

THE TRIBUNAL RESUMED ON THE 24TH OF MAY, 1999, AS FOLLOWS:

CHAIRMAN: Good morning. Mr. Healy?

MR. HEALY: Yes Sir. Mr. Laurence Crowley.

LAURENCE CROWLEY, HAVING BEEN SWORN, WAS EXAMINED BY MR. HEALY AS FOLLOWS:

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

MR. COLLINS: I wonder might I apply for representation on behalf of Mr. Crowley. I understand it doesn't necessarily guarantee my costs.

CHAIRMAN: On the usual basis, limited representation; limited to Mr. Crowley's limited involvement in the Tribunal's affairs. Thank you.

Q. MR. HEALY: Now Mr. Crowley, you have provided the Tribunal with a memorandum of your evidence and I hope that you have a copy of that with you there?

A. I have. Thank you, Mr. Healy.

Q. And what I propose to do is simply take you through your memorandum of evidence. There are parts of the material that I propose to lead you through but which will not be dealt with in detail at these sittings but will have to be re-visited at a later point, but I will go through everything in the first instance. We may need to clarify one or two aspects of the material we propose to deal with,

and some of it will be left for another occasion. Now, you say that you are a chartered accountant, that you were a partner in Kennedy Crowley, which became Stokes Kennedy Crowley, of Stokes Place, Dublin 2, and which is now known as KPMG, from 1960 until you resigned in 1990.

You say that in during yours years as partner you practiced in the field of corporate insolvency and that, in all, you have had some 20 years experience in the field of insolvency. That's correct, isn't it?

A. Yes.

Q. On April the 30th, 1982, you were appointed Receiver over the assets of the Gallagher Group of companies. You were appointed by Bank of Ireland, Allied Irish Bank and Northern Bank Limited on foot of their powers as debenture holders, whose debts were secured by fixed and floating charges over the assets of the Group. On your appointment you assumed responsibility for the Group's business activities for the purposes of realising the assets, subject to the bank's securities in order to meet the debts owed to the banks.

And as of April of 1992, you say as of April 1992 - should that April 1982, I wonder?

A. I am sorry it should be.

Q. "As of April 1982 the Group consisted of a very large number of companies. The main activities were carried out by Gallagher Group Limited.

On your appointment the books, files and records of the Group passed into your possession. The assets of the Group primarily consisted of real property, some of which was held for future development and some of which was in the process of development.

The files and records of the Group included an agreement between Mr. Charles Haughey and Mrs. Maureen Haughey of Abbeville, Kinsealy, and the Gallagher Group Limited, dated the 27th of January, 1982. I think that should be 1980 rather than '82, it is a typographical error.

The agreement was for the sale of 35 acres of land in Kinsealy, County Dublin. As Mr. Haughey was then Taoiseach you considered that this was a sensitive document and you retained it at all times in your personal custody.

You considered that the agreement had a number of unusual features, and then you describe those features.

You say; "It did not appear to have been prepared by a solicitor". I don't know if you are aware of evidence given the other day, that would now appear to be so. I think until this day you were not aware that it had been prepared by Mr. Desmond Traynor; is that right?

A. That's right.

Q. And I am sure that wasn't for the want of trying to find out, but we will come to that later. "The form of the agreement was unusual in that it consisted of only seven

paragraphs. It was not subject to any of the usual conditions which are found in contracts for the sale of land, nor was it subject to any of the Law Society general conditions of sale.

Clause 2 of the agreement provided for a purchase price of €35,000 per acre. The land in sale was described as approximately 35 acres and accordingly the purchase price amounted in total to 1.225 million pounds. This appeared to be high, in view of the fact that the land did not have the benefit of planning permission and was zoned for agricultural use.

The agreement was subject to a condition that the Gallagher Group would provide Mr. and Mrs. Haughey with a stud farm of at least 60 acres of land with appropriate stables and within a radius of 20 miles from the city of Dublin. The new stud farm and the cost thereof was to meet the approval, was to meet with the approval of Mr. and Mrs. Haughey. The costs of the new stud farm were to be deducted from the purchase price. Again, this appeared to be a most unusual provision in a commercial transaction, particularly as there was no mechanism provided whereby any dispute between the parties over the satisfaction was condition could be resolved".

Now, in other words your concern at that point was that as I understand it, and correct me if I am wrong, that here

you had a contract where the purchaser was agreeing to pay 1.225 million pounds, had to pay a substantial deposit which we will come to in a moment; and one of the conditions which could prevent the contract going through was the right the vendor had to say "I don't like any stud farm you provide to me". And there was very little way of resolving that or getting over that objection; isn't that right?

A. Right.

Q. "A deposit of £300,000 had been received, and in the event of the transaction not being completed by the 31st of December of 1985 the deposit was to be non refundable. Gallagher Group Limited was to have no further obligation to complete the agreement but was to have a right of first refusal for a further period of two years from the 1st of January of 1986. This seemed to be a very lengthy completion date having regard to the deposit of £300,000 which had already been paid.

Furthermore it was unusual having regard to the size of the deposit that the Gallagher Group was to have no further right to complete the contract, save for a right of first refusal for a further two years". And once again there was no mechanism whatsoever for determining how the right of first refusal was to operate.

Now, if I could just stop there for one moment. The deposit was in fact in the order of nearly, in the order of

nearly 25% of the contract price; whereas am I not right in thinking that 10% would be more usual?

A. It certainly is in recent times more usual.

Q. Yes, and even I think in those times the larger the consideration the more likely the deposit was to be 10%?

A. That would be my experience.

Q. But here you had a non refundable deposit which was most unusual in a contract which was not to be closed, not for some considerable period of time; isn't that right?

A. Yes.

Q. You may not have heard the evidence of Mr. Gallagher the other day, but it would now appear that the €300,000 was fixed by reference to half of Mr. Haughey's indebtedness, and in fact had nothing to do with the consideration.

Would I be right in thinking that the first you heard of that was in the evidence given to this Tribunal?

A. Correct.

Q. "The contract was signed by Mr. Patrick Gallagher, a Director of the company. It was witnessed by Mr. Paul Gallagher, another Director. However, the company seal was not affixed.

Apart from the unusual form of the agreement itself, the Group's file did not include any record of any steps having been taken in furtherance of the agreement, either by the vendors or the purchasers. There was no records of any application by the Group for a grant of planning permission for the lands. There was no correspondence relating to the

agreement. There was no record of any steps having been taken to locate a stud farm to comply with the condition precedent. There was no record of any steps having been taken by the Group as to any contemplated development of the lands". Now, in relation to that particular aspect of the transaction, of course it might suit a builder not to apply for planning permission, but in this case if the stud farm wasn't identified in time, then planning permission or no permission the developer would be shut out; isn't that right?

A. That was certainly my understanding.

Q. "There was no record of any steps having been taken by the Group as to to any contemplated development of the lands".

A further feature was that a deposit of 25% had been paid, and we have already discussed that you would say that this would be unusual in any contract for same, where in the context of a consideration of this size 10% would be the norm. It was even more unusual when it was borne in mind that the deposit was non refundable.

Now, you go on to say: "In view of all these matters I had doubts as to whether the agreement and the payment of the deposit of £300,000 was a bona fide transaction. As Receiver I consider that I was obliged to investigate the agreement and the circumstances in which it was entered into to ascertain the prospects for recovering the deposit from Mr. and Mrs. Haughey. As it appeared that the

Directors of the Group had no asset there was no question of any recovery from them.

I sought the advice of my solicitors, Arthur Cox, who in turn took the opinion of senior counsel". And your solicitors, by letter of the 3rd of May of 1984 furnished you with their advices in the matter.

And I think we can just refer to the letter of the 3rd of May of 1984. This is a letter from Messrs. Arthur Cox to you as Receiver. And it says: "We refer to your meeting with the Revenue Commissioners and subsequent meeting with Mr. Patrick Gallagher in relation to this matter.

We understand from your meeting with Mr. Gallagher that he is steadfast in maintaining that the agreement in question was a bona fide commercial transaction. Elaborating further, he stated that the belief at the time was that planning permission would be forthcoming during the period within which the balance of the purchase monies was to be provided, and that this would result in a profitable transaction for the Gallagher Group. His explanation for the circumstances in which the contract was prepared without reference to solicitors was to preserve the anonymity of the vendors. He also explained that the provision at Clause 3 of the agreement relating to an alternative stud farm was inserted to assist in some unspecified way the vendor's tax position. In addition, the vendor's daughter was due to get married at the time

and the vendors wished to provide her with a home.

It is clear from the meeting with Mr. Gallagher that he would be of no assistance to you whatsoever in your efforts to establish that this was not a bona fide agreement". In other words, you were canvassing the prospect of recovering the money from the Haughey's relying on Mr. Gallagher's evidence, and it was as a result of your meeting with Mr. Gallagher that your solicitors were advising you as to whether you would be able to rely on his evidence, as to whether it would be of any assistance to you?

A. Correct.

Q. "Accordingly you have asked us to consider in conjunction with Mr. Raymond O'Neill, Senior Counsel what further steps you as Receiver might take in relation to this matter. Our conclusions are as follows:

To establish the true facts surrounding the agreement it would be necessary to have the directors of Gallagher Group Limited examined by the court pursuant to Section 245 of the Companies Act, 1963. However, this could only be done if a provisional liquidator is appointed or a "winding up order" is made in relation to the company.

Having regard to Mr. Gallagher's business style prior to the collapse of the Gallagher Group there must be a real possibility that his stated reasons for entering into an agreement of this kind would not be disproved on

examination by the court.

Even if the bona fides of the agreement were successfully challenged and proceedings were subsequently instituted against the vendors for recovery of the funds, there is no guarantee that such proceedings would result in the recovery of the deposit paid.

The costs associated with proceedings of this kind are likely to be substantial.

In the light of the foregoing we are of the opinion that if this matter is to be pursued further it should be done by a liquidator who can apply to have the directors examined and not the Receiver appointed by the debenture holders who enjoys no such powers".

You, of course, were merely the Receiver, you didn't the powers of a liquidator, and what was being canvassed was whether a liquidator could be appointed to exercise powers which you didn't have.

"Accordingly, we would recommend that you should advise the Revenue Commissioners as the preferential creditor who is the only party likely to benefit in the event that this matter is pursued successfully, of the present position, and your inability to pursue the matter further for the reasons outlined. It would then be a matter for the Revenue Commissioners on the basis of the information which you have made available to them to decide whether or not

they wish to apply for the appointment of a liquidator to the Gallagher Group Limited.

We have consulted with Mr. Raymond O'Neill, Senior Counsel, on the contents of this letter and he concurs with our views".

Now, there were in fact meetings between you and the Revenue Commissioners and you did canvass what steps might be taken or could be taken with a view to scrutinising this transaction further. You say that you; "Discussed the matter with the Revenue Commissioners as any funds arising from any action would be fully absorbed in meeting the claims of the preferential creditors. No amount from this source would be available for the fixed charge holders. As this was a matter of a sensitive nature, I arranged to meet with the then Chairman of the Revenue Commissioners, Mr. Seamus Pairceir".

I should say that this is being opened, Sir, with a view simply to putting all of the stated positions of the named parties on the record. The matter will be scrutinised at a later stage, and there is no suggestion at this point that either the Revenue Commissioners or this witness, Mr. Crowley, failed to pursue matters as they should have done, their stated position is simply being put on the record.

"A meeting was arranged at Dublin Castle on the 10th of May, 1984. The meeting was attended by myself, Mr.

Pairceir, the late Mr. Raymond O'Neill, Senior Counsel, and a Revenue official. The purpose of the meeting was to inform Mr. Pairceir of my investigations and of the legal advice with which I had been furnished with a view to ascertaining whether the Revenue Commissioners wished to appoint a liquidator to pursue a claim against Mr. and Mrs. Haughey for the return of the deposit of €300,000.

The focus of the meeting was the prospects of such a claim succeeding vis-a-vis the potential cost to the Revenue Commissioners of funding the liquidation. Mr. Pairceir confirmed that the Revenue Commissioners would consider the matter and would write to me with their decision".

And Mr. Pairceir did, in fact, write and he is aware that this matter is being opened, Sir, today.

I am writing to you; sorry this is a letter of the 14th of May of 1984 from the Revenue Commissioners to Mr. Laurence Crowley.

"I am writing to you as we agreed when we met on the 10th of May to let you know formally the Revenue's view on the subject of the agreement by the Gallagher Group to acquire certain lands.

The legal opinion which you have obtained and which is summarised in the letter of the 3rd of May from Messrs. Arthur Cox & Company, solicitors, would deter you, as

Receiver, from taking any further action. The question then remains whether the Revenue Commissioners, as preferential creditor, might wish to pursue the matter by moving to appoint a provisional liquidator. I have considered this matter in an administrative context and without allowing the status of the proposed vendor to influence my decision.

The summary of Mr. O'Dwyer's conclusions at (2) of his letter refers to the real possibility that the stated reasons for entering into an agreement might not be disproved". In other words, that it would be difficult, or it might be difficult to establish that the agreement was an irregular one relying on the evidence of Mr. Gallagher.

"Assuming that it might be possible, in a winding up, to have the directors examined, it would seem to me to be difficult, to say the least of it, to undermine their version of the matter, given the known style of business of the particular enterprise in which they were engaged. It would also need to succeed in reversing the more usual understanding where the greatest reliance is placed on the documentary record. The provisional liquidator urged on by the Revenue Commissioners would be attempting to establish that the document with which we are all concerned meant something other than what was stated.

At point number (3) of Mr. O'Dwyer's summary I must also take note that even if we were to take action along the

lines suggested, the recovery of the funds would by no means be a readily obtainable objective. In all of the circumstances I do not think that the responsibilities placed on the Revenue Commissioners under the broad label of "care and management" of the duties and taxes would permit me to move for the appointment of a provisional liquidator.

In the last analysis the opportunity for liquidators having the agreement or contract condemned, differs only from the Receivers doing so because the liquidator would be afforded an opportunity of having the directors examined by the court. The chances of setting the agreement at naught by getting into court fortified only by disbelief in the agreement would not seem to me to be great. Yours sincerely, Seamus Pairceir".

You say in your statement the matter did not proceed any further as the Revenue Commissioners decided for the reasons stated in the letter I have just opened, not to appoint a liquidator to pursue a claim against Mr. and Mrs. Haughey.

"I note from my records that subsequent to that letter I forwarded a copy of the agreement to Mr. Pairceir under cover of my letter of the 22nd of May of 1984. There was no further response to that letter".

What you said in your letter of the 22nd of May, of 1984,

addressed to Mr. Pairceir, Chairman of the Revenue Commissioners was: "I refer to the inquiries which you have been making concerning the amount which might be available to meet the preferential claim of the Revenue Commissioners in this case. In this connection it was necessary for me to discuss with you the contract entered into by the company for the purchase of certain lands at Kinsealy, County Dublin. As requested by you I now enclose a copy of the relevant contract".

Now, you haven't stated; you haven't so stated in your letter, I think you are aware, that the Revenue Commissioners subsequently levied capital taxes on the transaction, treating it as a commercial transaction, and I think they recovered some €80,000 or so, being the amount due in respect of Capital Gains Tax; isn't that right?

A. Yes. I was informed that they had levied to Capital Gains Tax.

Q. I am just saying, to complete the picture, so that it would be understood, I think Mr. Coughlan mentioned in his opening that the Revenue Commissioners did pursue the matter on another front.

Now, Mr. Crowley, just one further matter. You have outlined your own views concerning the somewhat unusual nature of this agreement, and indeed the difficulties in which it would place any purchaser seeking to enforce the agreement, and I think that from the advice you have

received, and indeed from what is referred to in your statement, the agreement on its face is one which a purchaser might find very difficult to enforce where the vendor was simply not satisfied with the 60 acres in North County Dublin; isn't that right?

A. Yes.

Q. And it would be a difficult enough agreement for a developer to enforce if the purchaser was not willing to cooperate. Now, in evidence given to this Tribunal last Friday Mr. Gallagher said that something like that wouldn't have concerned him, because he felt that the value of the agreement to him was that Mr. and Mrs. Haughey would in any case have had to deal with him, that they would not have been prepared to go to court and that they would have been embarrassed to have the matter scrutinised in public and that therefore he had that hold over them all the time.

Did he ever say that to you?

A. No never.

Q. And that was never put to you as the real hold that he had on the Haughey's?

A. No.

Q. Thanks very much.

MR. CONNOLLY: I would like to reserve our position. I understand Mr. Crowley is coming back. I think it would be more useful if I deal with my queries at later stage.

CHAIRMAN: I think that is proper Mr. Connolly. I, of

course, give you that entitlement. Then obviously I will leave to the end Mr. Collins, in case there is anything you want to rise. Mr. Fitzsimons?

MR. FITZSIMONS: Mr. Chairman, just - I didn't realise until this morning that we were here. It was at short notice.

MR. HEALY: Sorry, that is not correct because Mr. Davis informed Mr. Fitzsimons on Friday that it was proposed to open this material. In fact it would not have been opened if he had not been so informed and not have agreed.

MR. FITZSIMONS: I spoke to him this morning. A fax did come to my office on Friday evening. My understanding was that he didn't my understanding was that Mr. Crowley was coming here this morning. I have been in touch with my counsel who is just not available at the moment. I understand Mr. Crowley is coming back again and the Revenue are reserving their position.

CHAIRMAN: I am quite happy if you reserve your position.

MR. FITZSIMONS: I think it would be best to deal with it then. There is not very much questions we could ask the witness. They would have been quite fairly dealt with by Mr. Gallagher himself on Friday. There is possibly some little examination vis-a-vis the questions that may have been asked of him by Mr. Crowley which at that stage was a

very difficult time for Mr. Gallagher because of the receivership and the fall of his building company. So perhaps with your permission if we could postpone possible cross-examination or further questioning of the witness so that I can discuss the matter with my counsel who was here on Friday. Perhaps that would be proper?

CHAIRMAN: Certainly.

MR. FITZSIMONS: Thank you indeed.

CHAIRMAN: Thank you. Mr. O'Donnell, you don't wish to ask anything? Mr. Collins?

MR. COLLINS: Just two small points, if I may Sir.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. COLLINS:

Q. MR. COLLINS: Mr. Crowley, I think the Gallagher Group was very heavily insolvent at the time of your appointment as Receiver and such assets as were available would have been applied in the first instance to pay off the fixed charge holders and the cost of the liquidation, and then the preferential creditors and then the floating charge holder, if there was any assets left; so if this €300,000 had been recovered it would not have been in anyway for the benefit of the bank who appointed you and to whom your primary duties lay, it would have gone to the preferential creditors who were in this case the Revenue Commissioners, and I take it that was the reason why you consulted with

the Revenue Commissioners in relation to the matter?

A. Absolutely Mr. Collins.

Q. The other point is, the counsel who Arthur Cox instructed on your behalf, was the late Mr. Raymond O'Neill and I think Mr. O'Neill was at that time the leading member of the bar in relation to corporate matters, insolvency tax, and matters of that sort; is that the case?

A. Certainly.

Q. Thank you Mr. Crowley.

CHAIRMAN: I am sure that is something even the Tribunal can take notice of Mr. Collins. Thanks indeed Mr. Crowley for your attendance and assistance. Thank you.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Mr. Terry Quigley.

TERRY QUIGLEY, HAVING BEEN SWORN, WAS EXAMINED BY MR. COUGHLAN AS FOLLOWS:

Q. MR. COUGHLAN: Thank you Mr. Quigley. Do you have your statement with you?

A. I do.

Q. I think Mr. Quigley, that you are a partner in the accountancy practice of Gorman Quigley Penrose, and you have been since 1982; is that correct?

A. That's correct.

Q. And that in 1990 your firm acquired another accountancy practice one of whose clients was Mike Murphy Insurance

Brokers Limited; is that correct?

A. That's correct.

Q. And since that time you have acted as the audit partner for the company Mike Murphy Insurance Brokers Limited; is that correct?

A. Yes.

Q. I think you have been asked by the Tribunal to consider a number of specific inquiries relating to the accounts and you have attempted to deal with those; isn't that correct?

A. That's correct.

Q. I think the first thing you were asked by the Tribunal was to consider the payment of œ100,000 made payable to Credit Suisse and how that was dealt with in the accounts and what information may have been furnished to you as the audit partner in dealing with the accounts; is that correct?

A. That's correct.

Q. And can you tell the Tribunal your understanding of how it was dealt with in the accounts and what explanation was given to you in respect of that?

A. Well, I think it is outlined in the statement; do you want me to read from that?

Q. Yes please.

A. "At the request of the Tribunal legal team, I have reviewed the company audit file for the year ended 31st March, 1993, and set out below my notes and the relevant issues:

The payment of œ100,000: As part of our standard audit

procedures, a review was carried out of the company cheque payments book for unusual items. This test was carried out on the 19th of July, 1993. This matter was raised at a meeting with the client on the 10th of August of 1993. I confirm the following is an extract from the notes of the meeting of the 10th of August of 1993". And the memo sets out "the following points are relevant", amongst other points which were dealt with on that day.

Q. Of course.

A. "The payment to Credit Suisse related to DB Agencies. The payment of œ100,000 was posted to the DB Agencies Creditors Account, thereby reducing same. No further queries arose in relation to the transaction".

Q. Very good. Now, I think you were also asked by the Tribunal to consider the question of the Celtic Helicopters, Gatehouse Finances agreement; isn't that correct?

A. That's correct.

Q. And as we know that that was a usual type of agreement or a usual type of loan obtained for the purpose of paying insurance premiums, and it was to be repaid over a period of 10 months of equal monthly installments, including the interest and charges on that; isn't that correct?

A. That's correct.

Q. And that it showed emanating from Mike Murphy Insurance Brokers Limited a payment of œ9,917 per month for 10 months to Celtic Helicopters; is that correct?

A. That's correct.

Q. And can you say how that was dealt with in the accounts and what explanations were given to you?

A. Again, if I read from the statement?

Q. Yes indeed?

A. "The various payments of œ9,917 were also identified as a result of the review of the cheque payments book carried out on the 19th of July, 1993. Among the matter was also noted in a memo of a meeting with the client on the 20th of July, 1993. The payments to Celtic Helicopters were posted to their debtors account. The issue was not dealt with in any subsequent memo, which indicates we were satisfied with the accounting treatment.

Q. And on the question of, just to clarify that. Am I correct in understanding that all that the accounts show and the only explanation, if an explanation was sought in respect of it, is just that it appears as a debt due by Celtic Helicopters to Mike Murphy Insurance Brokers Limited in the accounts?

A. As it was actually posted to their overall trading account and as such would be included in their debtors account.

Q. Yes.

A. Yes.

Q. And I think you were asked to consider the question of whether there was any, in the accounts, any indication of a reduction of indebtedness by Celtic Helicopters to the company by the provision of helicopter services; isn't that

correct?

A. That is right.

Q. And what is your understanding of the accounts in respect of that?

A. Well again, if I read from my memorandum.

Q. Yes please.

A. It is "Re: The helicopter services. We were not aware of monies due to Celtic Helicopters in relation to flights, accordingly the cost was not provided in the accounts of Mike Murphy Insurances".

Q. Yes. So as far as the accounts reflect the matter there is no question in the accounts of a reduction of any indebtedness due by Celtic Helicopters as a result of the application of helicopter services and there is no documentation from Celtic Helicopters indicating a charge in respect of helicopter services?

A. Not at the time.

Q. Now, I think there were a number of, and you have dealt with them, to some extent, but I think you were asked by the Tribunal to what account did Mike Murphy Insurance Brokers, was the €92,568 loan from Gatehouse Finances lodged?

A. That's correct. It was lodged to account No. 34479558 and was part of an overall lodgement on the 22nd of October of 1992 totalling €96,554.07.

Q. And I think the Tribunal asked you how was it posted in the books of Mike Murphy Insurance Brokers?

A. It was posted to the debtors account of Celtic Helicopters.

Q. And I think the Tribunal also asked you was there a payment to Mike Murphy Insurance Brokers by Celtic Helicopters of œ50,000 in November of 1992?

A. There was. There was indeed such a payment.

Q. I think you were asked by the Tribunal how that was posted in the book of Mike Murphy Insurance Brokers?

A. It was posted to the debtors account of Celtic Helicopters Limited.

Q. Can we take it that that particular œ50,000 was not applied specifically in the records of Mike Murphy Insurance Brokers to any aviation account of Celtic Helicopters in respect of insurance?

A. No, it was posted to a commercial account dealing with other insurances.

Q. Well, just in respect of that œ50,000, can you just tell the Tribunal whether that payment of œ50,000 by Celtic Helicopters had anything to do with the œ92,000 lodgement which was the monies obtained from Gatehouse Finances?

A. I am not aware. I certainly was not aware at the time that it does. I know both were posted to the trade debtors account of Celtic Helicopters Limited. And for the purpose of reviewing debtors when we carried out the audit, both accounts were actually compared to get a net balance.

Q. But as I understand it from Mr. Murphy himself, the actual, the monies obtained from Gatehouse Finances were applied to the aviation account; isn't that correct, of Celtic

Helicopters?

A. Yes.

Q. This €50,000 was not applied to the aviation account of Celtic Helicopters?

A. No, it was posted to the commercial account.

Q. Now, can we take it that if there had been any records available indicating that the balance of any monies due by Celtic Helicopters to Mike Murphy Insurance had been discharged by the use of flying hours, that those are matters which would have been taken into account by your firm in doing the audit and comparing the accounts for this company?

A. Assuming that they were material, yes, they would have been.

Q. Well, can we take it that if that was their purpose they would have been material. It is as been suggested here?

A. Well, sorry

Q. That any indebtedness was being reduced by the application of flying hours?

A. Um hum. They would have been provided in the accounts.

Q. Thank you Mr. Quigley.

MR. CONNOLLY: I have no questions Sir.

CHAIRMAN: Yes, Miss Costello?

THE WITNESS WAS CROSS EXAMINED AS FOLLOWS BY MS. COSTELLO:

Q. MS. COSTELLO: Yes. Mr. Quigley, Caroline Costello,

counsel for Celtic Helicopters. Just briefly, you may not have been aware of the fact that evidence was given last week that Mike Murphy Insurance Brokers Limited flew over €33,000 worth of flying hours with Celtic Helicopters between 1992 and today's date.

Had you any indication in any of the books and records of the company when you were conducting your audit, that those flights were provided free by Celtic Helicopters?

A. No.

Q. So from your point of view there was no record i.e. that they were free or that they were invoiced?

A. There was no record of the flights.

Q. Mr. Barnicle gave evidence to the Tribunal that when the balance of the loan had been earned by flying hours, then one invoice would be given to Mike Murphy Insurance Brokers Limited. If that invoice were to be received how would you treat it in the company accounts?

A. Well, it would have been provided as a cost of basically transport within the company's records.

Q. But would you treat it, would you set it off against the indebtedness of Celtic Helicopters to Mike Murphy Insurance Brokers Limited?

A. It would depend on the agreement reached between the parties. If there was going to be a direct payment to Celtic Helicopters it would have been treated as a creditors account, if there was going to be an offset it would just have been posted to the debtors account.

Q. It could be offset and posted to the debit account depending on the instructions you received from the client?

A. Yes.

Q. There is one query which has arisen which you may not be aware, Mr. Quigley. There is a suggestion from some working papers prepared by the Deloitte and Touche auditors to Celtic Helicopters, that the payments made by Mike Murphy Insurance Brokers of €9,917 were somehow to be treated as share capital in Celtic Helicopters, did you ever have any indication that that was the case?

A. No.

Q. And you at all times treated it as a debt due by Celtic Helicopters to Mike Murphy insurance?

A. Yes.

MS. COSTELLO: Thank you Mr. Quigley.

CHAIRMAN: Mr. Fulham?

MR. Fulham I should say, Chairman, that I appear for Mr. Quigley.

CHAIRMAN: Well, you are not taken short, Mr. Allen, if I hear you after Mr. Fulham?

MR. ALLEN: Not in anyway.

MR. Fulham I would ask for limited representation in relation to Mr. Quigley on the usual basis.

CHAIRMAN: Yes, very good Mr. Fulham.

THE WITNESS WAS EXAMINED BY MR. FULHAM AS FOLLOWS:

Q. MR. FULHAM: Just one question Mr. Quigley. If and when the invoice does come from Celtic Helicopters, presumably that will have to be analysed to see whether it would be treated totally as an expense of Mike Murphy or whether it can be recharged to the clients?

A. That's correct.

MR. Fulham thank you.

MR. ALLEN: I am mute Chairman, not of malice, I have no questions.

CHAIRMAN: Thank you Mr. Allen.

CHAIRMAN: Mr. Gilhooley?

THE WITNESS WAS CROSS EXAMINED AS FOLLOWS BY MR. GILHOOLEY:

Q. MR. GILHOOLEY: Thank you Sir. James Gilhooley on behalf of Mr. David Gresty and DB Agencies. Just to deal with to ask you to deal with one question, Mr. Quigley. The evidence to the Tribunal by Mr. Murphy has been that he acquired, on foot of this €100,000 payment to which you refer, in your statement, a shareholding in Celtic Helicopters which he holds in trust for Mr. Gresty and DB Agencies. Can I just ask you to deal with the question of whether on that basis there are two questions arising from that, firstly the payment of €100,000 operated to

reduce the indebtedness of Mike Murphy Insurance Brokers to DB Agencies; is that correct?

A. That's correct.

Q. And secondly, given that the shareholding on the basis of Mr. Gresty's and Mr. Murphy's evidence was to be held by Mr. Murphy personally in trust for Mr. Gresty, may one take it that that would not require in anyway to be recorded in the books of Mike Murphy Insurance Brokers?

A. To the best of my knowledge, that's correct.

Q. Thank you.

THE WITNESS WAS RE EXAMINED AS FOLLOWS BY MR. COUGHLAN:

Q. MR. COUGHLAN: Could I just ask you about that €100,000 cheque. Do you know, Mr. Quigley, when it was posted to the credit of DB Agencies, effectively reducing the indebtedness of DB Agencies?

A. I don't, not off the top of my head.

Q. You don't; and do you know to what account it was posted?

A. It was posted to a DB Agencies creditors account.

Q. Now, can I ask you, and perhaps I am being naive in asking the question, but surely in a company; if €100,000 which has been posted to reduce the indebtedness of DB Agencies in the books of that company, is it not posted or reflected in anyway in the records of the company that one is then holding €100,000 worth of shares in trust for somebody; is that usual practice?

A. Well, as I understand it the payment was a payment of a

creditor, the holding of a I certainly wasn't aware of
the holding of any shares.

Q. And you were never informed of that?

A. No.

Q. And there is no documentation as far as you know?

A. No.

MR. COUGHLAN: Thank you.

CHAIRMAN: Thank you very much for your attendance Mr.
Quigley.

THE WITNESS THEN WITHDREW.

CHAIRMAN: Mr. Fulham, I think since no conceivable issue
has arisen in the context of Mr. Quigley, having acted more
than utterly professionally on behalf of Mr. Murphy, I
think rather than needlessly adding to or complicating the
list of representation, I will regard your involvement as
being ancillary to the representation to Mr. Murphy already
granted.

MR. Fulham I am happy with that Chairman.

MR. HEALY: Mr. Paul Carty.

MR. ALLEN: Chairman, as I think you know, you have
already granted representation to Deloitte and Touche.

CHAIRMAN: Yes indeed.

MR. ALLEN: On a limited basis. I am here to represent

them today.

CHAIRMAN: Thank you Mr. Allen.

PAUL CARTY, HAVING BEEN PREVIOUSLY SWORN, WAS EXAMINED AS
FOLLOWS BY MR. HEALY:

Q. MR. HEALY: Thank you Mr. Carty. You are already sworn.

MR. Fulham before Mr. Healy examines Mr. Carty, is there a
statement in relation to Mr. Carty's evidence?

MR. HEALY: No, sir there isn't. It is arising out of the
evidence tendered by Mr. Murphy that questions are going to
be put to Mr. Carty and it is effectively the implications
of the evidence given the last day, you may recall, at very
short notice by Mr. Murphy, concerning the dealings he had
with Mr. Carty in or around October and November of 1992.
You may recall that further documentation was brought to
the notice of the Tribunal. It doesn't seem to me that any
interest would be served by having a serve and return of
documents at that level, and at that rate, where witnesses
give material to the Tribunal at short notice. I don't
criticise Mr. Murphy. You may recall that he had to carry
out a further search and recovered certain documents. If
Mr. Carty was to give a statement to this we would never be
at the end of our business.

CHAIRMAN: I think, Mr. Fulham, we will make what progress
we can today. I think, as I have indicated in similar

situations in the past, if afterwards it was to occur to you that something you feel should have been asked which was not asked, of course I will return to that at a future date.

Q. MR. HEALY: Of course if Mr. Murphy wishes to draw anything else to the attention of the Tribunal, obviously, Sir, he would be at liberty to do so.

Now Mr. Carty, there are just two matters in broad terms that I want to deal with with you. One of them you may have more to say to the Tribunal to assist it on than the other. The first is in connection with the dealings you had with Mr. Murphy in 1992 concerning the proposed investment, or the attempt to raise at least 300,000 and hopefully €600,000 for Celtic Helicopters.

And the second point is to ask you whether you can give any assistance or such assistance as you can give in relation to the treatment of certain payments by Mr. Murphy on behalf of Celtic Helicopters in the accounts of Celtic Helicopters. You may not be able to give very much assistance in relation to that.

Now, I think you were given a copy of Mr. Michael Murphy's memorandum of evidence given to the Tribunal, I think on the 20th of May. In fact, I think given on the 21st but dated the 20th of May. Are you familiar with that?

A. Yes, I have it Mr. Healy.

Q. So we are in no doubt about it, it is a half page

document. Precisely?

A. Yes.

Q. Now I will just go through the documents with you first and

then we may wish to review one or two aspects of his

evidence and I hasten to add, it simply clarifies, to begin

with, one aspect of your evidence which puzzled the

Tribunal but which also puzzled you and maybe I should deal

with that first.

You may or may not recall that when you were last giving

evidence I think I may have put it to you or asked you for

your comment on the fact that it appeared somewhat unusual

that the cheque made out to Credit Suisse was dated much

much earlier than the date of any of your discussions? You

wouldn't have been aware at that stage of course, that at

the time of your first contact with Mr. Murphy, and you

wouldn't have been aware that that cheque was passing from

Mr. Murphy to Mr. Gresty without the name of the payee on

it, Credit Suisse; and one of the questions I asked you was

how was it Mr. Murphy would have known who the payee of the

cheque was, before you told him in other words?

A. I recall that.

Q. Well, that mystery has at least been solved in that we know

that when the cheque was originally drawn, how blank it was

is not clear, but certainly the name "Credit Suisse" was

not on it and it was not on it until after your discussions

with Mr. Murphy?

A. I understand that.

Q. So that mystery is at least cleared up. Now, if you look at these documents. The first document is a letter from Mike Murphy Insurance Group, dated the 6th of November. It may be a fax. And it has all the appearance of being a faxed document.

A. I have that. Yes, I have that.

Q. We will just get it on the overhead projector.

A. I have it here, Mr. Healy.

Q. Yes, I am just trying to get a copy for the overhead projector. Now, we will just go to the top of that document. It is headed "Mike Murphy Insurance Group". As Mr. Murphy confirmed in evidence I think to Mr. Coughlan a day or two ago, the handwriting on the right-hand side was not on the document when it was sent or when it would have been sent to you or to your firm and that that appears to be simply an indication of the file to which it should be sent in Mr. Murphy's offices.

It says: "Deloitte and Touche, for the attention of Paul Carty from Mike Murphy. Enclosed herewith please find copy of fax we received yesterday. I trust you find the same in order, regards Mike Murphy".

And then on the next page we have the copy which was apparently enclosed, and that is a facsimile transmission from Credit Suisse in Switzerland or is it in London? I

think it is in London. It says "Credit Suisse, London General Office". It seems to be dated, to judge from, if we could pull the document down a little bit more, from the fax record on the top it seems to be dated the 5th of November of 1992 at half four in the afternoon. And that was sent to Mike Murphy Insurance Brokers for attention of Mr. Mike Murphy and it says: "With reference to our telephone conversation yesterday, we confirm receipt of a cheque for Irish pounds €100,000. Favour ourselves for credit to account of Ansbacher Bank held at our Zurich office. We will pass this item on to our Head Office in Zurich for processing".

Now, that would simply have informed you that the €100,000 was going from Credit Suisse in London to the account in Switzerland held by Ansbacher with Credit Suisse, which would have been in accordance with the instructions that presumably you had conveyed to Mr. Mike Murphy some time prior to the 5th of November, and if you look to the next document that document simply contains those instructions.

It is a document we have seen already. You are familiar with that document because we have mentioned it before?

A. Yes Mr. Healy.

Q. The next document produced by Mr. Murphy is a blank sheet of paper, and would appear simply to contain the address of Credit Suisse in London. And that simply contains the address of Credit Suisse which was inserted in handwriting which would appear to be the same handwriting from Mike

Murphy which we have just seen?

A. Yes.

Q. Then the next document contains again some of the same information; there is a reference to your name, as presumably the source of the information. It gives the Ansbacher account, it starts with Credit Suisse London, which is the designation for the letter. Then it gives Credit Suisse (Zurich) as the bank in which the account is held, it then identifies the account as Ansbacher, it gives the account number, it gives the address of Credit Suisse in London, it says: "Re: Celtic account file" - and something else which I don't think anyone has been able to decipher - the number on the left-hand side seems to be the number of Credit Suisse in London, the fax number. And the date I don't understand, I don't understand the date but it looks like the 28th of some date or it could be the 2nd of November. It is not clear to me.

Now if you go onto the next document now you will recognise that document as a piece of Deloitte's own memorandum note paper?

A. I do Mr. Healy, yes.

Q. Again we will just go through it. I think again it contains not your writing but what I gather was Mr. Mike Murphy's writing; is that correct, is it?

A. Well, it is not my writing.

Q. It is not your writing anyway. Of course. At the top of

it says "€600,000 going in", then it says "giving 49% of the company A Shares and B Shares". Then there is something about "every 50", and on the right-hand side something illegible, it looks like "81" or something. Then the next line is "€100,000 is equal to 14% of the company". I am just going through the - I am just deciphering the document in other words. Then the next line is "no dividend", then from that word "no dividend" there appear to be two arrows, one going into the direction of the figure 10,000, and above that there is 20 hours/30 hours and on the right-hand side the legend seems to be "off peak". Then the other arrow goes to "preferential rate 30 hours for 10,000". Underneath that there are two numbers, 450 and 350. Then you have "Des Traynor cheque" again the address and the account number. "Manager Credit Suisse London, for the account of Credit Suisse Zurich, account of Ansbacher, 083" and so on giving the account number. Then at the bottom it says "something confirm receipt of this transaction, kindly", I think it says; but in any case, that's not your handwriting as you say. On the right-hand side then it appears to have the word "assets one million", then "750", and then two "2 million". Perhaps a rounding up of the 1.750 million. "Borrowings 1 million".

Now, the next document which is the last one to which I want to refer you is again on Deloitte and Touche note paper, and it says "Donal Corbett AIB Swords" something

else underneath that, "out of court". I don't know what connection that is with anything. Or "out of contact" perhaps. In any case we haven't been able to decipher it.

Now, I just want to consider these documents in the context of or to review then once again and review your contact with Mr. Murphy in the context of these documents. Now, as I understand it you had two meetings with Mr. Murphy and some telephone calls; is that right?

A. Yes. Yes indeed.

Q. The meetings occurred, am I right in thinking, in October?

A. The 21st of October.

Q. The 21st of October?

A. That was the first one.

Q. Thanks. The first meeting and that lasted about 20 minutes or so you said?

A. 20 minutes, half an hour I would say.

Q. And that meeting was similar to a meeting I think you may have had with Mr. McAuliffe as well; is that correct?

A. That's correct.

Q. In which you were going through the state of the company and Mr. Allen, your own counsel, brought you through that meeting as well as me, as well as the fact that I brought you through it at the last sittings?

A. I recall that, Mr. Healy.

Q. Right. Now, the documents that we have been referred to here, the one that is on your headed note paper, the one

that is on your note paper, you don't say headed note paper?

A. I know what you mean Mr. Healy. Yes, I have that.

Q. The one that has a lot of writing?

A. Yes, I have that.

Q. Mr. Murphy indicated that this contained his notes of a meeting with you?

A. Yes.

Q. And can we take it from the fact that there appears to be a lot written on it, that it must refer, at least mainly to the lengthy meeting you had with him, the 20 minute meeting?

A. I would accept that Mr. Healy.

Q. And that meeting was in your office?

A. I am not so I am only I would say in my office on the basis of the paper heading, but I wouldn't be sure.

Q. Right. I think your evidence was that it was in your office and I think his was as well, but one way or another

A. We had a meeting.

Q. you had a meeting and at that meeting you had presumably some note paper and from the fact that he was using your note paper, I suppose it had to be in your office?

A. It has to be the case.

Q. Yes. Now, at the meeting you were discussing, obviously you must have been discussing various aspects of the company. We will come to that later, but if that meeting

occurred on the 31st of October, on the 21st of October; am

I correct in my understanding of your evidence on the last occasion that at that meeting you didn't have the account number at Credit Suisse?

A. Correct.

Q. So after that meeting you presumably must have been informed by somebody, presumably Mr. Murphy that Mr. Murphy was going to go ahead?

A. Yes.

Q. And I think that again is what is the evidence you gave on the last occasion?

A. Yes.

Q. And presumably you must have conveyed that information to the late Mr. Traynor?

A. That's correct.

Q. And Mr. Traynor must have given you the identity of the bank account?

A. That's correct.

Q. And you must have given that back in someway, in some form, given that information in some form to Mr. Murphy?

A. That must be so, yes.

Q. Now, Mr. Murphy was clearly under the impression that he was obliged to confirm, or he was obliged to produce confirmation rather, that the €100,000 had been received by Credit Suisse, because he says here in his note, it looks almost like a note of the letter that he was to send to Credit Suisse?

A. I see the point.

Q. "Kindly confirm"?

A. On the work paper?

Q. Yes, on the work paper. "Kindly confirm receipt of this transaction". If you look at his letter which is dated the 4th of November, "Perhaps you will please confirm that this transaction has been completed", and underneath in writing do you have a copy of that?

A. I have it in front of me here, yes.

Q. "Please acknowledge receipt of cheque". So his letter would appear to correspond with what would seem to be some instructions he got concerning the route the cheque was to take?

A. The only question I would have, Mr. Healy

Q. Yes.

A. is, is that note contemporaneous with the writing on the

Q. It doesn't seem likely to me, because it was confirming to me, Mr. Murphy seemed to think that it was?

A. Yes. Well I think I said, it looks to me, on the confirmation note that Mr. Murphy has with my name on it

Q. Yes.

A. it looks to me that that might be the 2nd of November or the 28th of October. It is after the meeting on the 21st of October which was my recollection that I rang, he rang and that I rang to confirm the account; so the phone call was a later date than the first meeting.

Q. Okay, that is your understanding of it in any case?

A. Yes, that is my recollection.

Q. But judging from the fact there is a note of it, on your note paper, one assumes that you must have told him that not only must you send the money to Credit Suisse, you must get confirmation that Credit Suisse have got the money?

A. I don't recall that.

Q. Well, what we do know is that subsequently Mr. Mike Murphy sent you a fax; isn't that right?

A. I see that now, yes.

Q. And the fax does confirm that he sent the money.

MR. ALLEN: Sorry to interrupt for one moment. Just to point out to My Friend that if one looks at what purports to be a fax, it differs slightly to the extent that there is nothing to indicate that it is a fax. There is nothing to indicate that it was ever transmitted. There is nothing to indicate from whom it emanated. You will see, for example, as the documents were being put up, you will see the fax which came from Credit Suisse by way of confirmation and Mr. Healy was in a position to indicate, as is normal, from a faxed document, the date and the time of sending which was 16:43 on the or 16:33 on the 5th of November.

Now, I may be incorrect in this, Chairman, but I think you will find when you look at, certainly what we have been provided with, in Mr. Murphy's sixth statement or

memorandum, you will find nothing to indicate that it was ever faxed. I just feel that that is something in aid of Mr. Carty, that it is a point that should be made. I may be entirely wrong, Sir, but there isn't anything in the documentation which was furnished to us to suggest that it is anything other than a piece of paper.

CHAIRMAN: I note that Mr. Allen.

MR. ALLEN: Thank you Chairman.

Q. MR. HEALY: Could you tell me what your fax number is?

A. I would have to it look up. At that time now?

Q. Yes.

A. I am only, I can only give you a current fax number.

4756622.

Q. You did have a fax number; 756622?

A. I would say so, yes 475 - I would say so.

Q. Mr. Davis, the Tribunal's solicitor has just drawn to my attention, I don't think you have it, if you haven't that is my fault, the back of this document is actually a confirmation of a fax?

A. The number obviously 4756622; of course the prefix changed, yes it appears to be a fax

Q. Yes. I will get a copy of it and have it given to Mr. Allen in a moment. It would seem to suggest that the fax was indeed sent to Deloitte and Touche on the 6th of November and there is a confirmation?

A. I accept that.

Q. So the fax was sent to you and the fax contained a copy of the Credit Suisse fax?

A. Yes.

Q. Confirming that the money had been received by Credit Suisse in London and that they were going to send it on to Credit Suisse in Switzerland?

A. Yes.

Q. Now, I take it that that information as I said, was sent to you so that you could confirm that to Mr. Traynor?

A. I accept that.

Q. And you must have confirmed that to Mr. Traynor?

A. I would accept that.

Q. And what I am suggesting is Mr. Traynor must have asked you to get that confirmation?

A. No well, I cannot recall that.

Q. Why would you want it?

A. No, but in fairness to Mr. Murphy, a prudent businessman would probably send it to me to let me know what has happened. It might have been Mr. Murphy's prudence and business sense to send it.

Q. Here we were dealing with a transaction which was somewhat unusual. Mr. Murphy was buying shares in Celtic Helicopters, he wasn't giving any money to Celtic Helicopters, he was giving the money, not to you, he wasn't giving it to Des Traynor, he wasn't giving it to Mr. Barnicle or Mr. Ciaran Haughey; he was in fact giving it to a bank in London and he was giving it to an account which,

on the face of it, was somebody else's account. So, and he understood from his note that he should receive confirmation of that transaction and he certainly, having got confirmation, brought it to your attention?

A. Yes.

Q. Now, what I am suggesting is that you must have asked him to do all of that?

A. No, I don't recall that.

Q. You didn't?

A. I don't recall that Mr. Healy. Because my recollection is I would have told Mr. Traynor, as I understand, the funds had been sent

Q. Yes.

A. by Mr. Murphy. I am sure then if it was sent to the appropriate account that Mr. Traynor was speaking about, it would have been easy for him to check it out, that it had been received.

Q. Of course.

A. So it is in that context that I would have seen it to be dealt with.

Q. Now, there is one aspect of, I think the evidence you gave the last occasion, which I just want to re-visit and it is this; the fact that this investment in Celtic Helicopters was actually going outside the country and not going to Celtic Helicopters?

A. Yes.

Q. You spoke with Mr. McAuliffe in relation to this investment

and you spoke with Mr. Murphy in relation to it, it was only in relation to Mr. Murphy that you relayed instructions concerning Credit Suisse; is that right?

A. That's correct.

Q. You had no such Credit Suisse discussion with Mr. McAuliffe?

A. No, because that was much earlier, I think that was in August.

Q. Yes. But at no time did you have any Credit Suisse type discussion with Mr. McAuliffe?

A. No.

Q. Did it surprise you that it was only in Mr. Murphy's case that you were asked to arrange for the money to go through a Swiss bank?

A. It didn't surprise me so far as that was the request.

Q. I know, but compared to the other money that you were raising?

A. But I wasn't raising any money.

Q. I appreciate that, but you were involved in the raising of the money.

A. Only with two people.

Q. Yes.

A. Mr. McAuliffe, which I didn't discuss any question of money, and the only person that a discussion took place on funds was with Mr. Murphy.

Q. Um hum.

A. The only instruction in relation to the account was with

Mr. Murphy.

Q. And the only instructions you got about the Credit Suisse account came from Mr. Traynor?

A. Correct.

Q. And there was no question of Mr. Traynor giving you any similar instructions in relation to anybody else?

A. Certainly not.

Q. And what I am certainly suggesting is that were you in anyway surprised that this company, which was to use your own word, or I think your counsel's words in a "parless" state that the money for this company was going outside the country, it didn't surprise you?

A. Because I think I meant to - I made the point the last time that the Overseas Nominee was to be the shareholder, and Overseas Nominee is an offshore trust or nominee company.

Q. Yes.

A. So in that context I would have assumed that the money from the shareholders was being gathered together at a central point for Overseas Nominees.

Q. But that didn't apply to your knowledge in any case to Mr. McAuliffe's money. You had no involvement?

A. Nor anybody else.

Q. But now that you know what the facts are, you now know?

A. You mean today?

Q. Now today, that it was only Mr. Murphy's money that went into Credit Suisse?

A. But I don't know where the other money went.

Q. I am telling you that it did not go into Credit Suisse?

A. But did it go to Ansbacher.

Q. Presuming for the moment that it didn't go to Credit

Suisse, are you now surprised that only one of the

investors was asked to put his money through Credit

Suisse. Are you now surprised by that?

A. No, I won't say I am more focusing on the Ansbacher Bank account number.

Q. Yes. Well the Ansbacher bank account number?

A. Maybe I am not allowed to ask questions. I am just trying

to clarify, did the other shares go into that Ansbacher

account number? Did the other shareholders put their money

into that Ansbacher account number?

Q. Well they certainly didn't go through Credit Suisse?

A. No, but did they end up in the one account.

Q. Yes.

A. So that was my thinking in terms of Overseas Nominees

having an account where all the money would be centralised.

Q. Um hum.

A. So the Credit Suisse in a way is, in my mind, is a red

herring, is it? Where did it end up?

Q. You know from the evidence given on the last occasion that

it ended up in an account in Switzerland and it would

appear that an instruction was given that similar money or

similar sums of money would be drawn off an Ansbacher

account kept in Guinness & Mahon Intercontinental Bank?

A. In 1992, seven years ago, I knew nothing about that.

Q. I am only asking you to comment on it now in light of the facts?

A. Yes, sorry.

Q. You only now know the facts?

A. Yes.

Q. What I am saying to you in light of what you know now, whether you know all of the facts or some of them, in light of what we know from the Tribunal's hearings, isn't it somewhat unusual that you were asked in the case of one investor, although you were certainly dealing with two; to send the money by this route?

A. But, the only point, Mr. Healy I was only asked to deal with Mr. Murphy. This is the only time this funding came up, one person, with nobody else, so nothing surprised me and so I had nothing to compare it against.

Q. Nothing surprised you at the time?

A. At the time, yes.

Q. I am only asking you for your opinion as an experienced accountant. Now as you know the fact isn't it surprising that only one man sent his money so far as we know?

A. I don't think I should be speculating, or assuming anything, should I? I as the accountant can't answer that question.

Q. From your experience as a businessman, I am going to ask you for your opinion?

A. Okay.

Q. I am suggesting to you that it is somewhat unusual that this company was gasping for money and the money is sent abroad by this unusual route?

A. Well, unusual, I don't know if it is unusual. It is going, you could have said, could it have gone direct, it could have gone direct; why did it go indirect, I don't know.

Q. Is it unusual that it would have gone indirectly, isn't it?

A. Yes, I would say so, yes. It could have been a shortcut.

Q. Now, when you were subsequently doing the, when your firm was doing the accounts of Celtic Helicopters, were you able to account - was the firm, was Deloitte and Touche able to account for the full 290,000?

A. Yes.

Q. It was?

A. Because 290,000 was lodged in the Celtic bank accounts.

Q. Yes, and at that time was your firm able to account for the sources of that 290,000? Were you able to say 100 came from Mr. Mike Murphy, so much came from somebody else, so much came from Mr. Snowden, so much came from

A. Yes, because the confirmation, if you can recall the evidence I gave, the confirmation was confirmed by Mr. Traynor as regards the shareholdings.

Q. Um hum.

A. As regards a lodgement in a bank account when they would be doing the audit, they wouldn't check the source of what bank did that come back from, they wouldn't have gone down and said "what clearing bank did that go through?", that

wouldn't have been a

Q. I see. Now, when you were having your discussion with Mr. Murphy, the discussion which appears to have resulted in this document, the one with all the figures on it?

A. I understand, yes.

Q. That was in October?

A. Yes.

Q. And you appeared to be discussing in some way what Mr. Murphy was going to get for his €100,000; is that right?

A. I am sure he was asking me what he was going to get for his €100,000, yes.

Q. Right. Did the discussion take the form of a negotiation or haggling or what?

A. No, there was no haggling, Mr. Healy, from my recollection. Mr. Murphy's might be different. From my recollection if you look at this, it corresponds with the paper I presented to the Tribunal some weeks ago when I was here on the last occasion. If you can recollect, on this paper here.

Q. Yes.

A. There was two pages, you put one slide up. You put one on the screen, but in actual fact there was a paper before that.

Q. Yes.

A. Which clearly shows, if I may read it, Chairman?

Q. What is the date of the paper, Mr. Carty?

A. Maybe you should just pass this over to Mr. Healy? It

might make it clearer. (Document handed to Mr. Healy).

You see the first, just the first part yes, on the first paragraph where we talk about if the original investment of €600,000 was made, the percentages would have been 48.98 percent. You see that Mr. Healy?

Q. If the - maybe I will read it out?

A. The first paragraph, yes.

MR. GILHOOLEY: Sorry to interrupt Sir, but Mr. Carty is referring to a paper that is being presented to the Tribunal previously and I haven't been furnished with a copy of it. It is highly relevant to Mr. Gresty's position. I have requested a copy from the Tribunal counsel but it doesn't seem to be forthcoming, I am seriously prejudiced by not being

CHAIRMAN: I will see that you have sight of that Mr. Gilhooley. We may perhaps, in the fairness put it up on the monitor.

MR. GILHOOLEY: I am not wishing to be difficult. If I could see it on the monitor it is perfectly sufficient, Sir.

A. There is three pages there Mr. Healy. There are three pages.

Q. MR. HEALY: If I could just stop you for a moment Mr. Carty. I gather that the Tribunal solicitor has been asked for this this moment. I don't want the impression that

that has been asked, the Tribunal has been asked for this before.

MR. GILHOOLEY: No, it is just been asked for.

A. I don't mean to confuse you Mr. Healy.

Q. MR. HEALY: What you are endeavoring to say?

A. The 49% is verified by that first page there.

Q. You are saying that - perhaps I will read it out so that we will every representative here will understand what is being referred to.

MR. GILHOOLEY: I am sorry Sir, but in order to put this - in order to understand the witness, the evidence that is being given by this witness

CHAIRMAN: Let's have it on the monitor.

A. Yes. I am trying to be helpful, Mr. Healy, and not trying to be confusing.

Q. MR. HEALY: Yes, of course. Perhaps, would you take us through the document, Mr. Carty?

A. I just have - they are issues of additional shares, amount invested, 290,329. That was subsequent to the task of originally looking for €600,000.

Q. Yes.

A. And if you see this represents 23 percent of the amount sought of €600,000. If the total had been raised the file would have been offered, that is where the A ordinary shares 49%; that is what I am pointing out; that the figure that Mr. Murphy has there, the 49% would tie-in with

€600,000. I am just trying to confirm the point that his note of 49%, where it comes from. The thinking at the time, if €600,000 came in there was 49%.

Q. 49% of the shares divided in a particular way, of course?

A. Of course. I am just trying, you might say where did the 49% come from? That is why

Q. That is what I understood you to be saying. Sorry, we were at cross purposes. One thing that was clear, you were not talking about 49% of the equity in the company?

A. Oh no.

Q. You were not even talking about 1% of the equity of the company?

A. That's right.

Q. At no time were you discussing equity with Mr. Murphy. This money was going to be raised in the form of stock which was not going to give any participation in the company, in the equity of the company?

A. No, that wouldn't be true, Mr. Healy. I mean the intention was that investors would get shares equivalent to some equity. The intention was, as I understand it, that the original owners didn't want to lose control; in other words they were prepared to give maybe 48% but no more.

Q. Was any equity ever given to anybody arising from this shareholding

A. In the end, not in the end other than the redeeming of preference shares.

Q. Was any equity given to anybody even at the early stage?

Did anybody get equity shares or does any document you have produced or that we have seen, maybe there is a document, is there any document we have seen which suggests that the intended shareholders are going to get equity.

Q. That what they were doing was putting up €100,000 in return, they were going to get so much of the equity?

A. You say intended, other than the paper three that was presented on the screen the last day, that was my understanding of what at that time was intended as a proposal to Mr. Traynor, he was the one that had to make the ultimate decision.

Q. When did that document come into existence?

A. That would have been around April '93. I can be corrected on that.

Q. This was after the one, the money had been raised in April of 1993?

A. What, sorry?

Q. You are talking about April of 1993?

A. Yes, after the 290,000 was raised.

Q. Yes. Yes. The paper was presented to you. What I am saying to you is at the time of your discussion with Mr. Murphy, there was no question of the company offering, or inviting investors, to put up money for a piece or a share of the equity of this company?

A. Other than if you look at Mr. Murphy's paper, 14% would suggest something was on offer.

Q. Yes. Um hum.

A. Equivalent to 14% of the company.

Q. Um hum.

A. That is what that means I would think.

Q. Um hum. There must have been some discussion of it?

A. Of course.

Q. But it wasn't

A. He might have said "what I am getting for this?". The
€100,000, 14%, I mean I am assuming I gave him that
information.

Q. But he never got 14% of the equity or he never got 14% of
the company in any form; isn't that right?

A. Well, let's stop there, Mr. Healy, for one moment. 14% is
written there. At the time when one was talking about
€600,000, things changed. And Mr. Murphy's recollection is
when it came to 290,000 you will see on the figures it came
down to 8%. Now, what Mr. Murphy recollects is the 8%,
that is how it finished up.

Q. Did he ever get 8% of the equity in the company?

A. I am just trying to take you step by step, Mr. Healy. That
was the intention, he didn't get the 8%. The next question
you are going to say to me is did he get the preference
shares?

Q. I am not asking, I know about the preference shares, he
never got 8% of the company, 1 percent, 6 percent, 7
percent, 5 percent or any percent.

A. Okay.

Q. Now, at this particular time that this meeting was going

on, Mr. Gresty, who was the other person, who was the person in fact according to the evidence putting up all this money; thought he was getting under 10% of the equity in the company and in fact thought that it was all done?

A. Well, yes.

Q. He thought he owned it, that has come as a total surprise to you, has it?

A. Yes it has, yes. First of all my understanding, I gave the evidence, Chairman, last day, that it was Mr. Murphy, it was Mr. Murphy and a French colleague, I never heard of the name Mr. Gresty

Q. Of course.

A. until the hearings.

Q. Mr. Murphy's evidence, Mr. Gresty's evidence was that in or about the end of September he had made his deal, he had made his decision; now at that stage you had had no lengthy meeting with Mr. Murphy, you had had no meeting with him at all in fact; isn't that right?

A. Yes, that's correct.

Q. And in fact from your evidence you thought Mr. Murphy and his colleague, unknown to you at the time, had only in fact made up their minds after that meeting; isn't that right?

A. Correct.

Q. But Mr. Gresty's evidence is that he thought that the only matter to be sorted out after the 30th of September, was to know who to send the money to; that must come as a total surprise to you now, that you thought you were negotiating

with Mr. Murphy about the terms on which the shares would be issued. You were making, you were making a presentation to him, but in fact according to Mr. Gresty, Mr. Gresty put up his money, was going into the company for just under 10% and he was going to get instructions as to who to make out the cheque to?

A. Well that is when discussions took place with somebody else

Q. Precisely or alternatively the only other explanation I suppose is that Mr. Murphy was negotiating something else with you?

A. Mr. Murphy would be the best to know about that.

Q. Yes. Now, can I just ask you one other thing and perhaps you might look into this yourself. The telex from the Mike Murphy Insurance Group, I think it is the first time you have, certainly I assume it is the first time you have seen that document today?

A. Today when I got it, yes.

Q. Perhaps you would be kind enough to make a search in your own company's file to see where that has been filed and if there are other documents with it which may be relevant

A. Okay.

Q. to the Tribunal's Terms of Reference, you might ensure that they are brought to the Tribunal's notice?

A. Of course.

Q. Now, just to one last matter. I think you have been shown copies of documents which came into the possession of the

Tribunal, they were part of the documents made available to the Tribunal on the instructions of Celtic Helicopters, but in fact they contain some of your company's working papers?

A. Yes.

Q. And some of this will be dealt with by Mr. Deasy, but I just want to ask you what you know about it. I will just put up the document. Folder number 9, Sir. Can you see them there?

A. I can Mr. Healy, yes.

Q. On the monitor?

A. I do Mr. Healy, yes.

Q. Now, very briefly I will take you through each of the documents and the parts of the documents I want to direct your attention to, and you can come back to any one of documents you may wish to in a moment.

The first document that is up on the screen refers to the AIB current account lodgements pre March of 1993. And the date I suppose is of some significance, because it is prior to March of 1993 which would have been when, perhaps, the share capital would have been or could have been excepted to have been raised, but it refers to reference "M Murphy Insurance Broker Share Capital". And then there is a reference underneath that to some payments in sums which

MR. ALLEN: Chairman Sir, I am sorry, Chairman, once again to interrupt My Friend. I don't want to do so unnecessarily, could I just indicate, Chairman, that, as

you will probably be aware, that Mr. Carty was not the audit partner and that Mr. Deasy the audit partner has made a statement and is here to give evidence in relation to this matter.

Now, I am quite happy to have Mr. Healy ask these questions of Mr. Carty, subject to your direction Sir, but I do feel that it is perhaps slightly difficult for Mr. Carty to deal with it and it is a matter which comes within Mr. Deasy's particular competence and he is here and ready to answer any questions that the Tribunal may have. He was the audit partner. He was responsible for the generation of this documentation.

MR. HEALY: Yes, that is so Sir, but I do wish to ask Mr. Carty about one or two reference in the documents. I fully appreciate, as I said at the outset when I said and identified the two topics I would be dealing with, that Mr. Carty might only be able to provide limited assistance in relation to these documents. It is only in a very limited way I am drawing them to Mr. Carty's attention.

CHAIRMAN: I think I will allow it Mr. Allen. I am perfectly prepared to accept the weight of any answer will obviously

MR. ALLEN: I am entirely in your hands Chairman, I just wanted to make that point.

CHAIRMAN: Right.

Q. MR. HEALY: Now Mr. Carty, you will see that the, as I was saying the document refers to, under the heading in the fourth column to "share capital", and underneath that there are four figures, each of them corresponding to sums which we know from the evidence or we believe from the evidence to represent payments made by Mike Murphy Insurance Brokers to Celtic Helicopters to enable Celtic Helicopters to pay off a loan it had negotiated with a finance company to enable it to discharge insurance liabilities. You are aware of that, at least background; isn't that right?

A. Only by reason of the

Q. The matter being drawn to your attention?

A. Recently, yes.

Q. Of course. The next document in the first column on the left-hand side again refers to share capital, reference "Mike Murphy" and a number of figures mentioned, all of which appear to represent or correspond to those sums which represent the repayment by Murphy Insurances of the Celtic Helicopters loan. The last document at the bottom of that document?

A. This is the sundry journals.

Q. Yes. At the bottom of that document, there is a reference to what I assume is some description of the activity being carried out on the page, as being to adjust payments to Gatehouse for insurance and receipts from Mike Murphy Insurance Broker for share capital out of sundry?

A. Yes.

Q. Now, Mr. Deasy is going to deal with this matter as the audit partner and the person responsible for the area of activity in your company which generated these documents.

What I want to ask you about is whether you had any discussion with any member of the staff concerning the amount of share capital raised from Mike Murphy in connection with the payments we have discussed a moment ago?

A. I don't recollect that.

Q. You don't recollect that. Now, if you go to, if we could just take those documents down now and just go to one of the other documents, the last document on the Deloitte and Touche note paper, that I drew to your attention. You see where that says "Donal Corbett AIB Swords", does that ring any bells with you?

A. When I saw that the other day that meant nothing to me.

Q. Right.

A. Absolutely nothing.

Q. It would appear that AIB Swords is the bank through which the Gatehouse Finances leasing payments were routed to which, through which they were routed and that the name may be the name of the manager?

A. It didn't mean anything, it didn't mean anything to me until somebody did mention that was the account.

Q. Yes.

A. But just seeing it like that didn't ring any bells with me.

Q. Does it mean anything to you now?

A. No, other than I know it is that account.

Q. Right. And did you have any discussion with Mr. Murphy concerning the raising of loan finances for Celtic Helicopters?

A. No I don't recall that, no.

Q. Now, you would have been the person, you were not the person dealing with the audit of Celtic Helicopters accounts, but you were one of the people who would be dealing with raising finances for Celtic Helicopters; isn't that right?

A. Well, yes, on a limited number of occasions I was in attendance with some.

Q. Yes of course. You were after all liaising with Mr. Murphy and Mr. McAuliffe and Mr. Traynor?

A. On shares, yes.

Q. The reason I draw it to your attention is that so as to ask you whether you could be of any assistance to the Tribunal, bearing in mind that these payments coincided with, roughly coincided with the raising of the €100,000 that was paid by Mr. Murphy; and did you have any discussion concerning that with him?

A. No. No.

Q. Thanks very much.

MR. CONNOLLY: I have no questions Sir.

CHAIRMAN: Mr. Fulham?

THE WITNESS WAS THEN CROSS-EXAMINED AS FOLLOWS BY MR.

FULHAM:

Q. MR. FULHAM: Mr. Carty, I appear for Mr. Murphy. Just a few matters of clarification.

A. Yes Mr. Fulham.

Q. When you met Mr. Murphy in October of 1992, the matter that was under discussion was an investment in Celtic Helicopters?

A. I understand it to be an investment in Celtic Helicopters.

Q. And the figures on Mr. Murphy's note, which is on your note paper can you

A. I have that here, yes.

Q. Yes, if you just look at the figures down the right-hand corner, the assets of one million, then there is 750,000, and there is 2 million with two lines drawn under it.

Where do those figures come from?

A. I would think that they would have been questions posed by Mr. Murphy. The first question might be, well what are the assets after the €600,000 goes into the company? And I did try to reconstruct in anticipation of that question, Mr.

Fulham, going back seven years now, but I did go back and try to reconstruct; and the million pounds assets would be very much in line with the €600,000 going into the company and looking at the balance sheet at that time, that a million pounds there or thereabouts would be the net assets after €600,000 would go in. So that is the million, yes.

Q. I think you mentioned in Volume 9, page 60, at question 377 when you were talking to Mr. McAuliffe and Mr. Murphy, you said you would have had the accounts to March of 1992 before you?

A. That would be my view, yes.

Q. Yes, and just to clarify that, those could only have been the draft accounts I think?

A. Yes, correct.

Q. Because the audited accounts were not certified until the 27th of July, 1995; isn't that so?

A. That's correct Mr. Fulham, yes.

Q. And so presumably these figures of the very summary, the figures in this note would have, to some extent, come from those draft accounts; would that be right?

A. Yes Mr. Fulham.

Q. And moving on then, I think you had a discussion with Mr. Traynor some time in 1993 at which point you had the draft accounts for 1993 available, I think the reference again is question 487, page 76, Volume 9; in May or June of 1993 you were aware from the company's draft accounts for the year to the 31st of March of 1993 that 290 had been invested in the company and you asked Mr. Traynor who the shareholders were; isn't that so?

A. Yes Mr. Fulham.

Q. And he indicated who those shareholders were?

A. Yes Mr. Fulham.

Q. And Mr. Murphy was one of those?

A. Correct.

Q. And I think you had a further discussion with Mr. Traynor prior to his death in May of 1994 as to how the shareholders were to be dealt with?

A. Correct.

Q. Isn't that so?

A. Correct.

Q. And the problem was at that time that the security available to those shareholders would not have been great; isn't that so?

A. That's correct.

Q. And Mr. Traynor was concerned that they should get some kind of priority for their investment?

A. Correct.

Q. And at that stage the idea was that the matter would be treated as preferential capital; isn't that so?

A. That's correct Mr. Fulham.

Q. Thank you very much.

CHAIRMAN: Mr. Gilhooley?

THE WITNESS WAS CROSS EXAMINED AS FOLLOWS BY MR. GILHOOLEY:

Q. MR. GILHOOLEY: Mr. Carty, James Gilhooley for David Gresty?

A. Yes Mr. Gilhooley.

Q. Now, can I just ask you Mr. Carty, at the outset to clarify something which doesn't seem to have been in your original evidence, unless I have missed it, or in the evidence you

have given today. You are talking here of A and B Ordinary Shares, in the company. Now, at this stage am I right in saying to you that the memorandum, that the Articles of Association of the company had not been provided, had not been amended to provide for these A and B Ordinary Shares?

A. Well, you know, I don't have the benefit of having the articles here in front of me. But presumably you have checked them up if that is the case.

Q. The articles haven't been furnished to me either.

A. How do you know what you have said here now?

Q. Because I am asking you Mr. Carty, whether you know, you are the one that was offering the A and B Ordinary Shares; did you know at the time whether the articles had been amended to provide for them and what the rights of those shares were?

A. I cannot recall.

Q. Right. Well, would you explain what you now think you were doing when you were offering A and B Ordinary Shares?

A. Whatever would have been concluded and accepted, then if the articles needed to be changed they would have been changed before the issue of shares.

Q. Well, when you were offering these shares to people, did you tell them what their rights were what is an A Ordinary Share and what is a B Ordinary Share?

A. When you say "the people" I only spoke to Mr. Murphy and Mr. McAuliffe.

Q. Well, were the A Ordinary Shares to have particular rights

in relation to, for example, the election of directors?

A. It would have been votes it would have been voting and non-voting. First of all, Mr. Gilhooley, I never heard of Mr. Gresty, at that time. I was only dealing with questions raised by Mr. Murphy.

MR. ALLEN: Chairman, if I might just interrupt My Friend because I think that is quite a good point for me to come in on the matter. I am interested obviously to hear anything Mr. Gilhooley may have to put, but I am dubious as to its value, probative or otherwise; Mr. Carty has given evidence to this Tribunal, which relates to his furnishing of information to Mr. Murphy, and to Mr. McAuliffe and to nobody else, and to his furnishing that information at the request of Mr. Traynor. With the greatest of respect, Sir, and I would ask for your guidance in relation to this, I don't think Mr. Gilhooley has any interest or any entitlement to be asking Mr. Carty questions of any sort.

I mean we have had Mr. Gresty come in, as it were, late in the day, but he is a person of monumental indifference as far as Mr. Carty is concerned. That is a matter between Mr. Murphy and Mr. Gresty and whatever it is that they were at. Mr. Carty did no more than furnish information. Why should Mr. Gilhooley be allowed to approach Mr. Carty like a bull at a gate, if you forgive me for saying so, in this manner when it doesn't seem to me that it furthers the objective of the Tribunal in anyway? I may be wrong Sir.

CHAIRMAN: I accept that Mr. Allen, but by the same token we have heard evidence from Mr. Murphy that whilst it does indeed appear that Mr. Carty dealt on the basis, he was dealing solely with Mr. Murphy, we have heard then Mr. Murphy's own evidence to the effect that he was dealing with, on the behalf or in trust for Mr. Gresty.

MR. ALLEN: I accept that Sir. With respect if I may, I don't want to, I certainly don't want to have any - want to argue with you Sir. That is the case, but it seems to me that that doesn't bring Mr. Gilhooley, that doesn't make him in anyway anymore relevant than his client to this particular witness. I mean the fact that Mr. Murphy was doing whatever he was doing for whoever it was that he was doing it for, seems to me none of Mr. Carty's business. And for Mr. Gilhooley to be asking were the Articles of Association amended in circumstances where he doesn't even know if they required amendment, seems to me, if I might say so, to be straying ever so slightly.

CHAIRMAN: Insofar, Mr. Allen, as I think Mr. Gilhooley has at least very ardently, a potential consideration interest in the subject matter of the agreement, it seems to me I should exercise some latitude in allowing him to explore a certain amount of these matters.

MR. ALLEN: Very good Chairman.

Q. MR. GILHOOLEY: Thank you Sir. I think in the light of what you have just said, Mr. Chairman, I think I should refer Mr. Carty now to evidence that he has previously given. At question 386 when you were being previously examined, Mr. Carty, you were asked in relation to your meeting with Mr. Murphy, you were asked what was he talking about investing himself and you replied, you said: "At the time my recollection, it is my recollection, Mr. Healy, all the time was that there was always himself and a foreign colleague, a French colleague; that was always my understanding and the impression he was giving from the conversations I had with him at the time". And then you were asked; "And did he tell you what the split was to be between himself and the" and you said; "no, he didn't". " and the French colleague?". You said; "No he didn't". But I suggest to you that you were aware based

A. Oh, yes. Mr. Murphy mentioned, from my recollection, mentioned him, from my recollection Mr. Gilhooley, yes.

Q. It was clear to you there was another person involved?

A. That was my understanding.

Q. And am I right in thinking that the name of Mr. Gresty was not, although it wasn't specifically mentioned to you, that you were aware that there was such a person?

A. Not by name.

Q. But no I accept that. Now, returning then, you say that one of these classes of shares was to be voting and the other to be non-voting?

A. Yes.

Q. Rather than that each of them elected a particular number of directors for example?

A. I am going by recollection, but can I just ask Mr. Healy a question. Can I have the paper that I sent across? Could I just have that back for a moment.

Q. I am sorry I thought you had that in front of you. This is what I am looking at, yes.

A. Yes. (Document handed to witness). Now, Mr. Gilhooley I should just explain. That came later. That came after my meeting with Mr. Murphy.

Q. So, am I right then in suggesting to you that all you were saying to Mr. Murphy and on behalf of his then unnamed French colleague, was you would get 8% of the equity approximately?

A. I didn't say 8%. But the point I think we were trying to make earlier on Mr. Gilhooley, originally when I went to see Mr. Murphy, one was talking about introducing €600,000.

Q. Yes.

A. And that is where on this paper you will see 14%.

Q. Yes.

A. The 8% obviously came later and Mr. Murphy, his recollection ties in with the 8% when the shareholding went down to €290,000. This is on the page two of the paper you have in front of you.

Q. Yes. This is where I am just a little puzzled. You see if you are saying 14% €100,000; you are saying 14% for

€600,000?

A. No, I am saying - I am just going by what Mr. Murphy had on the paper. He had €100,000, 14%, which is obviously what, on €600,000

Q. It is 84%. Six 14's are 84. I am talking about, that the €100,000 represents 14% of what?

A. Of whatever the value of the company was to be at that time.

Q. So you are saying that

A. If I explain to you. €600,000 plus €80,000 share capital, that was there, €680,000. Now, €100,000 of that is equivalent to 14.7%.

Q. €100,000 of 680,000.

A. Existing share capital was if six goes in and €100,000 of that representing 14.7%. Does your calculator give the same answer as mine?

Q. It does.

A. Good.

Q. So how was the figure of 8% then arrived at?

A. Because the €600,000 failed to be collected so only €290,000 was collected, and that is what prompted the exercise to be done for Des Traynor to say here is another calculation, it was presented and it was presented then to Mr. Traynor to then see, or to recommend what was he going to do about it. It was only a presentation to him, and as I mentioned previously in my evidence originally, to give him an idea of what format this could take. Now, seeing as

it reduced to 290; that is where the 8% came from, it came later.

Q. Now, Mr. Traynor was there in his capacity representing Overseas Nominees, it was as the registered shareholder?

A. Mr. Traynor was, from the evidence; Mr. Traynor was the financial advisor to the Celtic Helicopters and to the Haughey family, so he was the one, I think I said along the way when I was cross-examined, the bottom line decision rested with Mr. Traynor. He was representing the company, and the Haughey family.

Q. But, would I not be right in suggesting to you, Mr. Carty, that where people have put up, in effect, the bulk of the financing for this company, that surely the decision would be theirs, would it not?

A. I can only go on the basis of the conduit. The end of the day decision was Mr. Traynor, he was the person making the decision on behalf of the company and the Haughey family and the existing shareholders.

Q. So, am I right in saying to you then that you didn't consult Mr. Murphy either in his own right or of the unknown colleague?

A. I certainly did not go back to Mr. Murphy. I have no recollection of giving Mr. Murphy that paper and the question then; I have no recollection on how Mr. Murphy ended up in his mind with the 8%. He must have had the benefit at some later stage of this document or somebody must have spoken to him about the document.

Q. Now, when you spoke to Mr. Murphy about this investment you had the accounts, the draft accounts I should say, unsigned presumably?

A. Yes.

Q. To March 1992 before you, and did those accounts at that time show a surplus of assets over liabilities?

A. You have had the benefit of the March '92 accounts, haven't you?

Q. No.

A. You haven't.

Q. No?

A. Well, there would be a surplus of assets over liabilities.

Q. But, presumably if the company was badly in need of capital there was some doubt in the minds of those raising the capital as to its ability to meet its debts as they fell due?

A. No, I wouldn't say that. At the time it was in a difficult financial position, certainly. It was hoped that when the funds came in from the shareholders, that it would, it would maintain its solvency.

Q. So to describe it as it has been described here in the last couple of days as being on the verge of virtual collapse, would be, in your opinion, incorrect?

A. Well, you have got to get back to the legal definition as what you mean by paying your debts as they fall due.

Q. Given reasonable tolerance?

A. I would have thought when I went to Mr. Murphy the company

was solvent in a legal

Q. Well, we both know what the legal definition is and that is?

A. Assets over liabilities.

Q. And reasonably in a position to meet its debts as they fell due having regard to the probable availability of funds?

A. I wouldn't answer that in the positive.

Q. All right. So it was very much subject to raising this capital?

A. Yes.

Q. Now, you have said I think that it was your opinion that or, sorry it was your belief that all of the shares were to be held on behalf of the beneficial shareholders by Overseas Nominees at that time?

A. At that time, yes.

Q. You know that there were some subsequent things regarding Mr. McAuliffe, and in those circumstances you presumably didn't know what bank accounts Overseas Nominees Limited had, but the name suggested to you that it might well have Overseas bank accounts and be acting on behalf of overseas people?

A. Yes.

Q. This is a matter that may well have been dealt with. It may have been outside your, it may well be outside your remit. It may well have been dealt with by Mr. McDarby but I haven't seen his evidence. Am I right in thinking that the company secretarial work in relation to the issue of

these shares, wasn't done until the accounts were finalised
sometime in 1995?

A. That's correct, Mr. Gilhooley.

Q. And at that stage a decision was made to issue instead of
the original equity shares, now when we say that the A and
B Shares, one of them was voting and the other was
non-voting they presumably had equal rights to dividends?

A. I wouldn't like to answer that off the top of my head
without checking back.

Q. But in the normal way?

A. In the normal way you would expect that.

Q. So in that sense they were equity shares?

A. Yes.

Q. And subsequently it was decided instead of equity shares to
issue seven percent non cumulative preference shares,
redeemable preference shares I presume.

A. Yes.

Q. Am I right in thinking that this decision was made entirely
unilaterally by the directors of the company at that time?

A. At that time, yes.

Q. Yes, thank you Mr. Carty.

A. Thank you Mr. Gilhooley.

CHAIRMAN: Miss Costello? Mr. Allen?

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. ALLEN:

Q. MR. ALLEN: Just very briefly, Chairman, if I may. Mr.
Carty, just to clarify one or two matters. Am I correct in

recalling that Mr. Traynor approached you and from your discussions with him you were aware that this company needed an injection of funds; isn't that correct?

A. œ600,000.

Q. Yes; and he asked you to see two individuals; isn't that correct?

A. That's correct.

Q. One we know was Mr. McAuliffe whom you met in August, and the other was Mr. Murphy whom you met on two occasions; one being the 21st of October and the other being the 2nd of November, insofar as we can establish?

A. That's correct.

Q. Isn't that the position?

A. That's correct.

Q. Now, am I also correct in my understanding that your function on both occasions, both at your meeting with Mr. McAuliffe and your meeting with, your meetings with Mr. Murphy, was to furnish them with information?

A. That's correct.

Q. And that it was Mr. Traynor who asked you to do this?

A. That's correct.

Q. Isn't that the position?

A. That's correct.

Q. Isn't that the position?

A. That's correct.

Q. I think you said when you last gave evidence that you were, and I quote from the transcript of Day 9, page 60, question

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

A. That's correct.

Q. Does that remain?

A. That remains the position.

Q. Does that remain the position?

A. That remains the position, Mr. Allen.

Q. And nothing that has been said in this forum over the last few days in anyway alters your position in that regard?

A. No Mr. Allen, it doesn't change it.

Q. You were not promoting the company, you were not selling shares, you were furnishing information to individuals whom you did not seek out, but who were directed to you by Mr. Traynor; isn't that correct?

A. That's correct.

Q. It wasn't that you wanted to see him, it was they that wanted to see you?

A. That's correct.

Q. Isn't that the position?

A. That's correct.

Q. And you answered such dealings specifically with Mr. Murphy. You answered such questions as he put to you, and gave him whatever information he required?

A. That's correct.

Q. Thank you.

THE WITNESS WAS RE EXAMINED AS FOLLOWS BY MR. HEALY:

Q. MR. HEALY: There is two small matters Sir. One just to do with the transcript. One thing I omitted to mention to you, Mr. Carty, and I apologise, I should have taken it up with you, if we could go to that memorandum, the one on Deloitte and Touche note paper containing about a page of writing.

If we could just have the page up a little bit more please? Thank you. Now, I didn't draw attention, I omitted to draw your attention to the statement on the left-hand side or the note which says no dividend, do you see that?

A. Yes, I see that.

Q. Suggesting that no dividend was going to be available or that was a suggestion to some extent, there was going to be no return on dividend, by way of dividend rather for this investment. Then you have these two arrows which seem to refer

A. They are not my arrows.

Q. No, they are not your arrows. But the two arrows point to what seems to be some reference to hours costing so much money?

A. Yes.

Q. Can you tell me what that refers to?

A. My best recollection, and it is quite obvious, I suppose, when you look at it. I would think the 450 and the 350 is

two flying hours rates per hour; 450 being the standard charge rate, and 350 being the, you know the discounted billing rate.

Q. Right.

A. I would say what was proposed there is that, you know, what we will do is instead of a dividend, there will be, you can have up to 30 hours of flying time of ≈ 350 an hour which is about $\approx 10,500$.

Q. I see.

A. I think that is what that means.

Q. Yes, and presumably there must have been some discussion of this as a way of attracting somebody to invest?

A. I think if my recollection is correct, I think there was already somebody who had in general terms discussed that with Mr. Murphy before I got there.

Q. I see.

A. Because when I was going there I knew that this was an issue that had been raised by Mr. Murphy about what discounted rate.

Q. I see.

A. But it speaks for itself I think, the figures.

Q. I would have thought so too, but that hadn't been the evidence of every witness. Though you, presumably you weren't aware until you heard it in evidence that Mr.

Murphy did get an amount of flying from Celtic Helicopters for which apparently no invoices were raised?

A. Well, it was free.

Q. Yes.

A. I don't know

Q. You didn't know that until recently, you didn't know?

A. I was only aware when I saw some documents and your hearing this morning.

Q. It was mentioned in evidence this morning?

A. Yes.

Q. I just want to clarify one matter in the transcript. And I will read it out to you. I am sure you will recall it in any case. It only came to my attention in the last few days. It is the book we have been mentioning. It is page 104. Question 645 and 646. It is just to clarify

CHAIRMAN: Volume 9?

Q. MR. HEALY: That is Volume 9. Yes, sir. It is in fact in Folder 10 of your book, Sir. It will be almost the, it is about the third last page, fourth last, fifth last page in Folder 9, page 104 of the transcript for that day. I will get you a copy.

A. Line, Mr. Healy?

Q. Line 645, 646, those two lines. You were being asked by Mr. Allen, as indeed you were asked a moment ago, and I am not, there is no criticism intended here, and your evidence to this Tribunal today has been the same. I just want to clarify the words used. "Would it be fair to characterise your role as the giver of information?". "That is exactly it". The next question; "In relation to the precise and exact financial situation of the company?". "Yes, Mr.

Allen". "Which at that time was parlance", that should read
parless, obviously. I take it you agree with that, that is
my recollection of what you said?

A. Yes. Yes.

Q. Isn't that correct.

A. Yes. Yes.

Q. That is what I wanted to put to you. Thanks very much.

MS. COSTELLO: Sir, I wonder might I put a question to Mr.
Carty, arising out of Mr. Healy's question there in
relation to both the document that was up on the screen on
the flying hours?

CHAIRMAN: Very good, Miss Costello.

THE WITNESS WAS CROSS EXAMINED AS FOLLOWS BY MS. COSTELLO:

Q. MS. COSTELLO: Mr. Carty, Caroline Costello, I am counsel
for Celtic Helicopters. You have that document which were
Mr. Murphy's notes of his meeting with you on, I think you
gave evidence on the 21st of October. Now, you may or may
not be aware that Mr. Barnicle give evidence last Thursday,
this document was also shown to him and as far as he was
concerned

A. This is the shareholding document.

Q. Yes, this is the one that is now up on the screen?

A. Oh, this one here.

Q. Sorry. Yes. Now on the screen now here. And Mr. Healy
discussed with Mr. Barnicle the arrows coming from, "no

dividend" and the "20 hours", "10K off peak" and then "preferential rate", "30 hours", "10K"; and Mr. Barnicle's evidence to the Tribunal was that you couldn't arrive at that decision because different machines owned by the, by the company went at a different rate?

A. Of course.

Q. And that accordingly you couldn't say that 20 hours would cost 10,000 whether off peak or at a preferential rate or whatever. I am just wondering do you recall whether you would have given that information that is on that note to Mr. Murphy at that meeting or not?

A. Well yes, I would think I would feel Mr. Murphy must have asked me the question and I know it is different helicopters and different rates; but I would have thought in general terms you know, Mr. Barnicle would be certainly more proficient than I would be at this. I would have said there was a helicopter that would have a 450 rate at that time.

Q. I see; and so you think you would have given this information to Mr. Murphy?

A. I think I would have, yes, and I would have been briefed before I went.

Q. That was what I was going to come to. Who do you think would have given you this information? Mr. Barnicle gave evidence that it didn't come from him?

A. It would have come from the company in some way, I feel.

Q. You don't have any idea where that would have come from?

A. No. No.

Q. Obviously your counsel wasn't in a position to put it to Mr. Barnicle that it came from him. You are not saying that it definitely came from him, are you?

A. No. I will just say it came from the company.

Q. And I am just wondering was it your understanding that all of the shareholders, presuming one had raised the €600,000 that the company was seeking, that all of them would have got some sort of free flying or preferential rate?

A. No, I wouldn't be able to say that.

Q. So, what is your understanding of what was suggested here?

A. My understanding would be that that was the preferential rate for the certain number of hours being offered to Mr. Murphy.

Q. Mr. Murphy alone, is that your suggestion?

A. Well, I don't know. I had no information as regards the others.

Q. I see. And you believe that Mr. Murphy might have discussed this with you, not with you, but with somebody else on a previous occasion?

A. I feel - yes. When I was going to that meeting, yes, there would have been an earlier discussion, yes.

Q. And why do you feel that? Did Mr. Murphy say?

A. Because I don't think I would have arrived in here giving 450 and 350 without having some briefing beforehand.

Q. But you are sort of working backwards, if I may put it that way?

A. Well, it is seven years ago. The whole ethos of this and my understanding of this, I am trying to put together as best I can, to put myself in the position of seven years ago.

Q. In other words, you are trying to guess what might have happened?

A. Well, when you say "guess".

Q. Well reconstruct?

A. Reconstruct would be a better word.

Q. It is just neither Mr. Murphy nor Mr. Barnicle indicated that there was free flying attached to the investment in the company?

A. I didn't say there was free flying.

Q. Well, discounted flying with the company?

A. Yes.

Q. Neither of them suggested that?

A. You know the frailty of memory. It is seven years back.

It might be easy

MS. COSTELLO: May it please you Chairman.

CHAIRMAN: It is quarter to one. We will take up the balance of the day at two o'clock. Thank you for your attendance and assistance, Mr. Carty.

THE WITNESS THEN WITHDREW.

THE HEARING THEN ADJOURNED FOR LUNCH.

THE HEARING RESUMED AS FOLLOWS AFTER LUNCH.

CHAIRMAN: Good afternoon.

MR. HEALY: Mr. David Deasy.

DAVID DEASY, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY

MR. HEALY:

CHAIRMAN: Thank you Mr. Deasy, do sit down.

Q. MR. HEALY: Thanks Mr. Deasy. You have made two statements to the Tribunal, and as with the other witnesses I propose to take you through the statements first.

You made a statement on the 18th of May of 1999. Do you have a copy of that statement?

A. I do, yes.

Q. And you say that you are a partner of the firm of Deloitte and Touche, and that you have been a partner in the firm and its predecessor firms since the 1st of January of 1984. And you say that Deloitte and Touche or its predecessors have been the auditors of Celtic Helicopters since the incorporation of that company, and that since 1991 you are the audit partner dealing with the company?

A. That's correct.

Q. You said the firm's work paper files indicate that the records of the company show nine amounts as having been received from Mike Murphy Insurance Brokers Limited between the 19th of November of 1992 and the 3rd of August of

1993. The nine amounts total €89,132.90. The work of preparing the company accounts for the period ended 30th of September, 1993, would have taken place at the company premises. One of the initial procedures carried out by the audit senior was to analyse the receipts and payments processed through the company bank accounts.

You say that in the course of that preparatory work eight of the amounts received from MMIB were described in the work papers as share capital account, I think "TF" is transfer, is it?

A. Correct, yes.

Q. Mike Murphy, or M Murphy. "Reference: M Murphy Insurance Broker share capital", and "Share capital bank transfers reference Mike Murphy". The ninth amount received were described as sundry insurance.

Extracts from the firm work paper files on which the relevant items are highlighted are set out on page three to five. And they are the pages that have already been put up in evidence this morning, together with some other pages that you may wish to refer to; is that right, Mr. Deasy?

A. That's correct.

Q. We will come to those in a moment.

"In preparing the analysis of the transactions on the company bank accounts the audit senior would have had to ask either the company bookkeeper or the directors of the company for details of the receipts. The descriptions

referred to at 6 above would have been passed, would have been based on responses received from either the bookkeeper or the directors. Eight of the amounts received totaling œ79,230.91 were initially credit to the share capital account in the nominal ledger. As the work of preparing the accounts progressed they were transferred to the credit of the insurance account.

The amount of œ79,230.91 consisted of the 9,917 shown on page three of the documents we will refer to in a moment.

The œ39,668 shown on page 4 and the œ29,645.91 shown on page five. The ninth amount received, 9,901.99 was credited to the insurance account in the nominal ledger, bringing the total credit of the insurance account to œ89,132.90".

Now, you have made a second statement, in fact it is earlier in date but it deals with some of the related matters. I may as well just go through the statement, unless you prefer to stop and go through some of the documents at this stage?

A. Whatever suits you.

Q. Which ever suits you, it is you I want to convenience?

A. I beg your pardon?

Q. It is you I want to convenience?

A. I don't mind.

Q. Which is the best way?

A. I think perhaps the statement you have just dealt with and

the documents related, that now and then the second.

Q. Right. Let's do that then. Right. Now, if I can put up some of these documents, the first document I want to put up is the one headed "AIB Current Account Lodgements Pre March of 1993". Perhaps, in fact I should put up an earlier document showing an analysis of the cash receipts, that's Document E2 - 8, 26th of the 10th, 1993. Its not terribly distinct on the monitor, have you got your own copy of that document?

A. I have, yes.

Q. It is headed "Celtic Helicopters CHL", is that profit and loss, is it?

A. No, P/E.

Q. "Period ending 30th of September, 1993. Cash receipts Analysis". You have given the cash receipts analysis for the months from April to September, breaking it down into expenses, income, vat, sundry and so forth. Underneath that you have an analysis of the sundry, is that the part of the document you want to refer me or is there some other part?

A. No, that particular part.

Q. Yes, I presume that it is the reference under, in the analysis of the sundry to the share capital heading "Account transfers Mike Murphy œ9,917"?

A. Yes.

Q. Can you just tell me what would have caused that or how did that note come to be made in those terms, in your view?

A. The audit senior would have prepared the top half of that work paper initially, by summarising the company cash receipts book. For the purpose of posting the nominal ledger it is necessary to further breakdown the items in the sundry column so as to ascertain into which account they should be posted, that's the second half of the work paper. One of those sundry receipts is the œ9,917 and we, the audit senior would have asked either the company bookkeeper or the company directors, as to what the receipt was in respect of.

Q. I see.

A. And based on that would have given it that heading.

Q. Now, the directors have indicated or at least one of them has indicated none of the directors would have simply recalled no question of that kind being put to them, they say that the bookkeepers would not have been in a position to answer any such question, though of course I can't be sure without having spoken to the bookkeepers. Or the Tribunal may have to take the evidence from a bookkeeper, but if its directors didn't tell the audit senior or whatever other member of your staff was making this analysis, is there anywhere else that information could have come from?

A. I can't think of any source other than the bookkeeper or the directors.

Q. Am I not right in thinking that your firm in the guise of Mr. Carty, was dealing with raising capital, or assisting I

want to make that clear, in the raising of capital by simply giving information at the request of Mr. Traynor to a number of individuals, and he was certainly one person who would have known that Mr. Michael Murphy was involved in investing capital in the company. He says he couldn't have or didn't make that information available to anybody. Was there anybody else in your firm who would have been aware of the involvement of Michael Murphy in investing in the share capital of the company?

A. Yes, but not in the context of the preparation of this document. You have to view that document in the context in which it was prepared.

Q. I see.

A. The, an audit team would go to the company premises, a senior and perhaps a junior, and this is very basic preparatory work which they would carry out on the company books. And if at that stage there was an item which they were uncertain about or which was unclear from the books, they would seek information from either the bookkeeper or the directors, and they would complete their work papers on that basis. So I would be surprised where that information to have come from any other source, in view of the context in which it was prepared.

In the course of this statement I, which you went through earlier on, "I made it clear that while those items were initially posted to the share capital, they were

subsequently transferred to the insurance account, so this document would have represented the initial recording of the transactions by us.

Q. Could I just go onto the next document that you have prepared, which is the document dated the 28th of October, I presume of 1993, which would have been two days after the first document was dated. AIB current account lodgements pre march of 1993. Once again, the expression "share capital" is used, and is applied to a number of these payments; isn't that right?

A. That's correct.

Q. This time it is what is being analysed on this page or what is being recorded on this page?

A. What is being recorded on this page and succeeding pages are the transactions going through the AIB current account.

Q. Why would one of those transactions be pigeonholed under "sundry" and the other four pigeonholed under "share capital"?

A. As you are aware, there were very few transactions going through that particular account. I think I am correct in saying the only transactions going through the account at the time.

Q. Is this the AIB Swords account?

A. Yes, were the debit in respect of payment and the receipts from Mike Murphy Insurances.

Q. Yes.

A. Because of the small number there was no separate cheque payments book or cash receipts book in respect of that account, consequently the senior preparing his work papers would have gone through the bank statements, picked out the payments and receipts and sought an explanation for

Q. If we take the figures out of it for a moment and try to reduce to flesh and blood, as it were. What the senior would have had were bank statements which he would look at, sees money going into those bank statements and ultimately out of them again, isn't that right, debits and credits; he would want to know what did those debits and credit betoken, what were they about?

A. Correct. As you have said the only document available would have been the bank statements, consequently it would have been necessary to seek an explanation for each payment and each receipt.

Q. Somebody would have to give that explanation?

A. Correct.

Q. One way or another whoever gave the explanation, the explanation was that that bank account in Swords and the payments going through it were something to do with share capital. Now, that explanation may have been overtaken eventually but somebody gave that explanation initially; isn't that right?

A. That the receipts in the account in some way related to share capital and Mr. Murphy, that's correct.

Q. Yes, that they related both to share capital and to Mr.

Murphy?

A. Correct.

Q. Right. Now, the next document is also dated, that you have referred in your statement is also dated the 28th of October of 1993, and once again this refers to share capital, so again at that point an attempt was being made to pigeonhole these amounts in some way, and one of the potential pigeonholes was share capital by reference to Mr. Mike Murphy; isn't that right?

A. That's correct.

Q. Now, I want to come on to a document, I don't know if you referred to it, it is Celtic Helicopters' sundry journals.

It is under the heading "journals" and the sub-heading is "Sundry Journals". Did you see it this morning? I can get you a copy if you don't have a copy.

A. I have a copy.

Q. It is dated the 2nd of the 11th, 1993. If we could go down through that document, you will see "sundry insurance", underneath that "sundry Gatehouse insurance", and underneath that "sundry Mike Murphy capital", and at the bottom, "To adjust payments to Gatehouse for insurance and receipts from Mike Murphy for share capital out of sundry". What exercise was being carried out at this point?

A. In the normal course of preparation of accounts such as would have taken place here, the initial work would have involved summarising the transactions in books with a view

to posting them to a nominal ledger, which ledger is designed to accumulate the transactions under the classifications that eventually appear in the accounts. So having analysed the transactions the senior would prepare journal entries, effectively the debits and credit relating to those summarised transactions, and posted them to the nominal ledger. This particular journal, as you can see in the top left-hand side corner is JB 13, that means it is 13th journal in a series, the initial journals would have posted cash receipts and the cheque payments to a sundry account pending a decision as to where they should ultimately go. As you can see from the date of that paper it is some days after the initial.

Q. Yes.

A. So the adjustments, you will see three mentions of share capital, 9917, 39668 and 29646, and those three amounts are the totals we saw in the earlier work papers. The first was simply the 9917 in the No. 1 account. The pre march was 39668 and the post march is 29646, that is effectively crediting those into share capital. And the debits are debiting the, or charging, if you will, the payments to, into the insurance account.

Q. Um hum. So again just correct me if I am wrong at the end of that exercise on the 2nd of November the people trying to make sense of the books were still under the impression that some of this money was to be apportioned to share capital?

A. That's correct.

Q. Now, at some stage am I correct in saying that all of this, well at some stage am I correct in saying that the uncertainty concerning the treatment of this, these sums apportioned to share capital was removed?

A. That's correct.

Q. And all of this money was simply treated as the repayment to Gatehouse leasing or Gatehouse Finance, which ever way you want to put it, of the monies which had been loaned by Gatehouse Finance, the repayments having come from Michael Murphy, the money, the funds having come from Michael Murphy; am I right in that?

A. In essence they were transferred from the share capital account into the insurance cost account into which account the charges or the payments by Celtic Helicopters Limited to Gatehouse had been posted.

Q. Now, in order to remove the uncertainty concerning the treatment of part of that money as share capital, presumably somebody had to go back to the person from whom the share capital explanation was first obtained and somebody would have had to say to that person "Sure it is share capital, look my analysis doesn't tally with that". Would I be right in that? Having been told by somebody that it was share capital, presumably the professionals can't unilaterally treat it as something else?

A. No, the information given to the person would have been the basis of those postings. The, subsequently the trial

balance would have been taken out and I cannot say for certain, I wasn't there, but I speculate when an initial trial balance was done it was clear that the insurance account didn't look correct, it probably went back over the entries and discussed it again with the bookkeeper or directors, and at that point then transferred the receipts from the share capital account into the insurance account, and I have brought the work papers a printout of the trial balance which shows that transaction taking place.

Q. I am not for one moment questioning the ultimate accountancy exercise. What I think the Tribunal will be interested in, Mr. Deasy, is simply this; how somebody in your firm came to the conclusion that this could be or must be share capital, and you say that can only be because of something that was said to them. And then subsequently was able to disabuse themselves of that explanation, again it must have involved, and I am not criticising you because you have seem to have raised, at least on the face of, the document with the direct result, whether there was a correct representation of the underlying fact, certainly somebody had to be disabused of this impression. Isn't it obvious that you go back to the person who told you it was and say "listen you must be wrong about that"?

A. Yes, correct.

Q. Isn't that what the Tribunal has to find out, if they wanted to be absolutely sure about this. The Tribunal will have to find out who informed the relevant member of

your staff that it was share capital and who subsequently informed that person that it wasn't share capital?

A. Well I think the, that clearly is a matter for the Tribunal, but it would seem to me from the work papers, that an initial explanation perhaps given in a fairly off-the-cuff way perhaps in response to a whole list of questions was put through. When the trial balance was taken out it was quite clear that didn't make sense in terms of figures, and they were adjusted. Again it would have to be by way of going back to either the bookkeeper or the directors to say "it doesn't look right" and subsequently then adjusted it.

Q. As things stand, the company, the Tribunal has been informed in evidence on behalf of the directors, that they certainly didn't provide this information. So it must have come from somebody else, if that's correct?

A. Well that I understand is their evidence, but it certainly I can't think who else it would have come from.

Q. I see.

A. It would have been a list of it wouldn't surprise me there could be a list of many questions they would be asked.

Q. The directors surely would have known who was investing in the company at this stage, this was '93, September of '93?

A. I would have thought so, yes.

Q. Yes. Could I now pass to your other statement? And in

fact before passing to it, could I just ask for your view about one thing and a matter which may be related to the last few pieces of evidence. I presume that you were present or at least you have seen the transcripts of the evidence in which it has been suggested to the Tribunal or indicated to the Tribunal that Celtic Helicopters in repaying Mike Murphy Insurances the œ90,000, he loaned them, repaid him in part by discharging parts of the insurance running accounts, and in fact by giving free flying. Now, the evidence is that the accountants could not have known that free flying was part of the way in which any of this indebtedness to Mike Murphy Insurances was discharged, so there is no question of the accountants having failed to pick up on invoices that apparently didn't exist. Nor was there, as far as the evidence goes, any document or letter indicating that there was an agreement to that effect, and therefore no such document that you could have picked up. At any time does an accountant in the course of carrying out an audit ask about whether a particular indebtedness has or has not been paid off. Do you see what I am driving at?

A. Yes, that would be a normal matter that would arise in the course of preparing accounts, the state of indebtedness, how it had been dealt with during the period, it certainly was.

Q. Yes. And if the explanation for the indebtedness was that there was no indebtedness or that at least the indebtedness

was being reduced gradually by a contra in flying hours, wouldn't you be expected to be told of that?

A. Most certainly, yes.

Q. Because in fact the appearance of the accounts would be quite different, wouldn't it? The company would appear to be, would appear to have less debtors than in fact it had; isn't that right?

A. In this particular instance the monies received from Mike Murphy Insurance Brokers and the payments to Gatehouse did not give rise to any loans in the books of Celtic Helicopters. There was no loan balance owing of any owing to Mike Murphy Insurance.

Q. There was presumably a debit balance on the insurance accounts at all times?

A. There were amounts accrued in respect of insurances, but these transactions were dealt with in Celtic Helicopters in a mirror, as one would expect, a mirror of the way they were treated.

Q. Money came in and went out?

A. As the way they were treated in Mike Murphy Insurance Brokers. I heard Mr. Quigley's evidence this morning, and I have a copy of his statement. The books of Celtic Helicopters Limited reflect the other side, if you like, of the transactions, in that they were posted to one account, the 50,000 was cheque payment, was treated in respect of insurances and there was no record or entry related to free flying hours at all.

Q. Um hum. But you will recall from the evidence of Mr. Quigley that, and from the evidence I think of Mr. Murphy the other day, that effectively there was a running account on which there seemed to be always, nearly always a debit balance in favour of Mike Murphy Insurances, in other words that they were always owed money and therefore in Celtic Helicopters books they should have appeared mostly, most times to have been indebted to some degree to their insurance brokers. I am saying to you, that would have been at least a partly inaccurate picture I am not blaming you as an accountant, because you couldn't have been aware of the flying hours. Am I not right in thinking that was partly an inaccurate picture because so we were told, part of the indebtedness had been discharged by flying hours?

A. Two things have been said in relation to indebtedness, as I understand. The indebtedness was approximately €89,000 and a cheque for €50,000 was repaid against it.

Q. That is as I understood.

A. This is what I understand was said from the evidence.

Q. Yes.

A. That the loan of €89,000 was partly repaid by a cheque of 50.

Q. Whose evidence was that?

A. Both Mr. Murphy's evidence and Mr. Barnicle's evidence, and the balance by free flying hours with a small balance still outstanding. In the books all of the transactions were

accounted for through the insurance account in Celtic Helicopters Limited, and it would appear through the insurance debtors account in Mike Murphy Insurance Brokers. There were credit balances in the books of Celtic Helicopters, in other words monies owed from insurance at various points in time, but there was no specific, there was no split of those into, in anyway a loan account balance for instance. There were various insurance balances due at various times.

Q. But at no time in the account was there any indication that Mike Murphy was indebted to Celtic Helicopters for flying hours; isn't that right?

A. No, no.

Q. And we are told now, this Tribunal has been told that for the first time, it has been told that part of the indebtedness of Celtic Helicopters to Mike Murphy Insurances was being discharged by flying hours. You were never aware of that?

A. No.

Q. Now, just one other matter in relation to the you understood that the €50,000 payment made, I think in 1993, was made in reduction of the €90,000 borrowed, if you like, to pay insurance; is that what you understood from the evidence?

A. No, no. That's not, that was not our understanding of the transaction, that was not how it was accounted for in the books of Celtic Helicopters.

Q. Exactly, that was simply another payment by Celtic Helicopters to Mike Murphy Insurances?

A. In respect of insurance.

Q. In respect of insurance, exactly?

A. Correct, yes.

Q. But, in fact, entered in the books of Mike Murphy Insurances on a different insurance account to the one in respect of which the 90,000 loan was drawn down?

A. Yes, that was mentioned this morning.

Q. Now, if I can just go through the second statement you made and I can quickly go to paragraph four, would that be right?

A. Yes.

Q. You say "the firm's", meaning your own firm's audit files, "in respect of the accounts of the company for the year ended 31st of March of 1993, indicate that the company's books and records show the following lodgements to the company's current bank at account Bank of Ireland, Dublin Airport Branch. 5th of November, '92 - 122,532.82. 27th of November 1992 - €100,000. 9th of February, '93 - 67,796.91.

And the firm audit files reflect the monies received as receipts in respect of share capital".

Now again, you say that the firm's audit files reflect that, I take it that that was as a result of requests or information sought from the directors?

A. That would be correct.

Q. Yes. And I don't know if you are aware of all of the evidence given by Mr. Barnicle, but he repeated on more than one occasion as far as he is concerned the €100,000 payment mentioned there was in his mind, Mr. Mike Murphy's investment in Celtic Helicopters?

A. That was always my understanding as well.

Q. Yes. "Mr. Paul Carty, a partner of the firm indicated that money represented share subscriptions by the following persons", and we have been through that in evidence. You simply give a breakdown of Mr. Michael Murphy, Xavier McAuliffe, Pat Butler, John Byrne and Mr. Snowden's various investments. And Mr. Carty indicated that he obtained this information from Mr. Desmond J Traynor who was a financial advisor to the company.

You say that you did not meet at any time with any of these individuals in relation to any aspect of the company's affairs, either prior to or after their investment, nor did you discuss such matters with any of them.

You say you did not at any time meet Mr. Traynor in relation to aspects of the affairs of the company nor did you ever discuss the company or any aspect of its affairs with him.

You say that you were aware from Mr. Carty that he had had discussions with Mr. Traynor covering the number of shares to be issued in respect of these subscriptions, together

with the related premium on the issue of shares. You understand that no conclusion was reached in this regard prior to Mr. Traynor's death in 1994.

Can you just tell me when you became aware of this from Mr. Carty?

A. It would have been in summer of 1993.

Q. In the summer of 1993?

A. Yes.

Q. "The amounts received by the company totaling œ290,329 were shown in its balance sheet of 31st of March, 1993, 31st of '94 and '95 as loan capital pending the formal issue of shares".

Would I be right in saying they were described simply as loan capital, no reference to formal issue of shares; is that right?

A. That's correct, there was no evidence.

Q. Yes. "I am aware that early in 1996 the directors of the company informed Mr. Carty that they were in discussions with Smurfit Finance Limited with a view to obtaining loan facilities and that Smurfit Finance Limited wished to be satisfied that shares were issued in respect of the monies ascribed.

By letter of the 15th February, 1996, the company requested the firm to prepare the documentation for the issue of preference shares in respect of the money subscribed. The

letter was accompanied by a letter of the 14th of February, 1996, from Larchfield Security. By letter of the 15th of February, '96, the firm wrote to Smurfit Finance confirming that it had received such instructions and enclosing copies of the letters received from the company.

I was aware of this correspondence at the time and based on my own recollection, examination of the firm's files and inquiries within the firm's office you could find no evidence that the letters of the 14th of February of 1996 and 15th of February of 1996 from Larchfield Securities and the company accounts respectively were drafted or typed in the company, in the firm's office". Just in relation to that particular assertion, Mr. Deasy, could I just ask you to look at the documents for a moment, the letters of the 14th of February of 1996 and the 15th of February of 1996. You say that you have made inquiries and that your inquiries lead you to believe that there was no evidence that these letters were drafted or typed in the firm's office. Do you know whether any, whether the content of these letters was in anyway dictated to or relayed to Celtic Helicopters directors?

A. I don't know that for a fact, either one way or the other.

Q. Yes.

A. It is possible, I suppose, that the thrust of the letter had been communicated in conversation.

Q. I think the directors say they got the thrust, or content rather, of the letters from Deloitte and Touche, or that

the letters were drafted for them by Deloitte and Touche.

It would seem unlikely that the directors would have been aware of any of the details required to bring about the reconfiguration of the shares, it was in fact totally being handled by your firm; isn't that right?

A. I can certainly find, as I said in my statement, I can find no evidence that they were drafted or typed in the office, while viewing the files. It is possible that the broad thrust of the letters could have been communicated to the directors in conversation.

Q. As a matter of reality; isn't it?

A. It is possible.

Q. Isn't it what would happen if you are not versed in company matters, you simply ask the accountants "What do we put in the letters? We don't know what to put in". This is not a mortal sin, I am simply trying to clarify whether the directors were armed with this type of information or whether they got this information or this procedure from their accountants. They say they got it from their accountants. They don't pretend to have any knowledge of pretend to have any knowledge of the kind of details of the procedures that would have to be followed to bring through the reconfiguration of the shares?

A. Just breaking it into two pieces, certainly in relation to all of the documentation dealings with the shares, in terms of draft resolutions, shareholder, minutes and so on, there is no doubt they were all drafted in our office. The two

letters to which you are referring I can find no evidence

that that were drafted or typed.

Q. I see. You are not saying that the directors have to be wrong in their own view that it was based on information or drafts prepared by Deloitte and Touche?

A. I can find no evidence of drafts, but these letters came into being, as far as I understand, at the request of their bank.

Q. I see.

A. And it is entirely possible that

Q. In any case

A. the thrust could have come from somebody in a telephone conversation. There is no evidence on the files of drafts.

Q. It was in the accounts prepared in Deloitte and Touche that the sum of œ290,000 odd was described as a loan, isn't that right? It was in accounts prepared in your offices that the money was described as a loan?

A. Correct, described as loan capital.

Q. Yes. And these documents simply referred to the loan and instructions being given to convert the loan into preference share capital?

A. I see the documents refer to that to the year 1991 which is not the year which these matters arose. The monies are described as not a loan but loan capital to distinguish them from an ordinary bank loan or whatever.

Q. Yes. Well, you didn't correct any of the misstatements in these letters?

A. I beg your pardon?

Q. There is certainly no doubt that the firm didn't correct any of the misstatements?

A. No.

Q. You would have been in a position to do so?

A. We would.

Q. You would have been in a position to say there hadn't been a loan to the company in '91?

A. Correct, we would have been in a position to say that.

Q. Yes. You go on to say; "The documentation relating to the issue of preference shares was prepared by the company's secretarial division and sent to the company. The relevant meetings are recorded as having taken place on the 29th of March, 1996, at the company's premises.

Two tranches of preference shares were issued at par. One of 100,000 and one of 190,329. Both tranches of shares were issued to MS Nominees Limited which I understood from Mr. Carty was to hold the shares in trust for Larchfield Securities, which company is holding them in trust for the individuals set out at 5 above.

The documentation necessary to be completed by MS Nominees Limited was sent to Sam Field-Corbett of that company by letter of the 16th of July, 1996, sent to that company by letter of the 16th of July and returned for insertion in the company minute book ". That's the end of it?

A. That's right.

Q. Thank you very much.

MR. QUINN: No questions.

THE WITNESS WAS THEN CROSS-EXAMINED BY MR. FULHAM AS FOLLOWS:

Q. MR. Fulham Mr. Deasy, I represent Mr. Mike Murphy and I just want to ask you a few questions in relation to your first statement which you went through, which was the description of the installment payment to Mike Murphy in 1993 as share capital. You don't have any first hand knowledge first of all, in relation to the work that went on?

A. I didn't prepare those work papers, no.

Q. This work was presumably done by an audit senior. I think you have said that in your statement?

A. That's correct.

Q. Who was that audit senior?

A. A person with the firm and left some years ago.

Q. And was that the same audit senior who did the accounts up to the end of March of 1993?

A. No.

Q. So you had is the person who did the accounts up the end of March 1993 still in your firm?

A. No.

Q. Because I want to suggest to you that if the person who prepared the accounts to September of 1993 had checked with

the person who had done them up to the end of March 1993, you would have seen that the amounts were correctly stated and correctly posted in the accounts to the end of March 1993.

Can I suggest to you that at the end of March '93 there were five or six monthly payments received by Celtic Helicopters in respect of these insurance installments; isn't that so?

A. That's correct, yes.

Q. And at the end of March of '93, we know that Mr. Carty had the draft accounts for the end of March of 1993 when he discussed the question of investors and investments with Mr. Traynor; isn't that so?

A. That's correct.

Q. And the figure for the investment was 290,000; isn't that so?

A. That's correct.

Q. And if the figure was, was to include the insurance payments, it would have been considerably greater than 290,000; isn't that right?

A. It would have been, yes.

Q. But it didn't?

A. It didn't, no.

Q. So the picture was correctly stated at the 31st of March, 1993, and when we go on then to the 30th of the September of 1993, can you just tell me is that the year end for Celtic Helicopters or is it six months?

A. That's a six-month period, March is the year end.

Q. Why would Deloitte and Touche be involved in the six monthly period?

A. We regularly prepare management accounts for the company on a six monthly basis. We would have prepared six months accounts to March and to September in each year.

Q. I see. And the person who was involved in this six monthly accounts, as you have told us, was not the person who dealt with the 31st of March accounts; isn't that so?

A. That's correct.

Q. And do you accept that the figure was incorrectly dealt with in the 31st, or the 30th of September 1993 accounts?

A. No, I do not. I do not, because I stated earlier that while the amounts were initially credited to the share capital account, they were subsequently transferred out of the share capital account and back into the insurance account, and in fact the share capital at March of 1993 and September 1993 is the same. The initial postings to the share capital were reversed following the preparation of the first trial balance.

Q. Okay. So it is the postings that were incorrect and they were reversed?

A. Correct.

Q. Yes, okay. Thank you.

THE WITNESS WAS THEN CROSS-EXAMINED BY MR. GILHOOLEY AS FOLLOWS:

Q. MR. GILHOOLEY: Thank you sir. Mr. Deasy, James Gilhooley on behalf of David Gresty and DB Agencies. Now, Mr. Gresty sorry Mr. Deasy, I beg your pardon, Mr. Deasy you say in your first statement of the sorry, your statement of the 10th of May, that Paul Carty, a partner in your own firm, this is paragraph five, indicated to you that the monies which you referred to in the preceding paragraph, the figure of œ390,329.43, "that represents share subscription by the following", and that represented, it sets out a list. When did you first become aware of that, Mr. Deasy?

A. I would say in the summer of 1993.

Q. So am I right in thinking that the accounts for the period from I think, ending 30th of March or 31st of March, 1992, up until the period of, ending the 31st of March of 1995 were all dealt with together and filed sometime in 1996?

A. I can't be certain of the filing date, but certainly they were, the '92, '93, and '94 accounts were signed off at the same time in July of '95.

Q. All right, but there were available in September and October of 1992 draft accounts for the period ended 31st of March of that year?

A. Correct, yes.

Q. And it was clear, I think, that there were, that a loss somewhere in the order of œ225,000 had been incurred in that year. I am just basing this on the difference between the balance sheets?

A. Well, I can't answer for the exact figure.

Q. Approximately?

A. But there was certainly substantial loss.

Q. And it is also clear I think, isn't it, that if one compares the two balance sheets the company has become vastly more illiquid between the two periods?

A. I haven't carried out an exercise to do that, but clearly the incidence of a loss of that order would have affected the position, yes.

Q. Now, there were at that time in the company two classes of shares, A Shares and B Shares; and the A Shares were the only ones that had the right to receive notice of or to vote at meetings; isn't that so?

A. That's my understanding, yes.

Q. Further, they were the only shares that had the right to receive any dividend whatever?

A. I am not sure about the dividend question, I would have to check the articles.

Q. Well if I can just I think this may have been amended since, and the amendment may not have been mentioned, but as it was then if I can just read to you Article 3(3).

"The profits of the company available for distribution shall be applied in payment to such dividends as the directors may declare as interim dividend or such other dividends the directors may recommend on the A Shares only from the time being issued in the capital company".

(Quoted). So that would suggest, wouldn't it, that the B

Shares have no right to a dividend?

A. What you read out would certainly suggest that, yes.

Q. Wouldn't it also be case, again from memory, I can refer you to the appropriate article if you wish, that the B Shares had no right to any other form of payment, cumulative or otherwise, other than the right to the repayment of the par value on a liquidation of the company?

A. I would have to have the Memorandum of Articles to confirm that, Mr. Gilhooley.

Q. Well, given that that is the case, nobody I suggest to you, in their sane senses, would invest in the B Shares alone; isn't that so?

A. Again that's not a question I can answer.

Q. But on the basis

MR. ALLEN: Chairman, I am sorry to interrupt, but I do think it only right that Mr. Gilhooley should, this particular matter should be put in context. He will be aware, no doubt from the rather lengthy statement which was, has been presented to the Tribunal, by, on behalf of Mr. Gresty, that Mr. Gresty had particular reasons for dealing with this investment in a particular way. They are quaintly referred to as problems of a domestic nature which were being experienced in France, and he had reasons for wanting to invest and for wanting to invest discreetly, that's what Mr. Gresty himself said in a statement, but leaving all of that aside, Sir; what, if I may ask

politely, is Mr. Deasy being asked in these questions, and what possible bearing does it have on the Terms of Reference for this Tribunal? Mr. Carty did give evidence this morning and he was cross-examined with his normal acuity by Mr. Gilhooley, he didn't choose to put any of these questions to him.

CHAIRMAN: I think, Mr. Allen, the likelihood is the repercussions on the eventual report are not going to be cataclysmic, but in the context of the comparatively limited portion that remains to be explored I think it is more satisfactory if I gave Mr. Gilhooley limited latitude

MR. ALLEN: Yes.

Q. MR. GILHOOLEY: I will press on and take advantage of the latitude given.

Just going back to the situation, did Mr. Carty tell you as the auditor to the company, what classes of shares were proposed to be issued to Mr. Murphy in respect of that one hundred thousand investment?

A. I was aware of the document which was referred this morning, whereby suggestions in relation to the classes and numbers of shares were made to Mr. Traynor. I saw this document probably around that time.

Q. As auditor to the company such as Celtic Helicopters would you feel obliged to look into the question of, for whom shares were being held in trust, were they being held in

trust?

A. No, specifically the share register would be inspected as part of our normal procedures, as I am sure you are aware. The Companies Acts don't require trusts to be entered in the share register.

Q. And you would not look beyond the share register as required by the Companies Act?

A. No.

Q. Now, am I correct in saying to you that as at, that if one were to allow for the share capital to be, sorry for what is entered on the accounts as loan capital at 31st March, '92, had that been treated as share capital as at that date, as was intended, you will accept that it was so intended at that date?

A. Absolutely.

Q. And if it had been actually entered into the books as such, then a situation would have arisen as of that, as of the 31st of March of 1993 which would have required the holding of a general meeting; wouldn't it?

A. I would have to look at the balance sheet to answer that, Mr. Gilhooley, but certainly if the assets were less than half of the called up share capital it would be necessary to call an Extraordinary General Meeting, yes.

Q. The net assets at that stage were 108,000, according to the balance sheet, and the called up share capital, described as such, was 80,000, as you know. Had the 290,000 been

added to that then there would have been less than half?

A. That's correct.

Q. Now, when the draft accounts were prepared in or about August or September 1992, had you been informed as auditor that these sums were coming in by way of share capital?

Were you aware of the attempts by the company to raise investment?

A. Are you talking about '92 or '93?

Q. '92 firstly?

A. I can't say for certain but I would imagine that I might have been only aware in the most general of terms, I would have known nothing specific about it.

Q. Shall I put it to you this way; if instead of draft accounts in September of 1992 you were signing off a report on final accounts and certifying that those final accounts showed a true and fair view, would you have inquired in much more detail into the question of what form of capital that was?

A. The company year end was March and accounts to March of '92, '93 and '94 were signed off in July of 1995. And in those accounts the amounts subscribed for share capital were described as loan capital pending the issue, the formal issue of the shares.

Q. So the only reason that they were described as loan capital was that the documentation hadn't been carried out?

A. Correct.

Q. Everybody knew that, in fact, really they were in the

nature of share capital?

A. More than in the nature, our understanding or my understanding is always that these monies subscribed for share capital, they were so described in the books.

Q. The I this is probably more this may be more likely to have been done by Mr. McDarby. Just finally if I check one thing with you in relation to the shares issued specifically to, or on behalf of Mr. Murphy. There seems to be some confusion in that it is now suggested or has been suggested that Larchfield Securities was the holder of these shares, whereas in fact originally it was supposed to be Overseas Investments Limited. Were you aware of that first arrangement?

A. The shares were actually issued to Larchfield Securities, that's my understanding, was that Larchfield Securities, sorry they weren't issued to Larchfield Security, they were issued to a company, MS Nominees Limited, of the register shareholder. My understanding was MS Nominees held those for Larchfield, and in turn Larchfield Securities held them in trust for the individuals.

Q. There was no reason for you to seek to see the declaration of trust for the reasons you have already described?

A. Correct.

Q. And do you know whether there was a formal letter of application and a resolution to allot in respect of these shares?

A. Yes, there were.

Q. Thank you.

MS. COSTELLO: No questions Chairman.

MR. ALLEN: No questions Chairman.

CHAIRMAN: Thank you very much.

THE WITNESS WAS RE-EXAMINED BY MR. HEALY AS FOLLOWS:

Q. MR. HEALY: Just one last question, Sir, I omitted to ask this witness. I wasn't aware that your company prepared, your firm prepared management accounts as well as doing the audit for Celtic Helicopters. Can you tell me, were you paid separate fees for the management accounts as well as for the audit the annual audit?

A. I would say that they would have billed a single

Q. A single sum?

A. A single sum, yes.

Q. Were you paid that sum each year from the time that you first started auditing them?

A. I can't speak for prior to 1991 but we would certainly, would have been, would have billed after 1991 I wouldn't know exactly, without checking with our administration, as to whether or not bills were issued and whether they were paid.

Q. I see that. Can be ascertained in any case?

A. Most certainly.

Q. Thank you.

CHAIRMAN: Thank you very much.

THE WITNESS THEN WITHDREW

MR. COUGHLAN: Mr. Noel Fox.

NOEL FOX, HAVING BEEN PREVIOUSLY SWORN, WAS EXAMINED BY MR.
COUGHLAN AS FOLLOWS:

CHAIRMAN: Thank you. You are already sworn.

Q. MR. COUGHLAN: Mr. Fox, I think you have been asked to
give evidence on the question of the bearer cheques; isn't
that correct?

A. Yes.

Q. I think you have furnished a statement to the Tribunal, do
you have that with you?

A. I have indeed.

Q. If we just go through the statement, I will take you
through the statement?

A. Thank you.

Q. Okay. I think you have informed the Tribunal that you
have considered the unsigned statement furnished by Mr. Ben
Dunne to the Tribunal recently on the issue of what has
come to be known as the "bearer cheques"?

A. Yes.

Q. That you have also considered the evidence given by Mr.
Dunne on the 19th of May and there are a number of issues
you wish to deal with; is that correct?

A. That's correct.

Q. I think you have informed the Tribunal that in relation to the six bearer cheques these bearer cheques were written in January of 1987, the six bearer cheques we are talking about being the six cheques which ultimately ended up in a Guinness & Mahon bank account; is that correct?

A. That's correct.

Q. They were written in January 1987 and evidence has been given that Mr. Dunne wrote in the figures and signed these cheques. The other item on the cheque is mine, there has been that evidence already?

A. Yes.

Q. I think you have informed the Tribunal that, as you have already made clear in your evidence to the Tribunal, this was the only occasion on which you wrote such cheques, that is cheques payable to bearer cash for Mr. Dunne; is that right?

A. Yes.

Q. I think you have informed the Tribunal you believe this must have been a once off occasion on which you did so, and Mr. Irwin's evidence to the Tribunal supports this view of yours?

A. Yes.

Q. I think you informed the Tribunal that you also believe that you must have been asked by Mr. Dunne to complete these cheques which he had already signed and in which he had already inserted the amount in figures?

A. Yes.

Q. I think you informed the Tribunal that you certainly never wrote out bearer cheques which you then asked Mr. Dunne to complete, nor did you ever have custody over these cheque books?

A. That's correct.

Q. I think the evidence has been that these cheque books were kept in Mr. Dunne's office in an old briefcase?

A. That's correct.

Q. I think you informed the Tribunal that you did receive bearer cheques from Mr. Dunne, however you never received more than one bearer cheque a year, usually in the region of five to seven thousand pounds; is that correct?

A. That's correct.

Q. I think you informed the Tribunal that you never received excess of £10,000 in any year, and you believe that you had received cheques in the years 1987, 1988 to 1991; is that correct?

A. That's correct.

Q. But these bearer cheques were paid to you, were in defray of expenses occurred by you whilst on business for Dunnes Stores; is that correct?

A. That's correct.

Q. I think you informed Tribunal that neither you nor your firm ever billed Dunnes Stores for these disbursements; is that correct?

A. That's correct.

Q. And you never received more than one such cheque at a time

and you never received bearer cheques to convey to another party?

A. That's correct.

Q. I think you informed the Tribunal, as previously indicated by you in your evidence, that you wished to say categorically that you have no knowledge of what became of these cheques or how they found their way into the Guinness & Mahon accounts?

A. That's right.

Q. That's the six bearer cheques which appear to have been lodged in two tranches, amounting in total to in excess of œ30,000?

A. That's right.

Q. Thank you Mr. Fox.

CHAIRMAN: Before Mr. Collins, anyone else wishing to ask any question?

THE WITNESS WAS THEN CROSS-EXAMINED BY MR. MURRAY AS FOLLOWS:

Q. MR. MURRAY: I appear for Mr. Bernard Dunne. You are aware that Mr. Dunne gave evidence last week, and I think from your statement it is clear you will also be aware that he gave evidence that you were one of the persons who would have received bearer cheques in sums between 12 and œ16,000. You are aware of that?

A. Yes I am, yes.

Q. And I just have to put it to you, Mr. Fox, insofar as you

suggest otherwise that you are mistaken?

A. No, I am not mistaken. What I have said in my statement is the correct position as far as I am concerned.

Q. Thank you.

THE WITNESS WAS THEN EXAMINED BY MR. COLLINS AS FOLLOWS:

Q. MR. COLLINS: Just one question arising from that, Mr.

Fox. You are clear you never received more than one cheque at a time; is that correct?

A. One cheque per annum, yes.

Q. They were in the order of the sums you referred to in your statement and in your evidence?

A. That's right.

Q. Thank you very much.

CHAIRMAN: Thank you Mr. Fox.

THE WITNESS THEN WITHDREW

MR. COUGHLAN: Those are the witnessess, Sir, in this particular section.

CHAIRMAN: Well, as yet the remaining bank witness is unavailable.

MR. COUGHLAN: Yes, sir.

CHAIRMAN: And that then concludes what can be done in this, what might be called the "tying up phase" as regards the first sector. I think it had been intimated that we

would hope to proceed as promptly as possible within approximately three weeks.

MR. COUGHLAN: Three weeks or so, Sir, yes.

CHAIRMAN: Might it be possible to say provisionally to take, let us say, Wednesday or Thursday of three weeks.

MR. COUGHLAN: We are suggesting, Sir, Thursday the 17th of June as a provisional date.

CHAIRMAN: If there is a variation of that Ms. O'Connell, the Registrar, reminds me apart from a general communication to the press, perhaps that an informal advertisement of such variation can be put on the Tribunal website.

MR. COUGHLAN: Yes.

CHAIRMAN: Very good. We will adjourn until then. Thank you very much.

THE HEARING THEN ADJOURNED UNTIL THURSDAY THE 17TH JUNE, 1999.