. HEALY:

Q. Thank you, Mr. Kean. You're a solicitor and I think you're the principal of the firm of Kean Solicitors, is that right?

A. That is correct.

Q. And I think you have very helpfully provided the Tribunal with a memorandum of information. Do you have a copy of that with you there?

A. I don't.

(Document handed to witness.)

Q. You are now the solicitor acting in proceedings being brought by Celtic Helicopters arising out of a crash involving the loss of one of their helicopters while it was on lease to a filming company in 1991, isn't that right?

A. That is correct.

Q. You were not the original solicitor, you took over the file from another firm of solicitors?

A. That is correct.

Q. In your memorandum you say that you received the original file in relation to proceedings between Celtic Helicopters Limited and Irish company in or around early October 1994. You say the file was sent over to you after you received a

call from brokers to know if you would act in relation to the matter and you were requested to read the file and to keep copies and return the original to Mr. Mike Murphy.

Would that be

A. That is correct.

Q. The file was copied and the original was returned on the 10th of October 19 that should be 1994 to Mike Murphy Insurance Brokers Limited. So your first contact was with Mike Murphy insurance brokers?

A. That is correct.

Q. As far as you were concerned, they were giving you instructions on behalf of the plaintiff in the company, Celtic Helicopters?

A. Correct.

Q. You noticed that correspondence had already been sent out in relation to this claim for and on behalf of Celtic Helicopters by John S. O'Connor & Company, solicitors, of Upper Ormond Quay, Dublin 7 and it seemed to you that Michael O'Connor had then been dealing with the matter.

A. That's correct.

Q. You confirmed that the other solicitor's fees had been discharged and you felt it was appropriate for you to take over the file and this you did. You briefed junior counsel and you proceeded to issue proceedings against Irish Company, which was the name of the defendant.

A. That is correct.

Q. And at that stage it was agreed that the case would be

brought along to the point or close to the point where it might be ready for trial for an agreed with an agreed budget of €2,000.

A. That is correct.

Q. Over a lengthy period of time, I think between 1994 and right up to date, you have been very regularly in correspondence with numerous parties, with the defendants, with counsel, with Mike Murphy Insurances in relation to this claim.

A. That is correct.

Q. I don't wish to ask you too much about the ultimate prospects for the claim at this point, but it has not been an easy claim to administrate or get together, is that right?

A. That would be correct.

Q. Eventually an appearance was entered on behalf of Arthur Cox & Company on behalf of the defendant but this was a conditional or qualified appearance.

A. That is correct.

Q. In other words, they were challenging the jurisdiction of the courts to try the issue that was to try the issue between your client and their client, Irish Company.

A. That is correct.

Q. You did an amount of work in the case contacting the Department of Transport and Energy and Communications trying to get reports in relation to the crash, and in general ensuring that you were armed with as much of the

facts and as much of the story as possible relating to how the accident occurred.

A. That is correct.

Q. The case began to take rather more time, I suspect, and rather more energy than you had originally anticipated and it had reached the point where you had to obtain a further tranche of fees or a new agreement in relation to fees had to be reached with the people involved in promoting the litigation.

A. That's correct.

Q. And there is still some outstanding difficulties concerning that because there's an insurance company involved and we'll come to that in a moment, is that right?

A. That's right.

Q. Now, when the file was handed over to you from Mike Murphy Insurance Brokers, as far as you're concerned, Mike Murphy was acting for the plaintiffs, Celtic Helicopters. They were the clients.

A. Yes. I would say that the clients were Celtic Helicopters.

Q. As far as you were concerned at that point in any case?

A. Yes.

Q. And if the matter had to go to trial or if there had been any discussion of settlement, as far as you were concerned, leaving aside the Church & General involvement which we'll come to in a moment, you would have had to go to Celtic Helicopters to get instructions as to how to settle this case.

A. Yes, I certainly wouldn't settle it without instructions from Celtic Helicopters.

Q. Right. Now, I think you were aware that Celtic Helicopters had received some €95,000 from Church & General Insurance on foot of an insurance they had on the helicopter arising out of the crash.

A. That is correct.

Q. So you knew that Celtic Helicopters or you knew that Church & General had a subjugated right to €95,000 of whatever you got out of the litigation.

A. That would be my understanding, yes.

Q. And as far as you were concerned, the person who'd be entitled to the rest was Celtic Helicopters.

A. That would be my understanding too.

Q. And I think you knew that Mr. Ciaran Haughey and Mr. John Barnicle, or as far as you were concerned Mr. Ciaran Haughey and Mr. John Barnicle were the people operating Celtic Helicopters and they were the people with whom you would be dealing.

A. That's my understanding, yeah.

Q. And I think in correspondence, some of it was mentioned yesterday, between you and Mike Murphy Insurances, the names that were mentioned were Mr. Ciaran Haughey and Mr. John Barnicle and you were writing with a view to know or you were being written to for advice in relation to how they should proceed.

A. That's correct.

Q. Now, I think at a very late stage you became aware that, in fact, they had or that Celtic Helicopters had assigned its interest in the action, is that right?

A. That's correct.

Q. Would I be right in saying that that was not, in fact, until sometime late last year?

A. It was 1998, yes.

Q. And at that stage you, in fact there was correspondence between you and Messrs. Gore Grimes, the solicitors acting for Celtic Helicopters in relation to these this inquiry; isn't that right?

A. That's correct, yes.

Q. And I take it that it came as a surprise to you that the action had been assigned?

A. It did.

Q. Now, your opinion was that this that this case had a good chance of success, a good chance of winning the case?

A. Yes.

Q. I'm not going to commit you to any more than that, all litigation has its difficulties. But you had the view that this had a good chance of success?

A. That was my opinion. I should say the case is still ongoing.

Q. Yes. For that reason we don't want to go into too much of it, but it's not without its difficulties?

A. That's correct.

Q. And I think quite apart from the fact that you have a

chance of success in the case, that wouldn't in itself be enough to warrant proceeding with it, if you couldn't recover anything from the defendant; and isn't that a difficulty, a major difficulty in this case, that there is a considerable question mark over the defendant's ability to pay?

A. Well, I'm not I can't clarify that. I can certainly say that it's prudent for any solicitor to advise a client, not only regarding the chances of success, but also the chances of recovery, and certainly my own opinion was that I hadn't seen anything which would satisfy me that the defendant had assets or had cover in place that would meet any successful reward or settlement, but that doesn't mean to say there wasn't.

Q. I accept that. That's a fair answer in the light that you're continuing to prosecute this claim.

A. Correct.

Q. Now, in addition to the view you formed of your chances of success and the view you formed from the information you have of your chances of recovery, you do accept that the defendant has certainly put forward defences which have to be treated seriously. We won't go any further than that.

A. Absolutely.

Q. Now, I think your first knowledge of the assignment came to you in a letter from Gore Grimes of the 13th of May of 1998.

A. I think that might be correct.

Q. I see.

A. I have a recollection, Chairman, that my first communication was a phone call just received just prior to that letter.

Q. I see.

A. So in other words I got a phone call to know if I was aware that there was an assignment and I said I wasn't aware, and then it was followed by a letter. I don't know the exact date of the call, but my recollection, it was within a couple of weeks or so prior to receipt of that letter.

Q. I see. And I think having learned of that, the phone call was from Mr. Mike Murphy, was it?

A. I believe the phone call was from Mike Murphy and I believe Mr. Gore Grimes also contacted me.

Q. I see. Well, I think what you said in your statement and I'm not pinning you to it at all, but it may be the correct sequence of events. You say you received a letter, that you had a phone call with Mr. Mike Murphy, you might have had the phone call first and then received the letter, and I think you then had a telephone conversation with Gore Grimes?

A. That's correct. I actually recollect talking to both Mr. Murphy and Mr. Gore Grimes shortly before the letter and then again shortly after the letter.

Q. In any case all of that occurred in or around the 13th of May 1998, which was the date of the letter?

A. That is correct.

Q. And on receipt of that, I think you indicated that you had a desire to meet Mr. Barnicle or Mr. Haughey to try to put a face on your clients and try to put get yourself into the picture a bit more.

A. Well, I knew Mr. Haughey, having met him previously and I know Mr. Barnicle as well. I was trying to set up a meeting to finalize a number of matters in relation to advising our own counsel further in pursuing the case.

Q. You never did have a meeting with either?

A. I didn't.

Q. At no time since 1994 did you meet with them?

A. I don't think so, in relation to this case.

Q. Although you did mention their name in his correspondence and indeed may have suggested a consultation on a number of occasions?

A. On a number of occasions, yeah.

Q. Now, the statement you prepared a statement of claim, that has not yet been served for one reason or another which we needn't go into, but you prepared a statement of claim?

A. Yes.

Q. And in that statement of claim, you have included in the special damages, which is the part of the claim which contains your client's assertion of what he's lost in the action, you've included a claim, I think, for €250,000 for the loss of the helicopter and €250,000 for consequential losses, loss of earnings and so forth?

A. That's correct.

Q. Am I right in saying that those figure those are figures you didn't get from either Mr. Barnicle or Mr. Haughey?

A. No.

Q. You got them from Mr. Mike Murphy?

A. That's correct. I believe it's in his file.

Q. In evidence at this inquiry yesterday, Mr. Barnicle indicated that as far as he was concerned the total loss involved in this accident for Celtic Helicopters was €200,000, of which €95,000 is due to Church & General. He has, according to himself, sold the balance of the action to Mr. Traynor for €100,000. Were you aware of those figures at any time in the course of your dealing with this case?

A. No.

Q. If those figures are correct, it would seem there's only about €5,000 or so left in the action, isn't that right?

If you like I'll go over them again.

A. Well, it certainly seems to be.

Q. Of course from the defendant's point of view, there is, of course, a claim out there for €200,000, I fully accept that. But from the point of view of what you may be pursuing, Church & General are entitled to 95,000 and Celtic Helicopters are entitled to nothing, Celtic Helicopters themselves; isn't that right?

A. That's my understanding, yeah.

Q. Did you ever know that Mr. Traynor was the person to whom

this assignment was made?

A. No.

Q. To this day do you know it?

A. No, in fact I think it's probably the first time I heard it. I didn't read the papers this morning, so...

Q. In fact if this according to Mr. Barnicle, I think supported by Mr. Ciaran Haughey, if this action is successful, Church & General and Mr. Traynor's estate would be entitled to the money.

A. I certainly am not aware of Mr. Traynor's estate being entitled to the money. I did say earlier if I was settling the case, I would be seeking the instruction of Celtic Helicopters and I also would be seeking the instructions of Church & General because they were the people who were good enough to part from the action. But I certainly wouldn't have been seeking instructions of Mr. Traynor's estate.

Q. And in addition, if you'd known of this assignment to Mr. Traynor by Celtic Helicopters, you'd have sought some information in relation to its evidence of it.

A. I believe I would.

Q. Because you'd have been answerable to somebody else.

A. Correct.

Q. Not just simply Celtic Helicopters.

A. Yeah, I think that's correct.

Q. Thanks very much, Mr. Kean.

CHAIRMAN: Anybody else have any questions for Mr. Kean

arising out of this evidence?

MS. COSTELLO: Just a couple, please, Chairman.

THE WITNESS WAS EXAMINED BY MS. COSTELLO AS FOLLOWS:

Q. Mr. Kean, Caroline Costello representing Celtic Helicopters.

Would it be fair to say that you dealt predominantly with Mike Murphy Insurance Brokers Limited in respect of this claim?

A. That would be correct.

Q. Did you deal directly with Celtic Helicopters at all?

A. No.

Q. And I think you pointed out that Church & General had part funded the action?

A. That's correct.

Q. And that you received œ2,000 towards costs?

A. That is correct.

Q. Would it be correct to say that that money came from Church & General?

A. That's certainly correct.

MS. COSTELLO: No further questions.

CHAIRMAN: Yes. Mr. O'Moore.

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

Q. Arising out of that, my name is Brian O'Moore and I appear for Mike Murphy. I don't think it's unusual for you to get

instructions in the course of your litigation business from insurance brokers, is that right?

A. That's right.

Q. Frequently the insurance broker would be the contact person between yourself and the client?

A. That's absolutely correct.

Q. I think you said to Ms. Costello that you didn't have any direct contact with either Mr. Barnicle or Mr. Haughey, is that so?

A. That's my recollection. It's a voluminous file, but certainly the majority of all my communications were with Mr. Murphy and Church & General.

Q. Yes, well the connection with Church & General was essentially, first of all, persuading them to part with \$2,000 to fund the case, isn't that right?

A. Yes, that's correct.

Q. And secondly, notifying them as to how the case was going?

A. That's correct.

Q. And your contact with Mr. Murphy was in connection with the nature of the case and the various other advices he had obtained from, I think, United States attorneys.

A. That's correct.

Q. But wouldn't it be fair to say that your contact with Mr. Murphy, you were anxious to meet with Mr. Barnicle and Mr. Haughey?

A. That's correct.

Q. And isn't it also fair to say that at various stages, most

notably when a draft statement of claim was produced by your counsel, that you requested on a number of occasions to meet with Mr. Barnicle and Mr. Haughey?

A. That's correct.

Q. And to set up a consultation?

A. That's correct.

Q. And isn't it the case that, I understand that you may have had some difficulties, for example, in getting an accident report from the relevant or an accident report from the relevant department and so on, but that throughout you were anxious that Mr. Haughey and Mr. Barnicle would participate in the claim and give you the factual detail that you needed to get a statement of claim together.

A. Yes, that is correct.

CHAIRMAN: I think also, Mr. Kean, the correspondence you made available to the Tribunal indicates that effectively your correspondence was with Mr. Mike Murphy or one of his representatives in his brokerage firm and that he in turn corresponded with either Mr. Haughey or Mr. Barnicle.

A. I believe that to be correct, Mr. Chairman.

CHAIRMAN: Thank you very much for your attendance.

MR. COUGHLAN: Mr. Xavier McAuliffe.

MR. McENTEE: I appear with Ms. Sinead Ni Chulachain instructed by Mr. Pat Enright of Lees Solicitors and will apply for limited representation.

CHAIRMAN: Well, Mr. McEntee, on the basis of previous rulings, I'll accede to an entitlement to limit representation, but obviously without giving any guarantees on any ultimate costs on of adjudication or the like.

MR. McENTEE: So be it.

XAVIER MCAULIFFE, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY MR. COUGHLAN:

Q. I think you provided a memorandum of information for the assistance of the Tribunal.

A. That's correct.

Q. Do you have that with you? You may refer to it if you wish.

A. Okay.

Q. I think I think you've informed the Tribunal that you made one payment of œ52,500 sterling to Celtic Helicopters and that that payment was made on the 5th of October 1992, is that correct?

A. Yes.

Q. And I think you've informed the Tribunal that Mr. Ciaran Haughey is known socially to you?

A. That's right.

Q. And that the Haughey family use the grounds of the Skellig Hotel, Dingle as a departure part to and from the island?

A. That's correct.

Q. I think you yourself have an interest in aviation and you

previously owned and part-owned helicopters?

A. That's right, yes.

Q. I think over a period of time you had discussions with Mr. Ciaran Haughey relating to the expansion of Celtic Helicopters' business, including the construction of a new hangar, the development of helicopter maintenance services and the proposed purchase of a long-range helicopter?

A. That's right.

Q. And I think we've had evidence of the development of the new hangar facility at Dublin Airport and hoping to get into the maintenance business.

I think you informed the Tribunal that in approximately September 1992 you were contacted by the late Mr. Desmond Traynor on behalf of Celtic Helicopters.

A. That's right.

Q. I think Mr. Traynor sought an investment by you in Celtic Helicopters.

A. That's right, yes.

Q. And that you agreed to make the investment and the payment of €52,500 represented the investment.

A. That's right.

Q. And I think you've informed the Tribunal that no financial information was provided to you relating to Celtic Helicopters prior to the claim payment.

A. That's right.

Q. The payment was made from transfer 4628400179 at AIB to 0835/945743/64/1, Zurich Ansbacher, is that correct?

A. That's right.

Q. And I think you furnished the Tribunal with a facsimile transmission, which were instructions to your instructions, is that correct?

A. That's right.

Q. To Allied Irish Banks, Jersey, dated the 5th of October 1992, and the instructions were: "Please transfer the following from my account number, and you give the account number of STG œ52,500 to Credit Suisse London account Zurich Ansbacher" and the account number is given.

A. That's correct.

Q. And I think you also furnished the Tribunal sorry now, if I might just ask you a few questions, Mr. McAuliffe. The instructions you gave to Allied Irish Banks Jersey about the transfer of that sum of money to Credit Suisse London and the account number, was that information furnished to you by Mr. Traynor?

A. No. The account number actually was given to me by David Deasey in Deloitte & Touche.

Q. I think we've been furnished with an extract from your diary.

A. My secretary's diary.

Q. I think the information you say was furnished by David Deasey, that's the account number, is that correct?

A. David Deasey gave me the account number in Zurich.

Q. And how did you come to be in contact with Mr. Deasey?

A. Mr. Deasey, when I was speaking to Des Traynor, he

mentioned that Mr. Deasey would be contacting me to give me the instructions on how to transfer the money.

Q. Very good. And when Mr. Traynor approached you to make the payment or the investment, what did he say? Can you remember?

A. Just that would I he understood over the years I'd been speaking to the Haugheys about investing in not investing in Celtic Helicopters, about Celtic Helicopters and their operations and that, and would I like to make an investment in that company. And he mentioned the figure that they were trying to raise €600,000 from various people and would I invest €50,000 in the company.

Q. Right. And you weren't provided with any

A. No.

Q. You're a businessman, Mr. McAuliffe?

A. That's right.

Q. Normally when you would be involved in making investments or making business decisions you would normally, I take it, arm yourself with as much information as you possibly could to enable you to make those decisions?

A. That's correct.

Q. And such information wasn't provided in this particular situation?

A. No, no, no.

Q. And were you ever furnished with any shares?

A. No, I was never furnished with any share.

Q. Did you ever hear anything about it afterwards?

A. No.

Q. Until the involvement of this Tribunal?

A. That's right.

Q. And can I take it that you didn't ask either?

A. No.

Q. And can we take it that you have no knowledge or information about any transactions which purported to take place in respect of your entitlement to shares or the issuing of 7 percent non-preference cumulative shares?

A. None whatsoever.

Q. Can we take it, Mr. McAuliffe, that effectively, as far as you were concerned, this was effectively just a contribution to Celtic Helicopters or a payment to Celtic Helicopters?

A. Well, it was for shares in Celtic Helicopters. I did not hear anything afterwards about my contribution, no, shareholding.

Q. Well, I suppose you still don't even regard yourself as a shareholder, you haven't received anything.

A. Well, according to the Tribunal

Q. As far as you're concerned?

A. As far as I'm concerned, I know nothing else about it.

Q. And can we take it that you probably wouldn't have invested in this particular company or made a payment to this particular company other than that there was the Haughey connection?

A. Probably, yes.

Q. And can you say whether you know Mr. Charles Haughey?

A. That's correct, yes.

Q. I think we are copying the extract from your secretary's diary and most of the information is contained on the fax transmission, isn't that correct?

A. Yes.

Q. And the only other information is David Deasey, Paul Carty's office?

A. That's right, yes.

Q. Did you know Deloitte & Touche yourself?

A. I knew of the company, but I didn't know anyone in the company.

Q. Now, as regards, if you can remember the actual time frame in which this particular transaction took place, you gave instructions on the 5th of October 1992.

A. Yes.

Q. And would it have been close to that date that you would have received the information about the account number, the Ansbacher account number in Credit Suisse?

A. It would have been, yes, within days of it.

Q. And can you say how that relates to the time frame in which Mr. Traynor may have approached you?

A. Probably a couple of weeks or a month or so. I'm not quite sure.

Q. We have circulated it now, we'll just put it up. I think that's the extract, isn't it, from the secretary's diary.

A. That's right, yes.

Q. Can you throw any light on the words

A. It seems to be that the bank rang the secretary and asked all these questions.

Q. I see.

A. That's what it seems like. In fact, it's on the back of the confirmation of the fax, of this fax, that was sent with the instructions.

Q. Yes. Yes, I think it's on the back of this particular document?

A. That's right.

Q. And that's it off that. And when you say the bank, are you talking about the Jersey bank?

A. AIB Jersey.

Q. Were you was Irish money ever asked for or were you asked specifically to pay it

A. €50,000, but, in fact, the 52,300 was sterling.

Q. That was the exchange?

A. Yeah, at that time.

Q. Were you asked for sterling or Irish by Mr. Traynor?

A. I was asked for €50,000, didn't specify whether it was sterling or Irish, but I presumed it was Irish.

Q. Your company would have been the normal way of trading both in Ireland and perhaps abroad, is that correct?

A. Yes, yes.

Q. So you would yourself or your company would have been, in the normal course of business, been in a position to obtain exchange control, if that was required, for any transaction

emanating from Ireland; is that correct?

A. That's right.

Q. And of course you would have known yourself that for money to be made payable to Credit Suisse London for payment to an account of Ansbacher Credit Suisse Zurich, that that would have involved, if it came out of Ireland, exchange control.

A. I presume.

Q. Thanks very much indeed.

CHAIRMAN: Any questions from anybody? Anything arising?

Very good, Mr. McAuliffe. Thank you for your attendance.

THE WITNESS THEN WITHDREW.

MR. HEALY: Mr. Ciaran Haughey.

CIARAN HAUGHEY, PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS

BY MR. HEALY:

CHAIRMAN: Thank you, again, Mr. Haughey, you're already sworn. Thank you very much.

Q. MR. HEALY: Thanks, Mr. Haughey. Now, you'll recall that the last day that you gave evidence you stopped and you withdrew from the witness box at the point where you were going to deal with some matters arising in connection with Larchfield and I think you have dealt with those for the purposes of the evidence that you're now going to give by providing the Tribunal with a memorandum of evidence and

with a document that you've also called a statement of Ciaran Haughey. Maybe we should go through those first and get those two things out of the way.

A. Okay.

Q. Firstly, I want to ask you to turn to the document that you describe or that your solicitors describe as "statement of Ciaran Haughey." It says have you got a copy of it in front of you?

A. Yes.

Q. It's a statement that you've made with regard to a Larchfield letter to Celtic Helicopters dated the 24th I beg your pardon dated the 14th of February 1996, and another letter, I think, from Celtic Helicopters to Deloitte & Touche dated the 15th of February of 1996. If you look on the monitor you'll see the two letters and I'm sure you'll recall them from your evidence last time you were in the witness box. Now, you may recall that one of the questions that arose in relation to these letters was how they came to be written and how you came to produce them for the purposes of the requirements of your then accountants, I think still your accountants, Deloitte & Touche.

A. Right.

Q. I think what you say in your statement is you have no doubt that the content of these letters came from the offices of Deloitte & Touche. That's correct, isn't it?

A. That's correct, yes.

Q. You say: "I do not have a very clear recollection of the person I was dealing with in respect of these letters."

And then you go on to describe that you person. Now, because that person has not been given notice, I don't want to mention his name at the moment, but you refer to somebody who was a member of the staff of Deloitte & Touche; is that right?

A. Yes.

Q. And is he a person that you would have dealt with in the course of your various dealings from time to time with Deloitte & Touche?

A. Yes, the day-to-day accounts and various aspects of it.

Q. Was he your main contact apart from Mr. Paul Carty himself?

A. Yes.

Q. And you say that that member of the staff of Deloitte & Touche, according to your recollection, gave you a draft of the Celtic letter which was then typed out "on our own letterhead by our secretary." "I was given either a draft for the Larchfield letter or the actual letter itself, again by the same member of the staff of Deloitte & Touche." If we could just go over that. The first document you refer to is the Celtic letter. And I think that's the that's the letter that's on the overhead projector at the moment, it's on the monitor in front of you. It says: "Please prepare the documentation necessary to convert an existing loan in the amount of 290,000 odd

into non-cumulative preference shares of one pound each. I
enclose the letter from Larchfield Securities in relation
to this matter."

Now, you think you were given a draft of that, somebody
gave you a printed document presumably with those words on
it?

A. Yes.

Q. And you went up and you had that letter drafted up yourself
in your own offices?

A. Not drafted, typed up.

Q. Typed up yourself in your own offices based on the draft
you got?

A. Yes.

Q. But you don't have a copy of the draft you got at this
stage?

A. I actually no.

Q. When you say it was drafted by your own secretary, in your
statement, the secretary, with a capital 'S,' you mean one
of the secretaries in your office, not the secretary of the
company because you were the secretary of the company, is
that right?

A. That's correct, yes.

Q. If we turn to the next letter, the letter that was enclosed
with that letter, which is a letter from Larchfield
Securities, you say: "I was given either a draft for the
Larchfield letter or the letter itself."

A. Correct.

Q. So, again, either somebody gave you the content of that letter and you had it drawn up, or else you had the actual letter.

A. That's correct.

Q. I don't know if you notice, but if we could go back to the earlier letter for a moment on the overhead projector. Do you recall in the evidence the last time we were here, the attention of the Tribunal was drawn to the spelling of the word "preference." I notice that in that letter which you drafted or which you typed, rather, it's spelled with an 'a' in the 'anc' and then if we go to the next document, I notice it's spelled with an 'e' there.

A. I certainly didn't type it.

Q. I see. You go on to say that you have a distinct recollection of being told by whoever it was you were dealing with, and again you believe it was the same individual, that the Larchfield letter was to be signed not by you but by one of the other directors.

A. That's correct.

Q. So you were following what you believed to be the appropriate instructions given to you by your professional advisers.

A. That's correct.

Q. You know that your professional advisers don't agree with that. Now, the individual in question has not been called to give evidence, so maybe that will be dealt with at a

later occasion, but as far as you're concerned, you have no doubt about it?

A. I have no doubt about my statement, yes.

Q. And you recall the evidence of Mr. Paul Carty that he has no doubt but that his office did not prepare any of these documents or drafts of them, you heard that evidence?

A. I heard that.

Q. You're a helicopter pilot, you're a technical person, do you have any skill at all in relation to company law matters or accountancy?

A. No, Sir.

Q. I know that your colleague, Mr. Barnicle, is the person who deals with finance, but he's not, I take it, a financially-trained individual?

A. No.

Q. He's not an accountant or have any special accountancy training?

A. Not that I'm aware of.

Q. Now, you've made another you provided another memorandum of evidence to the Tribunal dealing with a number of other matters, including some of the matters dealt with by Mr. Barnicle in his evidence. Do you have a copy of that?

A. Yes.

Q. And in that you say that you've been asked by the lawyers for the Tribunal to make a memorandum of evidence supplemental to your earlier memoranda of evidence dealing with your knowledge of the claim by Celtic Helicopters

Limited against Irish company in request of a helicopter which crashed off the Dingle coast in 1991 and also dealing with your knowledge of loans by Mike Murphy Insurance Brokers to Celtic Helicopters.

Now, you start by dealing with the crash and in particular some of the evidence given to an earlier Tribunal. I'll just go through your statement in relation to this and we should be able to deal with it fairly quickly.

A. Okay.

Q. "I knew that the company's helicopter had crashed and was lost while on hire for the making of the film "Far and Away". You knew that the company received €95,000 from its insurers in respect of the loss of the helicopter. I knew that the company took advice from junior counsel regarding the possibility of the company suing in respect of the loss of the helicopter. I was not familiar with the details of the claim. The advice received from junior counsel was that the company had a good claim." Do you accept that?

A. Yes.

Q. "The advice was received in early February of 1992. At about this time, Mr. Desmond Traynor was helping the company to raise finance. He suggested to Mr. Barnicle that he, Mr. Traynor, would purchase the company's

CHAIRMAN: If you could go a little slower, Mr. Healy.

MR. HEALY: I beg your pardon. "He suggested to Mr.

Barnicle that he, Mr. Traynor, would purchase the company's

claim for €100,000. I understand that he purchased the claim and that if the company received any money in respect of the lost helicopter, it belonged to the company's insurers and Mr. Traynor, but not to the company." That's correct?

A. Yes.

Q. "As far as I was concerned the company received €100,000 from Mr. Traynor and while the company would continue with the case, it did not so for Mr. Traynor and the insurers, not for the company. When I was giving evidence in the McCracken Tribunal, I was shown documents on the overhead projector which I had not seen before that time. When asked did I have any knowledge of these letters, I answered that I did not because I had not seen them before. I knew that the company had paid off its debt to IIB in February of 1992 out of its own resources, and I did not know how the documents presented to me fit into the picture.

Mr. John Barnicle subsequently" I take it you mean after you'd given your evidence and after the Tribunal had concluded, is that right?

A. That would be correct, yes.

Q. "Subsequently told me that the payments referred to in those documents were €100,000 from Mr. Traynor in respect of the claim for the lost helicopter, €50,000 advanced line payment in the name of Gary Heffernan, a cover name for my father, and €3,868.54 also by way of flying payment in the name of Gary Heffernan. I accept that Mr. Barnicle's

explanation for the source of the money out of which the IIB loan to the company was repaid is correct." If I could just stop there for a moment. I take it that you're saying that you agree that the evidence given by Mr. Barnicle yesterday is correct.

A. I didn't have an opportunity to go through Mr. Barnicle's evidence in detail.

Q. Right, but if I could summarise the part of his evidence that dealt with this matter and if there's any difficulty about it, I'm sure your counsel will draw the matter to the attention of the Tribunal.

The evidence you gave to the McCracken Tribunal you gave because you believed that to be the case at the time, is that right?

A. That's correct.

Q. You both believed that the 153,868.54 came from the company's own resources?

A. Yes.

Q. You believed it to have come from a €100,000 purchase by Mr. Traynor of a claim and from two pre-payments for advance or for flying, is that right?

A. That's correct.

Q. And that all of that money came out of the company's Bank of Ireland account at Dublin Airport.

A. That's correct.

Q. Mr. Barnicle now accepts, and I take it that you do, that while it is true that the money came out of the company's

Bank of Ireland account at Dublin Airport, the money that was put into the account came from an Ansbacher account in IIB.

A. Yes, I accept that.

Q. All of that money came from an Ansbacher account, it went into the Bank of Ireland account, and then it went out of that account and back into IIB to repay your indebtedness.

A. I accept that now. At the time I wasn't aware of it.

Q. I fully understand that. You weren't aware that, in fact, the Ansbacher money was used to put money into your Bank of Ireland account so that you could repay IIB?

A. We weren't aware, no.

Q. But you accept that that is, in fact, the case?

A. I accept that now, yes.

Q. You go on to say: "I was aware that Mike Murphy Insurance Brokers Limited was assisting the company with paying for the company's insurance, but I did not know the detail as this was dealt with by Mr. Barnicle on behalf of the company." You're referring there to the fact of some €92,000 was borrowed by the company but effectively repaid by Mr. Mike Murphy for an insurance premium loan, is that right?

A. That's correct.

Q. We'll come back to that in a moment. The next thing you refer to is the memorandum of evidence of Mr. Curneen of Smurfit Paribas. You say you refer to the memorandum of evidence and you say that you have no actual recollection

of meeting with Mr. Curneen. "I do not say that I was not present. I wish to strongly refute Mr. Curneen's statement to the effect that he was told by Mr. Barnicle and myself that my father had a 12 percent shareholding in Celtic Helicopters." In fairness to Mr. Curneen, I think what he says he must have been told that by either one or other of you. But I take it you stand over your statement that you it couldn't have come from either of you is what you're saying?

A. That's what I'm saying.

Q. "My father never had and does not have any shareholding in Celtic Helicopters and the mention of 12.5 percent indicates to me that Mr. Curneen is mistaken because I have checked the share issues and no investor was ever issued with an amount equivalent to 12.5 percent. My father has said to me that he is a shareholder my father has never said to me that he is a shareholder in the company. I cannot say where Mr. Curneen obtained the information which he states he recorded in a note or minute of the meeting, but I am absolutely certain that this information is incorrect."

Now, in relation to the purchase of the company's claim by Mr. Traynor, when did you first know that Mr. Traynor had purchased the company's claim, even roughly?

A. Roughly around the time Mr. Barnicle, I imagine, would have informed me. In or around that time.

Q. So you think it was around the time the £100,000 was produced?

A. Correct, yes.

Q. And as far as you were concerned at that stage you had exhausted any interest you had, any financial interest that you had in the proceedings; Church & General were entitled to £95,000 and the balance of about £200,000 of a loss was due to Mr. Traynor.

A. Yes.

Q. And you were quite satisfied that Mr. Traynor, whatever the language you mightn't have used the language that lawyers used but you were satisfied he was the person who now owned that piece of litigation?

A. Yes.

Q. Even though you had an obligation to assist bringing it to a conclusion.

A. We would have we've always said that we would assist in the claim.

Q. Of course, you'd have to give evidence and things like that. I don't want to deal with anything you have no involvement or no knowledge of, but yesterday evidence was given by Mr. Barnicle and he was asked to comment on the manner in which that £100,000 and that £95,000 was treated in the accounts of the company. Let me summarise this, what transpired yesterday, by saying to you that at no time was it ever described as an assignment or a purchase of a claim, and at no time was Mr. Traynor's name mentioned.

Now, did you know anything about how the accountants dealt with that claim between 1992 and right up to date?

A. I did not.

Q. Was the matter is it, in fact, the case that Mr. Traynor told you that he could raise 100,000 claims for you by buying a claim?

A. He didn't tell me personally.

Q. You were aware, however, that that's what he was doing.

A. I was aware in discussion with John Barnicle.

Q. You were aware you were getting a much-needed €100,000 and that Mr. Traynor was organising it?

A. That's correct.

Q. And did you know that it had something to do with your claim?

A. Yes.

Q. And that your claim was being purchased or whatever.

A. Yeah, the technical term I'm not sure of it, but basically that's what I felt, we were selling the claim.

Q. And after that and right up to date, do you recall receiving letters about the claim from Mike Murphy Insurances?

A. Yes, there's been several correspondence over the years.

Q. Did you realise that in that correspondence, Mr. Murphy appears to have been under the impression that it was your claim?

A. Didn't strike me.

Q. Did you ever tell Mr. Murphy that it was, in fact,

Mr. Traynor's claim?

A. I never no, Sir.

Q. And at no time right up to the time up to date, even up to obviously last year Mr. Murphy found this out, but up to that time nobody told him, even after Mr. Traynor's death, this isn't our money, this is Mr. Traynor's money.

A. I can't speak for Mr. Murphy, how he became aware.

Q. You never told him that?

A. I personally didn't.

Q. In the second paragraph of your long statement, you say that you were aware that Mike Murphy Insurance Brokers was assisting the company with paying the company's insurance, but you say: "I did not know the detail as this was dealt with by Mr. Barnicle on behalf of the company."

Did you know that effectively Mr. Mike Murphy was giving the company a loan of €100,000?

A. I wasn't aware of the mechanics of it.

Q. Were you aware of the amount?

A. No, Sir.

Q. You didn't even know that it was €100,000?

A. I believed it was in or around that amount, I'm not sure of the exact amounts.

Q. Did you know at the time that that money was raised that the company badly needed it?

A. Yes, Sir.

Q. And did you know that without it, without that kind of

money, you were going to be grounded, literally grounded?

A. I wasn't aware that it was that dramatic.

Q. You say that you don't agree with Mr. Curneen's statement to the effect that either you or Mr. Barnicle informed him that your father had a 12.5 percent shareholding in the company, and you're very emphatic about that, isn't that right?

A. Yes, sir.

Q. Now, you don't actually recollect the meeting with Mr. Curneen?

A. I don't, no.

Q. So you can't if you can't recollect the meeting, you can't be sure about what you said or did not say to him?

A. That is correct. I'd have never made a statement to the effect of my father had a 12.5 percent shareholding of any shareholding in the company.

Q. Were you in a position at any time to know?

A. I don't understand, sorry.

Q. Well, are you in a position to this day to say whether your father did or did not have a 12.5 percent shareholding in the company?

A. Since this statement has arisen, as I say, we've looked at the even the nominees and no, 12.5 percent doesn't appear anywhere.

Q. Can I remind you of the evidence you gave to the Tribunal the last time you were in the witness box when you mentioned that you received a letter from Dr. O'Connor

looking for his shares in the company?

A. Yes.

Q. And you referred that matter to your father.

A. Yes.

Q. And he dealt with it and he never even came back to you about it. As far as you were concerned it was simply dealt with.

A. Yes, I felt it was dealt with at the time when there was a transfer from Mars Nominees to MS Nominees.

Q. But you didn't know anything about it yourself?

A. I didn't, no.

Q. It was your father dealt with it. Here was a man claiming a shareholding in the company, you did not know whether he did or did not have a shareholding, isn't that right?

A. That's correct, yes.

Q. The person to whom you referred the matter and the person who actually dealt with it was your father.

A. I referred him to my father because Dr. O'Connell was a TD and I knew he would be he would know him.

Q. But your father actually dealt with the claim being made by Mr. O'Connell to be a shareholder in the company.

A. I don't know that.

Q. Well, you don't know that?

A. Yes.

Q. Isn't that precisely the point?

A. Yes.

Q. You don't know, you don't know what the shareholdings were,

you don't know whether Dr. O'Connell was or was not a shareholder, you didn't know then and don't know now?

A. I was aware of the Mars Nominees.

Q. You're aware subsequently of the Mars Nominees. What I want to suggest to you, Mr. Haughey, is that Mr. Traynor and your father were the people who got the original investors together for this company, isn't that right?

A. I believe so. I can't be a hundred percent on that.

Q. And Mr. Traynor was a close associate of your father's.

A. I believe so, yes.

Q. And on numerous occasions when your company got into trouble, or when your company needed money, without any reference to you, it was Mr. Traynor who sorted the matter out.

A. I don't believe there was numerous occasions when the company got into trouble. There was one period.

Q. Can we just give one instance then, in relation to the €150,000 that came from Dublin Airport, from the bank account in Dublin Airport, you were not aware that it was Mr. Traynor who organised the placing of money into your bank account from an Ansbacher account, isn't that right?

A. Sorry, could you repeat the question?

Q. In 1992 when your company's loan to IIB was repaid out of the Bank of Ireland account you had in Dublin Airport, you were not aware that Mr. Traynor had put money into that account from an Ansbacher account.

A. I wasn't aware it was from an Ansbacher account.

Q. And in 1992 when you needed €600,000, you weren't aware that Mr. Traynor you weren't aware of the individuals from whom Mr. Traynor raised €300,000-odd?

A. That's correct.

Q. What I'm suggesting to you, Mr. Haughey, and I don't want to be unfair to you, is that your father and Mr. Traynor at least knew about as much about this company, if not more, than you did.

A. Mr. Traynor assisted in financial advice. I don't know why you include my father in that statement.

Q. Well, because you went to your father to deal with Dr. O'Connell

A. Because Dr. O'Connell had been a TD and would be familiar, or would be known to my father.

Q. Your father asked Mr. Malone to become chairman of the company, isn't that the evidence of Mr. Malone?

A. I heard that, yes, in the evidence of Mr. Malone.

Q. You don't agree with that evidence, do you?

A. No, Sir.

Q. A number of people have said that they would not have contributed to the company but for your father's connection.

A. Sorry, is that a question?

Q. Yes. Isn't that correct?

A. If that's the evidence, yes.

Q. In 1992 when you got into some financial difficulty, Mr. Traynor provided €100,000 by purchasing your claim, and

he got other money for you, the money from Mr. Snowden, Mr. McAuliffe, Mr. John Byrne.

A. Late '92.

Q. And your father asked Mr. Malone in 1992, according to Mr. Malone, he was asked by your father in 1992 to give more assistance.

A. If that's the evidence, yes.

Q. Well, if that is the evidence and if that evidence is accepted, doesn't it suggest that your father had a very significant role, either alone or together with Mr. Traynor, in running your company? Behind the scenes now I'm suggesting.

A. He would have taken an interest in the welfare of the company, I'm sure.

Q. Would it be unreasonable to conclude that he had a significant involvement in the company?

A. What period are we talking about?

Q. Over the entire period we've mentioned from the beginning of 1985 right up to date.

A. I believe he would have be have an interest in the welfare of the company, that like any father would in their son's business.

Q. Of course. Of course. But that his interest went above and beyond a remote interest, that it took him to the point where he was involved with getting finance for the company, encouraging people to become involved with the company.

A. It's clear now that he offered assistance. I accept that

at this time.

Q. MR. HEALY: Thanks very much.

CHAIRMAN: Mr. O'Donnell?

MR. O'DONNELL: No questions.

CHAIRMAN: Ms. Costello?

THE WITNESS WAS EXAMINED AS FOLLOWS BY MS. COSTELLO:

Q. Just briefly, Mr. Haughey, to clarify a couple matters.

You said that you were aware that Mars Nominees Limited were a shareholder of the company back in 1985. Would it be fair to say that you didn't necessarily know who the people were behind Mars Nominees, but you knew that Mars Nominees were shareholders?

A. That's correct.

Q. Now you said to Mr. Healy in answer to questions that you didn't know that your father was a shareholder in the company, is that correct?

A. Sorry, repeat that?

Q. That you did not believe that your father was a shareholder in the company.

A. That's correct.

Q. If that was the case, would you have any reason to tell somebody that he was a shareholder in the company when you believed that he wasn't?

A. I would have no reason to.

Q. Mr. Healy was suggesting that your father was involved

frequently in raising finance and getting people involved in the affairs of the company over a period of years. What was the extent of your personal knowledge of your father's involvement in the affairs of the company? If we take it in stages. Back in 1985, what would you have known that your father was doing in relation to the setting up of the company? Can you recollect at this stage?

A. I can't recollect at this stage.

Q. Would you have known generally that he was helping to set it up?

A. Oh, I would, yes.

Q. Would you have known the details of the persons he contacted?

A. I would not.

Q. And subsequently in 1992, would you have been aware of any involvement that he might have had?

A. I would not, no.

Q. Or any subsequent period?

A. Correct.

Q. MS. COSTELLO: Thank you.

CHAIRMAN: Mr. Haughey, if as you say you cannot recall the meeting with Mr. Curneen, it's unfair for me to press you further on it, but do you see the difficulty that I have in this regard in that Mr. Curneen, who seems to have no axe to grind, wrote his recall of the meeting on the day or immediately afterwards and it seems he must have got this

reference to 1/8th shareholding from somewhere. Can you give

A. Unfortunately I cannot can't stand on that. I, again, I have no problem with Mr. Curneen in the sense in any other sense except that I cannot accept that 12.5 percent. I have no idea where he got that figure from. It doesn't correspond to any shareholding or documentation we have.

CHAIRMAN: All right. Thank you. Thanks very much.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Dr. Michael Dargan.

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

CHAIRMAN: Thank you for your attendance, Mr. Dargan, please be seated.

MR. CLARKE: Sir, I'm to apply for limited representation, bearing in mind the same matters you've already advised.

CHAIRMAN: All right, Mr. Clarke, you seek limited representation in that regard.

Q. MR. COUGHLAN: Dr. Dargan, I think you prepared a memorandum of information for the assistance of the Tribunal, is that correct?

A. I understand that Mr. Clarke did.

Q. Do you have sorry, all I want to ask, do you have it

with you in the box?

A. I have it in the briefcase.

Q. I'll give you a copy.

A. Thanks.

Q. I think it's a memorandum which was effectively prepared resulting from a letter provided by your solicitor to the Tribunal.

Now, is it correct, Dr. Dargan, that over a number of years, including 1985, that you received payments from stud companies in which Mr. John Magnier was associated?

A. Yes. And many other companies as well.

Q. Yes, yes. And I think these consisted of nomination and stud fees in respect of shares in

A. It could be part ownership of shares.

Q. Your accounts or receipts in respect of each stallion would generally be destroyed on the death of the stallion. You have established that you appear to have received a cheque for €10,000 in respect of a stallion in March 1985.

A. That's right.

Q. And I think you have furnished the Tribunal, in fact, with a letter from Coolmore Castlehyde and associated stud farms dated the 22nd of March 1985 in respect of a stallion 'Thatching' enclosing the €10,000 payment.

A. That's correct.

Q. The 22nd of March 1985. If you just bear with me for a moment, Dr. Dargan, to confirm that this is a copy of the letter. You will see a monitor there that may be easier to

look at. Is that the letter sent to you on the 22nd of

March? I have a hard copy for you.

(Document handed to the witness.)

A. Thank you. 22nd of March, yes.

Q. And it's from Mr. Jerome Casey, the accountant at Coolmore Castlehyde and Associated Stud Farms, isn't that correct?

A. Yes.

Q. And it's addressed to you and it says:

"Dear Dr. Dargan.

"Re: Thatching 1984.

"With regard to my recent correspondence with reference to the above, I have pleasure in forwarding you the attached cheque in the sum of €10,000 which represents the total dividend paid to date for Thatching. It is also hoped to forward a further dividend cheque in the very near future, of approximately €5,000."

But you were sent a cheque for €10,000 with that letter, is that correct?

A. Yes.

Q. And I think it's your belief that the cheque for €10,000, which you were shown by the Tribunal, which was drawn on Allied Irish Bank St. Patrick's Bridge branch, Bridge Street, Cork, in the sum of €10,000 is probably the cheque that was enclosed with that letter?

A. It probably was. I couldn't decipher it very clearly, but

it looks the same.

Q. It seems to be for around the same period, isn't that correct?

A. Yes.

Q. The cheque is dated the 19th of March 1985, which would seem to correspond with the letter.

Now, I think I think you have been informed by the Tribunal that this cheque was one which appears to have ended up being lodged to an Amiens account in Guinness & Mahon bank, isn't that correct?

A. That is so, that and other cheques.

Q. That and other cheques. And I think you are aware from information provided and from the evidence given yesterday by Ms. Sandra Kells of Guinness & Mahon, that the proceeds of that cheque formed part of a sum of money which was ultimately paid to Celtic Helicopters.

MR. CLARKE: I beg your pardon, Sir. That may be so indeed, Sir. I'm not sure that that is, in fact, clear from the evidence which has been presented and I wish to make a point maybe in relation to that later. But I don't think that Dr. Dargan has certainly been asked to declare any satisfaction as to the fact that the proceeds were the same.

CHAIRMAN: Well, as I understand it, Mr. Clarke, it is at this venture a tenable hypothesis on foot of which Dr. Dargan is being asked to comment, on the basis which

accords with instructions he may in the first instance have given to you. So it seems to me there's no unfairness at this juncture in the line of questioning proceeded by counsel. I accept there may be aspects of further proof that may be required to be alluded to, but on the basis of tenable hypothesis, it seems reasonable to ask the questions.

Q. MR. COUGHLAN: So if we proceed on the basis of you accepting that the proceeds of this cheque formed part of a bigger sum which ultimately found its way into the account of Celtic Helicopters.

A. That seems to be the case.

Q. Yes. And I think you've informed the Tribunal that you have no knowledge of how the proceeds of this cheque was lodged to an account of Amiens Securities Limited in Guinness & Mahon, is that correct?

A. None. I have no knowledge. I would have known that I would have used Guinness & Mahon bank for transfer of monies. And in particular with my son, who was a partner with me in a number of shares and nominations through all the years. He operated an account on a joint account and we would have been transferring funds. And I used Guinness & Mahon as the bank for transfer of those funds internationally.

Q. And I think you have informed the Tribunal that you surmise that you may have asked the late Mr. Traynor to pay the

proceeds of this cheque to some pay outside Ireland where you had some business requirement to do so, is that correct?

A. I don't remember asking Mr. Traynor anything in connection with it, but it would have been standard practice for me to transfer cheques on bloodstock accounts internationally, whether it was to the US or to the UK. My son, at this stage, at that particular time, was living in the US for three years, and I have to assume that the funds were being transferred between us, but certainly being transferred internationally or it wouldn't have reached Guinness & Mahon.

Q. And I think you've informed the Tribunal that you never knowingly contributed or paid any money to or for the benefit of Celtic Helicopters Limited, and you do not recall any company by the name of Amiens Securities Limited, is that correct?

A. I'd be certain that I made no such payments and I did not know of the account.

Q. Now, if I could just ask you a few questions, Dr. Dargan. In the first place there can be no doubt but that you received a payment of €10,000 from Coolmore Castlehyde sometime around the 22nd of March of 1985?

A. Correct.

Q. And the probability is that the cheque which has just been on the monitor is the cheque which accompanied the letter of the 22nd of March of 1985?

A. I have not seen anything on the back of the cheque to indicate that I actually got it, but I take it that I did.

Q. Well, that's what I want you to clear up. There's no suggestion that you didn't receive the cheque, isn't that correct?

A. Right.

Q. And that this cheque was undoubtedly lodged to Guinness & Mahon bank, isn't that correct?

A. It seems to have been. I have no direct knowledge of what happened to the cheque, but I have to assume because it because I had a habit of it was our system of transferring funds internationally, to use Guinness & Mahon bank for it.

Q. Yes. Well I think, in fact, the cheque even has the Guinness & Mahon stamp

A. Yes.

Q. on the face of it. So there can be little doubt, I suggest, that it at least went as far as Guinness & Mahon bank.

A. I would agree.

Q. And from a tracing exercise carried out by Guinness & Mahon bank of which evidence was given by Mrs. Sandra Kells yesterday, that sum of money relating to that cheque found its way into an Amiens Securities account. Do you know anything about that?

A. I know absolutely nothing about it. I didn't know such an account existed and I offered no such instructions.

Q. And from a further tracing exercise conducted by her, she was able to inform the Tribunal that it ultimately went in to form a greater sum which ultimately went to Celtic Helicopters. Do you know anything about that?

A. No.

Q. Can we take it, Dr. Dargan, that a sum of €10,000, even today, but in 1985, was not an insubstantial amount of money?

A. It was very substantial.

Q. And can I take it, Dr. Dargan, that you were then in 1985 a businessman of some experience?

A. Correct.

Q. And can the Tribunal take it that if €10,000 went missing on you, that you would have become aware of it?

A. It is likely that I would. I will have to say that I would have had a number of transactions of that order each year, because I owned that number and my son as well, so we would have had several cheques of that order. But even though I would not have been getting statements of account, I'm pretty positive that I and my personal secretary would have asked for statement of accounts, reports that would have told us how we were going, in paying out a great deal at the time in connection with the thoroughbreds and in receipts, but particular ones, I don't have a recollection.

Q. Well, if you didn't, what bankers say, get value yourself for this €10,000, you say it's very likely that that is

something which would have come to your attention.

A. I have asked myself a question whether that cheque and other cheques which were in the same situation would have been misdirected for a temporary period because such misdirection would have come to inevitably to my notice, my son's notice and mine, and my son was a banker, so he would have been watching things like that too, but we wouldn't have been watching them to a date or a month.

Q. I appreciate that, but at some stage you or your son, and as you say your son was a banker and would have an eye to this type of thing, would have been aware if €10,000 went astray.

A. I would think so.

Q. And you never became so aware that €10,000 went astray?

A. No. I wouldn't have looked specifically for it anyway, but if our affairs had been that much out of order over a period of time, it would have come to our attention.

Q. If, of course, you had given instructions for the use of €10,000, that is something which you would have taken into account and nothing would have appeared amiss in your bank accounts, isn't that correct?

A. I don't know what that means. If, please

Q. I'll put it a little more simply, Dr. Dargan. You've told the Tribunal that as far as you're concerned you are not aware of ever losing €10,000 in the sense of it going astray. The Tribunal has evidence that this sum of money ended up in the accounts of Celtic Helicopters. The

positions are somewhat irrelevant reconcilable, aren't they?

A. Not necessarily. They are in the first instance, but if that were for a temporary period, then the money merged into the accounts for which it was intended, my son's or mine, then we might not have noticed. I have not been told that this went away permanently or the other cheques that were involved because there were sums of money there which we must have noticed and I would have I'd be pretty certain that my son would have noticed this in operating the joint account for me. I have little doubt about that.

Q. Well, what type of system did you operate to keep track of your affairs?

A. In the thoroughbred nominations and sire shares situations, I would have transferred money in and out of my own farming accounts; appropriate money would have been directed through Messrs. Guinness & Mahon between my son and myself. He operated the joint account. And I was concerned about only insuring that I had enough to make the purchases we had to continually make for the bloodstock and payments out of it and see that it was in order. I would have done this from time to time. I would have talked about it. I would have asked how we stood, but that's all.

Q. Right. Well, there are a number of scenarios so. In the first place, that sum of money could have been permanently diverted and you think that that could that did not

happen because it would have come to the notice of either you or your son.

A. I think it must. And he kept meticulous account with our accountants for tax and other purposes. Those funds were not taxed, they weren't taxable.

Q. Yes.

A. So we would have been used to keeping ourselves up to date.

Q. The second scenario is that it could have been the sum could have been temporarily diverted and made good within the bank.

A. Or made good through being transferred later on.

Q. Well you see, how could that be so, Dr. Dargan? And I'm just looking for your assistance on this. Because undoubtedly €10,000, this €10,000, appears to have gone into Celtic Helicopters.

A. Yes.

Q. So that in the the value for this cheque is effectively being given to Celtic Helicopters, isn't that correct?

A. That was so.

Q. There doesn't appear to be any record in Guinness & Mahon that there was any further reconciliation or transfer to make up for this €10,000?

A. I don't know how Guinness & Mahon operated their affairs, but I would be I would not have expected dishonesty to that degree and I would have expected that even if it were temporary wrongly appropriated, that it would have come,

because I trusted the people.

Now, if it had not come, I would be pretty sure that it would have been brought to my attention, that's all I could the only way I can look at it. I have discussed it with my son and that's his opinion as well.

Q. Yes, well, you've discussed it with your son who, as you say, at the time himself had banking experience, and even for a bank to temporarily divert funds would be a very serious step for a bank to take.

A. It would. It's serious anyway.

Q. I appreciate it's serious, but it would be an extremely serious thing for a bank to do.

A. Yes.

Q. And of course the third scenario, which you deny, is that it was a payment or an investment for the purpose for where the sum of money ultimately ended up.

A. Totally and absolutely. I have never made a contribution to nor an investment in Celtic Helicopters nor to Mr. Haughey's affairs, nor was I ever asked or ever encouraged.

Q. But you are certain that nothing amiss transpired in relation to your affairs with Guinness & Mahon, isn't that correct?

A. I can't be certain. I can only think that if that amount of money had gone out of my affairs and didn't come back quickly, that I would have noticed it or my son would have noticed it or my secretary would have noticed it.

Q. So we are then left really just, I suppose, with an alternative of situations, so, aren't we? That there was a temporary diversion and there was the one which you deny vehemently, that the payment was made for the purpose of an investment in to Celtic Helicopters?

A. Well, I know the second one is not true, so I hope the first one is right.

Q. Now, I take it you knew Mr. Traynor, did you? You knew Mr. Traynor?

A. Knew Mr. Traynor well, very well.

Q. Had you served on boards with him?

A. Yes, through the years, for a long time: I have never known him to be other than entirely honest and reliable.

Q. Yes. And can I take it it was through your knowing Mr. Traynor that you were involved with the bank Guinness & Mahon?

A. It was, because well, I don't know I think it would have been through him that I would have used Guinness & Mahon. I can't be certain of that, that I wouldn't have used it before he came into my life. But I think it would have been through him that I had opened an account earlier, in with Guinness & Mahon in Ansbacher.

Q. In Ansbacher in Cayman?

A. Yes, they opened that account for me, transferred I think I had an account with them before.

Q. And I think that you have said that you didn't just receive this particular payment for nomination fees from Coolmore

Castlehyde, but you also received other payments and from other companies as well?

A. Oh, yes.

Q. And was it your practice, particularly in relation to the stud dividends that were paid to you, to lodge those with Guinness & Mahon?

A. No. Only ones that in which they needed transfer internationally. My son and I have been involved in bloodstock farming, we own a substantial stud. There would have been several accounts going all the time.

Q. Yes.

A. I would have used Guinness & Mahon only for transfer of funds between countries, no other reason.

Q. And that would have been for purchasing purposes normally, is that correct?

A. Well, if it were going into an account, you use the account for purchasing and for payments out if they're needed for any purpose.

Q. Yes. And was the your understanding that these payments which you put through Guinness & Mahon ultimately went to Ansbacher in Cayman, is that correct?

A. No. But if funds some funds went to the UK.

Q. Yes.

A. The funds I know my son lived for three years at that time in New York.

Q. Yes.

A. So I would have to assume that the funds were being

transmitted to him possibly through the Ansbacher account, which I had used for intercontinental transactions. I don't know whether that existed at the time or whether it had been finished. I have asked Ansbacher last year for a statement and they have written back saying they have nothing.

Q. I see. Transactions at that time, external transactions, of course, required exchange control approval, isn't that correct?

A. Well, this is how long, 15 years ago?

Q. Yes.

A. I don't know what the when exchange approval came in.

Q. It came in in 1979 in the sterling area and it ceased in 1992.

A. And what in '92?

Q. Ceased.

A. Yes, well if my son were living temporarily in New York, I would have had to transfer funds for nominations there to him, and that was not taxable money.

Q. No. Yes, I know it wasn't taxable money, but it would have required exchange control approval in the normal course of business.

A. I transferred nothing else that I know of, other than those, and they were his as well as mine, and I probably was only transferring the part of it that would belong to him.

Q. Yes. But can I take it that those transfers took place

through Guinness & Mahon?

A. Probably.

Q. And you left it to Guinness & Mahon Guinness & Mahon would have been aware of the type of business you were involved in, isn't that correct?

A. Yes.

Q. And they would have been used, for example, to be receiving cheques lodged by you or your secretary which would have been received, for example, like this one was, from Coolmore Castlehyde?

A. Right.

Q. And they would have had an instruction then from you either to transfer it or to do something else with it, isn't that correct?

A. It was to send them my secretary would send them to my son, which was her practice, which put them in his joint account.

Q. Your son was in New York at this time?

A. He was in New York at this time, so he may have been operating a joint account in New York, or it may have been his own particular portion going to New York. I can't know at this remove. I have no documents to tell me what the precise relationship was, but he would have had to get his own proportion of whatever was coming.

Q. Yes, I understand.

A. So I might not have sent them all, but we would have kept the records right between us.

Q. I'm sorry to be pursuing this, but I really want to inquire about this cheque and how it ended up, where it ultimately did. So could I retrace my steps and ask you, would you have sent this cheque to your son in New York?

A. I've asked myself this question. I think I must have.

There was no other reason under which it would have gone to Guinness & Mahon.

Q. I see. And your son in New York would then do what with the cheque, lodge it to Ansbacher in Cayman; is that correct?

A. I would have thought he would lodge it in his own account, if it were for him on his own. And he would have lodged it to wherever he had the joint account if it were for us jointly.

Q. How would it have got back to Guinness & Mahon in Dublin and have their stamp on it?

A. When they got it in the first instance, it had the stamp.

Q. I am sorry?

A. Sorry.

Q. I want to take it slowly. It would ultimately have to go back to the Allied Irish Bank in Cork.

A. Yes.

Q. Through the clearance system, isn't that correct?

A. Yes.

Q. Now, you may have sent payments to your son which he would, I presume, have lodged to whatever account he had in the United States or anywhere else, that's his concern.

A. Yes.

Q. But for it to be negotiated through Guinness & Mahon in Dublin, if you had sent it to your son, he'd have had to send it back to Guinness & Mahon in Dublin, isn't that correct? Or else it was lodged by either you or your secretary or somebody on your behalf in Guinness & Mahon in Dublin.

A. Please, I'm not with you. I would it wouldn't have been sent directly to my son.

Q. Fine. We'll exclude that, so.

A. I mean, the cheque wouldn't have gone to him.

Q. We'll exclude that, so. But the cheque, so, had to be either lodged or transferred by gyro or something of that nature, to Guinness & Mahon in Dublin, isn't that right? Because it seems to be stamped with their stamp.

A. I think we're lost here, please. The cheque was sent to me from Coolmore.

Q. Yes.

A. I obviously sent the cheque to Guinness & Mahon for transfer. They obviously have cashed the cheque.

Q. Yes.

A. Did cash the cheque, so the cheque never went to my son.

Q. Yes, yes, yes, and I think that must be correct. That must be correct.

A. Yes.

Q. So what Guinness & Mahon did then was that they that cheque would have gone through the normal banking clearing

system.

A. Yes.

Q. And it would have been debited from the account of Allied Irish Bank at St. Patrick's Bridge, Cork the sum of €10,000 and it would have been credited to your account in Guinness & Mahon, is that right, the sum of €10,000?

A. I had no account in Guinness & Mahon, that I know of. The money would have gone, I'm told, to here to Celtic Helicopters.

Q. Yes. I'm trying to find out what happened

A. The cheque obviously went back to Cork. Even though it was addressed to me, the cheque was presumably, as I see it, and maybe I'm wrong, cashed when the money was handed in to Celtic Helicopters, I'm told. And the cheque went back to

Q. To Cork.

A. Wherever it should go, into Cork, into the bank.

Q. Well, I'm sorry, perhaps it's my misunderstanding. Why did you why would you have sent the cheque to Guinness & Mahon if you didn't have an account there?

A. Because I always transferred money through them, if it was international, that's all I know.

MR. CLARKE: I think the witness, sorry, is becoming quite confused with counsel's questioning. Dr. Dargan has given what seemed to me to be a perfectly straightforward account of what he had done. He passed or thinks he has, he cannot

imagine otherwise, this cheque, assuming that this was the correct cheque that we're actually dealing with, to Guinness & Mahon and asked them to transfer that, he supposes promptly to his son in New York. Clearly the actual transfer of a cheque can't take place, the cheque would have to be converted and it would be the money that would be transferred. He had no account with Guinness & Mahon. There doesn't seem to me, My Lord, to be any confusion about the matter, but I fear the questions from counsel are confusing the witness.

CHAIRMAN: I don't see them as being badgering or hectoring, Mr. Clarke. It is the task of Tribunal counsel to inquire reasonably rigorously into matters that come within the terms of reference potentially. And I don't see Mr. Coughlan as doing that unfairly. And I'm sure he will ensure that Dr. Dargan is given the fullest opportunity of recollecting and putting over his own version and in a short time I'll invite you to take up any points of clarification.

MR. CLARKE: Forgive me, Sir, I don't mean to interrupt unnecessarily. I wasn't suggesting that he was badgering Dr. Dargan. I know he's not. But I think the form of the questions that he's putting are a level of complexity to a transfer of money which are confusing Dr. Dargan, and the question proposes a form of transfer which is not one that he appears acquainted with. It assumes that a cheque that

would go into Guinness & Mahon in order to be transferred abroad would have to be cashed in a Guinness & Mahon account. It wouldn't have to be cashed in an account of Dr. Dargan's anyway, it would simply have to be converted by the bank and the money transferred abroad. But a lot of this discussion seems to turn on issues of whether or not Dr. Dargan had either whether he sent a cheque abroad, which he didn't do, or whether he had an account in Guinness & Mahon which the cheque was cashed, which he says wasn't the case.

CHAIRMAN: I take the point, but I think we should proceed with the evidence.

Q. MR. COUGHLAN: May it please you, Sir. I'm sorry, Dr. Dargan, if I appear to be confusing you.

A. I can see where the problem is, would it have been cash that was transferred or a cheque? I don't know. But one of the things that I don't know is what's on the back of the cheque, whether I would have signed the back of the cheque. That would have made a difference. But in any event, as Mr. Clarke has said, I was concerned with transfer of money.

Q. Yes, well, that's what I want to ask you about, because this is an inquiry and what I'm trying to ascertain is exactly what your relationship with Guinness & Mahon was and what transaction would have been taking place in relation to this particular cheque, as far as you're

concerned. Can we establish as a fact you did not have an account with Guinness & Mahon in Dublin?

A. I can't I had an account in Ansbacher and I don't know when that started, finished, and to me Guinness & Mahon and Ansbacher were the same thing. I had opened or they had opened that account for me as being the same thing.

Q. All right. But perhaps

A. Whether that was there at that time, I don't know.

Q. Perhaps I'll take it stage by stage. Ansbacher is the name which is used to describe Guinness & Mahon Cayman Trust which ultimately became Ansbacher. And it is used as a generic term to cover all of that. That was an offshore account in the Cayman Islands, isn't that correct?

A. My recollection of opening that account would be to do with the affairs I had in the US myself. Now when I opened it or when it finished, I don't know.

Q. No, I'm sure that's so, Dr. Dargan, but what I want to establish is that Ansbacher Cayman was an offshore account in the Cayman Islands, isn't that correct?

A. It became that, as far as I know.

Q. Well, Dr. Dargan now you're a man of considerable business experience. Do you not know in the conduct of your own affairs when you have an account opened in Ansbacher that it was an offshore account?

A. When I ask myself how that Ansbacher account arose, I don't know whether I would have had an account in Guinness & Mahon in the first instance, when I went to Guinness &

Mahon. And I don't know whether that was transferred into what was the Ansbacher account as suiting me better because I was in the United States for considerable time and regularly, once a month, and I needed banking transactions.

Q. Yes. Well, can I start again, so. You think you may have had an account in Guinness & Mahon at some stage?

A. Oh, yeah, it's possible. I would have I would have thought of Guinness & Mahon as being an international bank which I would use, and I had some dealings with them elsewhere in London as well through that stage.

Q. What I'm trying to do is establish the facts if I can, Dr. Dargan.

Did you ever have an account in Guinness & Mahon?

A. As such I don't honestly know. I can't remember back 15, 20 or 25 years. I would guess I had and that was before Ansbacher.

Q. Right. But can we take it as a matter of probability, so, that you didn't have an account in Guinness & Mahon at some stage?

A. I would say it's probable.

Q. And arising out of your relationship or association with Guinness & Mahon, you opened an account or had an account opened on your behalf offshore, is that correct?

A. I don't know when you're on the offshore

Q. Because that's what Ansbacher is, Dr. Dargan.

A. I'd say Ansbacher, if it was offshore, it was offshore.

Q. Yes. Now, funds were transferred to that Ansbacher account as far as you were concerned through Guinness & Mahon in Dublin, is that correct?

A. How I arrive at this is I was asking myself when I got this information about those cheques, how I would have transferred funds to my son who was at that time in the US, and I didn't have any other account in the US, and I don't know whether Guinness & Mahon would have transferred them direct from themselves to another bank in the US. And I don't that's my problem, how, when I asked them to transfer to US and the UK, funds of that order, I don't know how. They just transferred them, Guinness & Mahon.

Q. Dr. Dargan, Dr. Dargan, are you telling the Tribunal that you did not know that Ansbacher was a Cayman-based bank?

A. Of course.

Q. Right. And it wasn't a US bank.

A. It operated substantially in the US. That's all I know.

Q. It may have had business dealings with the United States, but it was a Cayman bank, isn't that correct?

A. It certainly was a Cayman bank, yes.

Q. And would you not have been aware, Dr. Dargan, that that offshore bank in the Cayman Islands was surrounded with a veil of confidentiality, if not secrecy, isn't that correct?

A. That wouldn't have arisen as far as I was concerned. I'd have been glad if there was confidentiality around it, but as far as I was concerned, I would have been taking advice

from Guinness & Mahon, through Mr. Traynor, who was the only person I knew there, and it was through his office I usually through his office I usually connected with Guinness & Mahon.

Q. That's Mr. Traynor's office directly?

A. Yes.

Q. So you were dealing with Guinness & Mahon at the highest level, isn't that correct?

A. Yes. That was where we sent the my secretary sent the material.

Q. Now, when the what you describe as the Ansbacher account was opened, were you the settler of any trust at that stage?

A. Not that I know of.

Q. Was any trust formed of which you were the beneficiary or any member of your family including your son a beneficiary?

A. No, not that I know of.

Q. Was your son the settler of any trust at that stage as far as you know?

A. Not that I remember.

Q. So can we take it that the account that was opened in the Ansbacher bank was not a trust?

A. I don't know what it was. I don't know what I was surmising for myself, maybe wrongly, how Guinness & Mahon would have transferred the funds to the US, and I said, well, it may have gone to the Ansbacher account. I accept

the point you're making that that was in Cayman so it would have been a circuitous route that didn't occur to me. It was the only western account that I had any connection with and I had associated it with the time I was in the United States. That's the only reason why it's come up. And I had used it, I do remember, for transfer inwards from the United States on one occasion.

Q. Into Ireland?

A. Yes.

Q. Because I want to ask you about that now.

CHAIRMAN: It's after half past. Obviously Dr. Dargan's evidence is going to continue after lunch. We'll adjourn until ten to two.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AS FOLLOWS AT 1:50PM:

CONTINUATION OF EXAMINATION OF DR. DARGAN BY MR. COUGHLAN:

Q. Dr. Dargan, before lunch, you had informed us that you at one stage probably had an account in Guinness & Mahon but that you believed that at the time of the payment of this cheque to you by Coolmore Castlehyde that you probably did not have an account with Guinness & Mahon at that stage, is that correct?

A. Yes.

Q. But that you did have an account in an Ansbacher account as you describe it?

A. At some time, I don't know when.

Q. Well, when you received this cheque, which was the payment of a dividend to you, you had to physically do something with this cheque, isn't that correct, for it to go to Guinness & Mahon?

A. I would think it would have been handed by my secretary at the time for transmission somewhere and she would have had asked me and I would have told her, something like that.

Q. Yes. Well, I think you told us before lunch that when you dealt with Guinness & Mahon, you always dealt with Mr. Traynor's office itself?

A. Through his office, yes.

Q. Through his office?

A. That's my recollection.

Q. And not through the bank generally; is that right?

A. Well, I didn't know anybody in the bank generally, so I think the transmission would have been through his secretary's office.

Q. Yes. And were you aware of who his secretary was at the time?

A. I don't remember.

Q. I see. You never had dealt with Ms. Joan Williams at that stage?

A. I knew Joan Williams. I don't think I don't know whether I would have known her at that stage or not.

Q. Yes.

A. It's a long time ago.

Q. Yes. But there can be little doubt but that the cheque for
œ10,000 did end up in Guinness & Mahon?

A. I would think so.

Q. Well, perhaps we just look at the cheque. Can there be any
doubt about that? Where else could it have gone?

A. I don't know.

Q. And the purpose of it going to Guinness & Mahon was to send
it abroad, that's your understanding?

A. To send money abroad, yes. I wouldn't have known whether
the cheque would have been posted. I would doubt the
cheque would have been posted to send the money abroad.

Q. To send the œ10,000 abroad.

A. Yes.

Q. And was that an arrangement you had with Mr. Traynor?

A. It was an arrangement, in my recollection, that I would
have used periodically; presumably it would have been
arranged with him. I have no recollection of it except
that it used to happen.

Q. Yes. Because around this time, and when I say over a
period of months previously, and you have been furnished
with a number of cheques made payable to you and one drawn
by you, I think, isn't that correct, which appeared to have
gone through Guinness & Mahon?

A. Yes.

Q. And as far as you know, all of those other cheques which I
think total four other cheques, is that correct?

A. That's what I am told.

Q. Yes. Seemed to arrive at their ultimate destination or were applied for the appropriate purpose, is that correct?

A. As far as I know, yes. I have no recollection of any of them, but I would have been it's pretty certain that if they had not arrived, my son and I would both have noticed it. In other words, I can't confirm they arrived, but I would be amazed if they hadn't.

Q. Well, before lunch, when you were adamant that you did not direct this payment to Celtic Helicopters, you speculated as to whether it had been temporarily diverted by the bank?

A. Well, I would hope that it was so and the funds were fine, that they would have remained mine.

Q. Now, in your dealings with Guinness & Mahon for the transmission of money abroad, your dealings were, as far as you were concerned, with Mr. Traynor and not with the bank in its general existence?

A. Well, I saw it as the bank, but it was through his office was the way into it. That's my recollection now. Whether we could have that, whether we would have sent them direct to the bank or not at the time, I don't know. But that would be my general recollection of it.

Q. And what would you be sending what was the instruction you were giving to the bank or to Mr. Traynor when you sent this money, seeing as you didn't have an account there yourself? What was the instruction?

A. I would have said, please transfer this money to, and it would have been to my son, who would have placed it in the

account which he arranged. And the only reason that I could think that it would not have gone to where it had gone before to London, where he had his account, would have been that he was for years at that stage in New York and it might have gone to him in New York.

Q. Well, why wouldn't you just put the cheque in the post and send it to your son? Wouldn't that have been the easiest way to do it?

A. I wouldn't have thought to, I wouldn't take heed of cheques addressed to me and putting them in the post, I would have sooner transferred them through a bank.

Q. I take it you had a bank account in another bank seeing as you didn't have one in Guinness & Mahon?

A. Well, I have had several, large number of bank accounts.

Q. And why Guinness & Mahon? Why not just go to your own bank and say you'd like to transfer œ10,000 to my son in New York, or for whatever other trading purpose you wish to transfer money?

A. When I started to do business with Guinness & Mahon for international affairs, I regarded them as a bank who were in international business. The other banks I saw as banks who were doing business in Ireland. Now, I know that subsequently I did some business with the Bank of Ireland in New York because I have remembered only very recently, in the last day or two, that there was a lady named Lynn there who was a friend of some people in my family and I remember going in and out to her, as I would have when I

would have been in the states. That's all I remember about banking.

Q. Well, Mr. Dargan, you have held senior board positions in substantial companies, isn't that correct?

A. Yes.

Q. And can we take it that those companies would have been involved in international trade or commerce?

A. Yes.

Q. And those companies would have had the necessity to transfer monies for business purposes abroad and receive monies from abroad, isn't that correct?

A. Probably.

Q. And as far as you know, the companies with which you were associated, is it not the situation that they were able to conduct that type of business through their own banks?

A. Well, I wouldn't have been doing this through any company with which I was associated because I wouldn't have known, for one thing, how they transmitted the money because I was never associated with the accountant's office or treasurer's office, and in this instance, this was personal money to my son and myself.

Q. Yes.

A. Jointly, and I would have transferred that money through Guinness & Mahon, which was the bank I'd always dealt with for transferring money in and out of the country as such.

Q. Well, you see, what I really want to ascertain is this, Dr. Dargan, you have said the reason you used Guinness &

Mahon was because it was your understanding that they were the ones who conducted international business and it was your view that the other banks only conducted domestic business.

A. That was the if I may repeat, I say that was why I took it out in the first instance with Guinness & Mahon.

Q. But Dr. Dargan, it can hardly have been your view, as an experienced businessman, that the other banks in Ireland were incapable of conducting international business?

A. I never said that.

Q. Well, you did a few moments ago.

A. I beg your pardon, I never said they were incapable of doing international business.

Q. But you said you felt that they were the ones that they conducted domestic business and that Guinness & Mahon were the international bank.

A. I said I regarded them as the banks that I would use for internal business in Ireland. I had had the custom from a very early age, before I was associated with those companies at all, of Guinness & Mahon as being people with whom I would have done international business whatever it was. Now, when that was the case, it's stayed that way through the years.

Q. How did you come to have a relationship with Guinness & Mahon?

A. Well, I can't tell you why, 30, 40 years ago. I did have business with Guinness & Mahon abroad that would have been

1970 thirty years ago, perhaps, and I would have been familiar with the very senior people at the time that I was doing business with them at a very high level and it would have been, I would have thought, a normal thing to do business with them in Dublin.

Q. But when you came to have, say, this €10,000 cheque and you wanted to transfer it abroad, how did you understand that this was to be done?

You walked into Guinness & Mahon, is that correct? I know you say it was probably transferred by your secretary, but just take it on the basis that if you walked in, what would you have done, hand the cheque to them and say transfer that abroad for me?

A. No, not the cheque, the money.

Q. I know that, the proceeds of the cheque.

A. In particular words, no, just transfer the money. And if

I I can't remember, I have already said I don't

remember this cheque at all until I turned it up in a file

that I had actually got it and then I said, how did that

get where it did? And I said it must have got there

because it would be through there I would have been sending

funds to my son for the joint account which he kept monies

related to the sire shares and nominations.

Q. Was that the Ansbacher account?

A. No.

Q. The Ansbacher account was a separate matter?

A. Absolutely different.

Q. And you have told us that you have sought you told us, first of all, that the Ansbacher account to which you referred to was not a trust?

A. No.

Q. So it was an account just in the name of Michael Dargan?

A. I would have thought so.

Q. And you sought information in the last year or so from Ansbacher Cayman and you were refused information about your own personal bank account, is that what you are saying?

A. That is correct. Because money had been transmitted to me through the Ansbacher account, I think, I went for verification, I wrote to Guinness & Mahon, I think and Ansbacher, and Ansbacher wrote back saying they would inquire and they came back to me some, I don't know how long later, saying that they had no information about my Ansbacher account.

Q. When was that? When was the money transferred that caused you to make the inquiry?

A. I don't remember when it happened. But I do remember, I would probably have the piece of paper in my bag from them confirming that they knew nothing about my account.

Q. Fair enough. But was it within the last year or two?

A. Oh, this would have been yes, in the last year or two.

Q. Yes. And was it your belief up to that time that you received this lack of information from Cayman, that you

still had an account there?

A. I didn't know, that's why I want to know as much as I could get about the account because I remembered I had this account years before and I asked them if I could have had it a particular year and they wrote back and said no, it hadn't been established at that time. So I wanted to know when it was established, what was in it, and when it terminated, if it had terminated.

Q. And apart from using Guinness & Mahon for the purpose of transferring money abroad, I think you said that they were also the bank you used to, on occasion, receive money, is that correct?

A. That could be.

Q. And can we take it that it was the bank through which you would receive have received money from the Ansbacher account as well?

A. Probably.

Q. So that if you wished to obtain money from the Ansbacher account, you would ask Guinness & Mahon

A. Probably.

Q. to arrange that for you?

A. Probably.

Q. Do you know who in Guinness & Mahon you would have spoken to to arrange that?

A. Most of the business I would have done that I can recollect would have been through Mr. Traynor's office.

Q. Mr. Traynor's office. And can we take it that if this sum

of money, the €10,000 which was in Irish currency, was used to be put into a Celtic Helicopters' account, that you issued no instruction nor did you receive any information of any corresponding adjustment being made in the Cayman Islands?

A. Correct. I don't think I would have any association with the Cayman Islands.

Q. I think, if I may just refer to the transcript, it's been pointed out to me he said, "I don't think 'it' would have any association with the Cayman Islands," is what you said, not 'I'?

A. No, and I don't think I would have had considerable time either.

Q. So far as you are concerned, there can only be two positions to be examined in relation to this particular cheque and the proceeds of it; one, which you deny, that you directed or caused an investment to be made in Celtic Helicopters; or two, it was temporarily diverted by the bank.

A. That seems to be the situation for me. It either went to sorry, the first was

Q. The first one that you authorised a payment to Celtic Helicopters, you deny that?

A. Absolutely.

Q. That's one scenario.

A. Yes.

Q. The other scenario is that it was temporarily diverted,

that is your understanding or belief?

A. Well, it was either that or it wasn't temporarily, and I don't know the answer to that, but I would hope it was temporarily.

Q. And did you ever receive any bank statements from Guinness & Mahon or Ansbacher Cayman whereby you could adjudge this?

A. Well, I have no reason I think I would get them from Ansbacher Cayman, but I never got anything from there or from Guinness & Mahon. I have asked Coolmore, in fact, in recent days if they, through their bank, issued the cheques in the first instance would have anything on the backs of the cheques which they might have got back which would show where the cheques went to, and I haven't got anything from that either.

Q. Well, on the basis that you believe that you did have an Ansbacher account in the Cayman Islands at some stage, are you surprised you never received a statement?

A. No, I didn't look for statements. I never got them from them because I wouldn't have had funds in the place anyway, I think, unless it was in transit, so I don't remember having funds in Ansbacher.

Q. Yes. So were you relying for any information about all of these transactions on Mr. Traynor or his office?

A. I don't I have no recollection in the world other than until I found where that cheque came from in my file and the other files, because this particular stallion didn't die until a couple of months ago, that's why we had a

file. But the other ones would have been through the years and dead for ten years or more, and as a stallion died, well, the file went, probably.

Q. Yes.

A. And the reason I was able to get it was because that file hadn't gone yet. Now, for the other ones, I have nothing.

Q. Just, it's unusual not to get a bank statement, isn't it?

A. Well, my banks in Ireland, I don't know how often I get statements. I do look for statements, I think, before I get them.

Q. Yes.

A. Now, I would have, if I had wherever I would have funds, we would have regular certainly my son or myself would have regularly in some fashion found out what the state of account was. If I had funds in Ansbacher, I would have done the same, but if I had only transit money, I wouldn't be bothered.

Q. If you were looking for information, it was to Mr. Traynor you looked?

A. Through his office.

Q. Through his office.

A. Yes, I would have been, that's my recollection.

MR. COUGHLAN: Thank you, Dr. Dargan.

CHAIRMAN: Mr. Coughlan, does Mr. Clarke wish to raise any matters?

MR. GALLAGHER: If I may, Sir, please.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. GALLAGHER:

Q. Dr. Dargan, I appear for Guinness & Mahon bank, and I have just a few questions, if I may, to ask you.

You mentioned this morning, and tried to be helpful to the Tribunal, that you may once at sometime have an account with Guinness & Mahon, and I just want to put it to you that according to the bank's records you never had been at Guinness & Mahon, would you accept that?

A. I have no recollection of it either.

Q. Yes. And also I just want to clarify something. You are not for one minute suggesting, I take it, that Guinness & Mahon acted in any way improperly in relation to these funds?

A. All I am stating is that I never authorised the placing of any of my funds in Amiens Securities or any other account for the benefit of Celtic Helicopters or Mr. Haughey or anything else.

Q. I would just like to clarify this without any equivocation, if you would be good enough. You are not suggesting that Guinness & Mahon itself did anything improper in relation to your funds?

A. Well, somebody did. I don't know who did it.

Q. And you have no documentary evidence at all to suggest that these funds were temporarily diverted from any of your accounts?

A. Well, the cheque that they were talking about went into a another account without my authorisation, that's all I am saying.

Q. Yes. But you said this was a cheque, Dr. Dargan, the proceeds of which were destined for your son in America?

A. I said probably.

Q. Probably. Did you check with your son in relation to this matter?

A. I have checked with him and he has no information on it himself. And he is not able to help me.

Q. And he has no banking records of any sort showing or suggesting there was any delay in receiving the proceeds of any cheque you may have intended for him?

A. He operated an account in London and he checked with that one and that they didn't have beyond the year, earlier than the year of '90 or '91, so he can't get that. Now, while he was in New York for those three years, he doesn't know whether he had account there or not and I don't remember.

Q. Yes. And there was no

A. Sorry, I mean, it's a long, long time ago.

Q. There was no complaint from your son at the time in 1985 of any delay concerning the receipt of the proceeds of any cheque?

A. No.

Q. I take it normally that if you were am I correct, Dr. Dargan, that you had some connection with the bank of Ireland at some stage, is that correct?

A. Yes.

Q. What was your position in the Bank of Ireland, Doctor?

A. I was a director of the Bank of Ireland.

Q. You would be very fully familiar with all banking procedures, I take it?

A. No, I wouldn't, as non-executive director with the Bank of Ireland, but I wouldn't have any familiarity with how the banks transacted their business.

Q. Would you have that familiarity, Dr. Dargan, from your long years of experience as a businessman? Would you have familiarity with how banks transfer funds from your long years of experience as a businessman?

A. No, except that if I asked them to transfer, they transferred. Now, that's all I know about it. I never was involved in that end of business.

Q. And would it be normal to execute documentation asking that the transfer take place and identifying the account into which the proceeds were to be transferred?

A. I would say that there would have been a note, "please transfer to," but that would have been on the files. I said they don't exist.

Q. And you don't recollect in this instance executing any such note for Mr. Traynor or for his secretary, Ms. Williams?

A. I do not, because it's 15 years ago or in or about, and the files, for the reason I have given you, don't exist.

Q. And while you say that you don't know how banks carry out transactions of this nature, I suggest from your personal

experience as a businessman and as a non-executive director of the Bank of Ireland, you would know at least as much as the ordinary lay person in regard to bank transactions of this nature?

A. I would indeed, and it's nothing to do with the Bank of Ireland.

Q. And presumably you have transferred funds previously, you have transferred funds abroad?

A. I have.

Q. And in those instances, Dr. Dargan, you would execute documentation indicating the identity of the recipient of the funds, isn't that correct?

A. Of course.

Q. And you recollect doing none of those things in this particular instance?

A. I wouldn't recollect any transaction unless I had a note of it from 15 years ago, and I have no note of that because the file, as I have said a few times, are not there.

Q. You did say, Dr. Dargan, that you regarded Guinness & Mahon as being involved in international business and specifically stated you regarded the other banks as being involved in domestic business, do you remember that?

A. I do, I remember saying that many years ago I would have thought of the banks as being Irish banks and I wouldn't have been aware of them in international business and I knew that they were doing business abroad.

Q. You are not suggesting as a non-executive director or

person who had been a non-executive director of the Bank of Ireland, that you were unaware that in 1985 Bank of Ireland would also have been involved in international business and have the capacity to transfer funds abroad?

A. Of course.

Q. So that if you needed to transfer funds abroad, that could have been done either through the Bank of Ireland or the AIB or any other bank that you had an account with at the time?

A. Of course, but

Q. And that wasn't?

A. But the cheques ended with Guinness & Mahon.

Q. I appreciate that. But if you had intended to send this cheque abroad to your son, that could easily have been carried out on your behalf through the banks with which you normally did business?

A. Well, I have said already that the method that I would have recollected using was Guinness & Mahon through Mr. Traynor's office for transmission.

Q. That's not because only Guinness & Mahon could have executed or carried out the international business?

A. Of course

Q. Because any of the other banks which you would have had an account could have done that?

A. Of course I could have gone to any bank to do it.

Q. Yes. And if you were intending to have transferred funds directly to your son for his account, it is probable that

you would have done it through one of the banks which you would normally have had an account?

A. No, it is not probable.

Q. I see. I take it that there are other transactions, and I think you have acknowledged it, where you have used your banks with which you had a relationship to transfer funds abroad. I think you have acknowledged that?

A. I don't remember. I don't remember.

Q. Are you saying that you never used the banks with which you had a customer relationship to transfer funds abroad on your behalf?

A. No, I didn't say never.

Q. So we may take it that those banks did from time to time transfer funds abroad, either on your personal behalf or on behalf of companies with which you were associated?

A. Nothing to do with companies I was associated with at all in this instance.

Q. I know in this instance, but generally in the past banks which you had a customer relationship would have transferred funds abroad on your behalf or on behalf of various companies with which you had a relationship?

A. They could have on my behalf, I am not getting into companies with which I had a relationship.

Q. And why then would you have gone to Guinness & Mahon in this particular instance if all you required was a normal transfer to your son abroad?

A. Because the only reason is because I said it was probable I

did so.

Q. That's not a reason for doing it. You are saying it's probable you did so. I am asking you for the reason as to why it is probable.

A. It was my custom to do so for the reasons I had given, that I had over the years been using that conduit.

Q. When were you a director of Bank of Ireland, over what period?

A. I don't see it has anything to do with it, I'll tell you. I think it would have been about 1975, '4 '5, for about I think 13 years.

Q. So at the period of time when these funds we are concerned with, you would have been a director of the Bank of Ireland?

A. I might.

Q. Well, a moment ago you said you were a director of the Bank of Ireland, '74 for approximately 13 years?

A. I said probably.

Q. So can we take it that it's probable that at this particular time you were a director of the Bank of Ireland?

A. Probably, yes.

Q. And may we take it as a matter of probability that as a director of the Bank of Ireland you would have been familiar with exchange control regulations?

A. I don't think this has anything to do with exchange control regulations.

Q. I am asking you a question. Can we take it as a matter of

probability that as a director of the Bank of Ireland you would have been familiar with exchange control regulations?

A. I don't know, I don't know what the exchange control regulations are.

Q. Are you seriously saying to the Tribunal during your period as a non-executive director of the Bank of Ireland, you were unfamiliar with the requirement to get exchange control permission if you were transferring funds abroad?

A. I have never associated Bank of Ireland with any of my personal transactions in this particular context. Now, to be asking me what I knew as a director of the Bank of Ireland in terms of my association with them, I did not study exchange control regulations when I was with the Bank of Ireland. I had no reason to.

Q. Are you saying to the Tribunal, Dr. Dargan, that as a director of the Bank of Ireland, as an experienced businessman, you were not familiar with the requirement that in order to transfer funds abroad, you required exchange control permission?

A. I wouldn't have seen it as necessary if I were sending my son's funds to him abroad that I got exchange control regulation.

Q. I have to suggest to you, if you intended these monies to go abroad to your son, you would have to obtain exchange control permission at the time.

A. If so, I had been doing I would be doing it every month.

Q. Did you or didn't you recollect receiving exchange control

permission for this transaction?

A. No.

Q. There were a number of other transactions in around the same time of cheques to you lodged to Amiens Securities, isn't that correct?

A. There were. In the same context.

Q. All of these cheques you say were lodged to Amiens Securities in the context of sending money abroad to your son, is that correct?

A. Only cheques associated with stallion shares or nominations, money which was not taxable by legislation was concerned.

Q. Yes. Do I take it, and am I correct in believing, that Thames International was a company you were associated with at the time?

A. Yes.

Q. What was your interest in Thames International?

A. Thames International arose as the name of a joint account which my son arranged, and the reason the name was chosen was because we had an account in Dublin called Liffey Properties in which my wife and I had transactions and it was a simple thing to identify the other as Thames International when my son was in London and that was the account into which he put anything for, that might have been jointly owned between himself and myself and we regularly saw who owned what and transferred monies.

Q. If your son at the time, and neither you nor your son know

at the time whether he had an account in the United States, if you had wanted to transfer money abroad to him, surely you would have transferred it to his account in London?

A. Well, this may have happened.

Q. I see.

A. I would have hoped that it would have happened.

Q. I see.

A. But he has no information on that and the account he uses, he has asked for a statement and can't get it before '92 or

Q. Why would you say the money might have been routed through Cayman through the United States?

A. I didn't say that. I said the only account that I had that I remembered having in the US was an Ansbacher account and I was corrected that that wasn't in the US.

Q. Yes. But there would be no reason, if you were intending these monies for your son, they would have been routed through Cayman, is that correct?

A. None, any more than I had no other bank account that I knew was in that hemisphere.

Q. The cheques that went into the Amiens Security account in the period January '95 to March '95, some of those were cheques payable to Thames International, the company you have just

A. Yes, it wasn't a company, it was a

Q. A name?

A. A name.

Q. And of those there were six cheques in all over that period.

A. There were either five or six because I got a late notification of other ones that had been addressed to Thames International which meant that my son was part of that and I sent them to him.

Q. Sorry, I said mistakenly, Dr. Dargan, forgive me, '95. It's '85 is the period we are talking about.

A. Right.

Q. Over that period there were six cheques payable either to you or to Thames International that found their way into the Amiens Security account?

A. That's the point that has me, from the beginning, I can't understand how they could have gone in there with no direction from me.

Q. And you have no idea why Mr. Traynor might have lodged them into that account?

A. None. And I don't wish to restate the fact that I have never made a contribution of any such kind or an investment and it was entirely without authority.

Q. And Mr. Traynor was the Amiens Security was one of Mr. Traynor's companies, isn't that correct?

A. I don't know anything about it.

Q. Well, you can take it that it is correct, that Amiens Security was one of Mr. Traynor's companies.

A. I see.

Q. And if you say you didn't give instructions to lodge the

cheques into Amiens Securities, but these were cheques which you would have given to Mr. Traynor on your behalf, it would appear that he put them into Amiens Securities without your authority.

A. Well, they went in without my authority, that's all I know, and they would have been sent there through his office.

Q. All of these cheques were sent directly by you not to Guinness & Mahon but to Mr. Traynor and his office?

A. To his office, not to him.

Q. And you have no documentation in relation to any of these cheques?

A. Other than the one cheque that I found and immediately notified on and had the correspondence on, I have nothing on the rest, and all the banks that I have made contact with, and with Coolmore, nobody has anything.

Q. Just in relation to Ansbacher Cayman for the moment, you indicated a difficulty in getting statements from Ansbacher Cayman, is that correct?

A. I asked for a statement in the last year, I asked for a statement of whatever account I had with them and when, how, ever transaction and they told me they do have nothing.

Q. The account was in your name, I take it?

A. Well, I thought it was. And all I do is, this is a memory of 15 to 25 or 30 years ago. Now, I remember having an Ansbacher account because the name, when I heard it, associated with it, and I wanted to find out from them when

it was opened and what I had done through it in transmission of funds.

Q. And are you seriously saying to the Tribunal, Dr. Dargan, that you, as Ansbacher's customer, could not obtain any information from them concerning your account as to when it was opened, when it was closed or what transactions were operated on the account?

A. I have the letter.

Q. I see. And when did you close the account, do you remember?

A. No, that's one of the questions I have been asking.

Q. Do you accept that the account was there in 1992?

A. I don't accept anything because I don't know when it was there. I was I asked the question to them because I have been trying to find out where the funds were directed when they were sent to Mr. Traynor's office and I tried every account that I could think of and that my son could think of to see if we could get where they went, and that's why I went back to Coolmore to know if they could identify from cheques coming back where they went from, they were dredging.

Q. Does it follow from that over the period, but you are not able to tell us how long the period was, but whatever period, you had an Ansbacher account, you have never received a statement at all during that entire period?

A. That's correct. None that I ever remember.

Q. Even though you were routing funds through that account?

A. Yes, quite occasionally.

Q. And you had no means of checking over the years whether those funds you were purporting to route through the account had gone through the account, whether you had got interest, whether your account was being properly debited and credited?

A. I don't remember ever having left funds in it. They would have transmitted funds through the account for me and if the funds hadn't gone through, I would know all about it, by somebody else.

Q. So if these funds hadn't got through to your son, you would have known all about it?

A. I would have heard about it, yes, that's what we both think.

Q. And your son never made any complaint to you that funds destined for him never arrived?

A. Correct, correct.

Q. And doesn't it follow then, Dr. Dargan, that this particular cheque for £10,000 was not destined for your son but was destined for some other purpose or some other account, such as the Ansbacher account or somewhere else?

A. It does not. Anything but. The only reason the cheque would have been sent to Mr. Traynor's office was because it was going to my son, relative to the transactions in stallions and shares, and all the six cheques we talked about were for the same thing.

Q. Could I ask you the Thames International account, what bank

did you have that account?

A. I don't know what bank he has that in. I asked him about the account and he said he checked it out.

Q. Could you not even tell us now, because you had an interest in that account, what account that bank was in at the time in 1985?

A. I don't know.

Q. You don't know and you have made no attempt to find out?

A. No.

Q. Is there any explanation why that bank could not have transferred abroad for you to your son monies payable to Thames International?

A. I got the cheques that were addressed to Thames International. They were sent to me.

Q. Yes.

A. The information would have been there about the animals that were referred to and where they came, what they resulted from. I would have sent them to my son who would have known what was his, what was mine and we then would say where we were. Apparently, I would believe, and I can only believe that five of those would have got through or we would have known about it, and I don't know what the other £10,000 cheque, whether it ever arrived in any other fashion or form. I don't think we could have suffered a loss of £10,000 without having been aware of it.

Q. Is there any reason, Dr. Dargan, why a cheque payable to Thames International, which you say was your son's account,

or an account which your son had an interest, wasn't sent to the bank in which Thames International had its account?

A. The Coolmore people and other stud farms would have known that Thames International referred to a joint account and most of them would have been sent direct to me. I doubt if they were ever sent to my son.

Q. I can understand, Dr. Dargan, Coolmore, whatever, might have sent the cheque to you in the first instance, but if it was cheque and you want the monies to go to your son, wouldn't the logical thing to have done to have been to have sent that cheque to the bank in which Thames International had its account?

A. I don't know. All I say to you is that my recollection was that anything that is moving internationally we was sent as I said.

Q. Why would a cheque from Thames International have to move internationally at all?

A. Because if my son had half or more of it

Q. Yes?

A. I would have sent it to him, otherwise, I would have lodged it here.

Q. Why were you sending it to your son in America when you don't even know whether your son had an account in America?

A. Because he could have changed in America whether he had an account or not.

Q. But what was he changing in America? You have already emphasized you weren't sending the cheque, you were sending

the proceeds of the cheque. So what would he have changed in America? Where were the proceeds of the cheque going to end up in America if he had no account?

A. In his pocket.

Q. And how would they get to his pocket?

A. If the cheques was sent to him and he cashed it sorry, if the money sorry, if the money was transferred as money

Q. Yes.

A. to him or to a bank on his behalf, I don't know how.

Q. You are hardly saying that you wouldn't send the cheque through the post to your son which you made clear to Mr. Coughlan, and you think Guinness & Mahon would have sent money through the post, you are not suggesting that?

A. Not through the post. Banks transfers money to banks.

Q. And what bank, if your son had no bank account abroad, why would you be transferring money to a bank in the states for your son rather than putting it into the account of Thames International in which he had an interest?

A. I didn't say he had no account.

Q. But neither you nor your son had been able to identify any account he had at the time.

A. At this stage, because it's only some two days since I have been dealing with it or he has known about it either.

Q. He wasn't able to tell you on inquiry, yes, I did have a bank account in the states at the time?

A. No, and it's 15 years ago.

Q. I see.

A. He said he didn't know.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. CLARKE:

Q. Dr. Dargan, there's just one or two points I want to check with you, if I could, to clarify them.

Firstly, when Mr. Coughlan was questioning you originally, he put to you, and as the Tribunal directed treat as de bene esse, or possibly true, that the proceeds of this cheque which have been identified were proceeds which actually went to Celtic Helicopters. That's what you have been asked to accept, and in general terms, that is what has been accepted in evidence. But I wanted simply to ask you, you of course yourself don't know anything about the proceeds of that particular cheque at all at this stage?

A. I know nothing about it.

Q. Yes. Thank you. Thank you for that.

And the second question just to ask you also in relation to that is, as you said already, none of the I think it's a total of six cheques that we are concerned with, are matters or transactions that you recall at this stage. You don't recall any of these particular transactions?

A. No. I don't I have I have now, we have been into so many text I am beginning to get vague I have, I think, asked Coolmore for the individual elements, and if not, they should have the individual elements. I know they were

for stallions and nominations, but I wouldn't recollect which stallions and which nominations unless I had the files. Now, they will have difficulty in saying which stallions and which nominations they were, but I didn't think this news would have been of use in looking for that particular item. I accept that they were sent to me and that I then found that they were related to funds in that Alan was dealing with and routed them to him.

Q. Yes. Now, on many occasions during the course of his examination of you, Mr. Coughlan put to you the incongruity between, on the one hand, the fact that you appear to have received at least the first cheque with which we have been concerned, the cheque for €10,000; the fact that it appears, as he has put it, to have gone to Celtic Helicopters, to the credit of Celtic Helicopters' account; and thirdly then, the fact that you say that you certainly did not direct that it should go to that or to Amiens Securities through which it appears to have passed, isn't that right? He put that proposition to you on a number of occasions?

A. Sorry, the proposition is that the cheque that was sent to me, that I did not authorise, is that what you are saying?

Q. Forgive me, Sir, I really didn't ask a question, it's a statement I put.

Mr. Coughlan put it to you on a number of occasions that there was an incongruity between, on the one hand, your statement that you had never authorised or directed the

payment of this €10,000, either to Amiens Securities or to Celtic Helicopters; he noted the incongruity between that on the one hand and the act on the other, that there is no apparent record, and you cannot recall at this stage whether you did, in fact, receive that €10,000?

A. That's correct.

Q. Yes.

A. I wouldn't, unless we got records, we were having I don't know how many forwards and nominations but particular times they came in in numbers in the week, so when an individual one, I can't account for.

Q. But if you are now asked, as you have been asked in different ways, to say whether you think that the balance of likelihood is that you received these monies or didn't receive the money, and I am talking now about the €10,000, the first cheque, would I be correct in thinking that since it's quite clear that you didn't notice that the money hadn't been received, that your assumption would be that in one form or another, whatever way the channels which it was obtained, you probably did receive that money?

A. Absolutely. I don't know how money of that order could have gone missing without anyone being made very aware of it, either by my son, own inquiries, or coming from my secretary or coming from my son. It would have never happened before and I don't think it ever happened.

Q. But as you have already said and had to repeat on several occasions, these transactions took place many years ago

now. You would ordinarily, as most of us would do, I think, would have destroyed or lost or disbanded your bank statements in the ordinary way?

A. Well we changed house about four, five years ago and I lived in a house with an enormous basement of 11 rooms and I had all the room in the world for all kinds of files, moved into a city house and everything that didn't have a relevance to the present went. We had the minimum of transfer other than what was necessary for the future.

Anything that was back in years like that would have gone.

Q. Yes. Mr. Gallagher put to you a number of questions about accounts from Ansbacher and there may have been some confusion left in that. You have no particular reason to assume that these funds would have travelled through Ansbacher, they might have gone so or they might not?

A. No, that was only a possibility because I have been dredging how and where they could have gone. I was thinking of that hemisphere, did I ever have an account there, and I said I think I had an Ansbacher one and I was given full information and I knew that there was an account in London. But then my son was at the time in New York, so I had to cover the eventualities. So I think it's quite unlikely that they went through the Ansbacher account, quite unlikely. I think they would have gone directly to a bank or whatever.

Q. Mr. Gallagher has been questioning you about whether or not you had received statements of accounts from Ansbacher and

was suggesting some surprise at the fact you might not and you pointed out in response to that that, in fact, this is an account which so far as you recall is something you might have used for transfers

A. That's right.

Q. Am I correct in saying that if indeed the €10,000 that we have been concerned with is money which had been sent by you, and I am using that term in the broadest sense of the word, Sir, sent by you to your son in the United States, there's no particular reason why it would have shown up in an Ansbacher account, but it would presumably at some stage show up in whatever account your son lodged that money to or whatever account it was received in?

A. That's correct.

Q. Thank you.

Sir, I have a couple of other points I wish to make to you, but they don't, in fact, affect my inquiry or to ask further questions of Dr. Dargan, and I will make them only after you have satisfied yourself you have no further evidence to

CHAIRMAN: Thanks, Mr. Clarke.

THE WITNESS WAS EXAMINED FURTHER AS FOLLOWS BY

MR. COUGHLAN:

Q. Just one thing, Dr. Dargan, you don't have to hand it now, but can I take it through your solicitor you will make

available the correspondence you had with Ansbacher
Cayman?

A. Yes.

CHAIRMAN: Very good, thank you very much for your
attendance.

Well, very good. I had in general terms, Mr. Clarke,
intimated on the first day a preference that matters of
submission might be, if not feasible to be made in writing
might, as far as possible, be made at the start and end of
each day. I am not sure how lengthy you might propose to
be.

MR. COUGHLAN: Sorry, Sir, is Mr. Clarke making a
submission in relation to procedures which will be one
which will be appropriate to be made in the course of the
Tribunal's sittings, or does he intend making a submission
as to the facts which of course I respectfully submit to be
inappropriate to do so at this stage? I am just unsure
what submission he proposes to make.

CHAIRMAN: Of course. Dr. Dargan, thank you for your
evidence.

THE WITNESS THEN WITHDREW.

MR. CLARKE: I will want to make two submissions, in
order. The first one is a very small one, I suppose purely
procedural, it is to make the point, lest there be any

doubt upon it, the Tribunal has been aware for a considerable number of time of the fact that Dr. Dargan had an Ansbacher account, of the fact that he had inquired of getting information about it and the response to that. All that information has been with the Tribunal for perhaps about six or eight months past.

Now, the other submission I wanted to make to the Tribunal, Sir, I could make quite easily in writing, but it relates to the evidence really. It's not a matter

CHAIRMAN: I think it may obviously, Mr. Clarke, I have already borne in mind the first matter that you have mentioned and I think it seems the case that a reasonable volume of correspondence exists between your good selves and Mr. Davis, the Tribunal solicitor, and I think in the context of you rightly acknowledging that the remaining matter you may wish to address is factual, it's probably preferable it be deferred and may be made, if feasible, in writing in the first instance.

MR. CLARKE: I will be glad to do that.

CHAIRMAN: Thank you very much. Mr. Coughlan?

MR. COUGHLAN: Sir, at this stage, I have an application to make pursuant to Section 2 of the act. This is the section of the act, Sir, and my application is to continue a portion of the proceedings of the Tribunal in private; in

other words, to exclude the public from this aspect of the Tribunal's proceedings for the specific purpose of obtaining information from a witness to enable the Tribunal to put people who may be affected by the information he would give on notice to comply with fair procedures.

CHAIRMAN: Well, this in effect then is an analogous situation to that which has arisen on some two occasions, I think already in earlier sittings; namely, that if one were to proceed regardless of the public, it would mean necessarily the naming of persons whose reputations might potentially fall to be adversely affected. And of course the jurisprudence and procedures which have been adopted by the Tribunal necessitate that advance notice be given should any such contingency arise.

Just bearing in mind we are, of course, primarily a public inquiry, Mr. Coughlan, what do you imagine is the time scale of that or is there feasibility for members of the public and media if I am to accede to your application, as I think I should, indicating there may be further public testimony before 4:00?

MR. COUGHLAN: No, sir, there would be no further public testimony before 4:00. We would intend proceeding with some evidence tomorrow morning.

CHAIRMAN: In those circumstances, unless anyone has any observations to make on the submissions on Mr. Coughlan's

application, I propose for the reasons that have been clearly set forth in his application, to accede to hearing a brief portion of the evidence for which the public will be excluded for the valid reasons which have been set forth. And there being no feasibility in taking up further open sittings for the remainder of today, we will resume public sittings at half past ten tomorrow.

Perhaps to enable matters to take place, I will sit at five past three.

THE TRIBUNAL THEN ADJOURNED UNTIL 3:05 PM FOR PRIVATE SESSION AND THEN WAS ADJOURNED TO THE FOLLOWING DAY, THURSDAY, 4TH MARCH 1999, AT 10:30 AM.