

THE TRIBUNAL RESUMED AS FOLLOWS ON TUESDAY, 30TH NOVEMBER

1999 AT 10:30AM:

CHAIRMAN: Good morning.

MR. COUGHLAN: May it please you, Sir. These public sittings will be held in two main stages the first stage with deal with the following four matters: The first one is the operation of a bill-paying service through which some of Mr. Haughey's finances appear to have been administered in the 1980s and the 1990s.

Secondly, the operation by NCB brokers of an investment account for an account holder with the name Overseas Investments, which included funds which appear to have been invested for the benefit of or on behalf of Mr. Charles Haughey.

Thirdly, certain financial arrangements involving Mr. Dermot Desmond and Mr. Haughey and the Haughey family.

And, fourthly, aspects of the operation of the S accounts.

Where these four matters are concerned, the Tribunal focuses mainly on Terms of Reference (a) and (b).

The second stage of these sittings will deal with the Ansbacher accounts. These accounts have been mentioned from time to time in the course of the Tribunal's sittings. I have indicated that the Tribunal would return

to deal with this subject in a more comprehensive way.

Just as the details of a number of transactions involving the Ansbacher accounts have already been mentioned in evidence in the public sittings, there will be further reference to them in the course of the evidence related to the four matters which will form part of the first stage of these sittings.

However, the second stage will contain a more comprehensive account of the manner and style of the operation of the Ansbacher accounts.

Dealing with the first matter I have referred to in stage one, that is the bill-paying service. Between the 1st January, 1985, and the 31st December, 1996 sorry, I beg your pardon, between the 1st January, 1985, and the 31st December, 1998, a bill-paying service was operated on behalf of Mr. Haughey by two entities; firstly by a section of the firm of Haughey Boland, now Deloitte & Touche, and, secondly, by BEL Secretarial Services, a company controlled by Mr. Jack Stakelum. The Tribunal's concern at this stage is with the operation of this service between the 1st January, 1985, and the 31st December, 1996.

Reference has already been made to this bill-paying service in the course of evidence given by

Mr. Paul Carty in earlier sittings of the Tribunal.

Evidence was also given to the McCracken Tribunal concerning this service by Paul Carthy and the service by

Mr. Jack Stakelum.

In Mr. Carty's earlier evidence, he described the manner in which the service operated. That evidence was directed mainly to examining the link between that service and accounts at Guinness & Mahon under the control of the late Mr. Desmond Traynor. There will be further reference in the course of these public sittings to the links between accounts controlled by Mr. Des Traynor and the operation of this bill-paying service.

The two firms by whom the service was operated were regularly supplied with monies to fund the payments that were being made on Mr. Haughey's behalf. The total amount paid by the services on behalf of Mr. Haughey between the 1st January, 1985, and December of 1996 appears to be in the order of €3.4 million.

Dealing with the operation of the bill-paying service by Haughey Boland: In the period between 1985 and 1991, the service was operated by Haughey Boland, since merged into the firm Deloitte & Touche. Mr. Paul Carty, a partner in the firm of Deloitte & Touche, who was also a partner in Haughey Boland at the material time, has provided the Tribunal with documentation concerning the service and also with a Memorandum of Evidence. The Memorandum of Evidence deals with the total amount of money paid through the service while it was operated by his firm. It also deals

with queries raised by the Tribunal concerning links between certain accounts in Guinness & Mahon, which appear to have been used to fund the bill-paying service and the Haughey Boland No. 3 account from which the cheques written on Mr. Haughey's behalf as part of the service were drawn.

The amounts paid out by the bill-paying service on behalf of Mr. Haughey in each of the years between 1985 and 1991 are as follows;

The 1st January, 1985, to the 31st December
1985 - €189,000.

The 1st January, 1986, to the 31st December,
1986 - €177,000.

The 1st January, 1987, to the 31st December,
1987, - €204,000.

The 1st January, 1988, to the 31st December,
1988 - €232,000.

The 1st January, 1989, to the 31st December,
1989 - €325,000.

The 1st January, 1990, to the 31st December, 1990
- €264,000.

And the 1st January, 1991, to the 31st January,
1991 - €16,000.

It will be remembered that in addition to the evidence given by Mr. Paul Carty concerning the operation of this bill-paying service and the links between the operation of this service and accounts in Guinness & Mahon under the control of the late Mr. J. Desmond Traynor, evidence has also been given by Ms. Sandra Kells, a director of Guinness & Mahon, concerning those links. Both Haughey Boland and Guinness & Mahon have now been requested by the Tribunal to examine connections between debits to accounts in Guinness & Mahon and credits to the Haughey Boland No. 3 account, from which it appears that the majority of the relevant credits to the Haughey Boland account correspond to debits to accounts in Guinness & Mahon under the control of Mr. J. Desmond Traynor.

The Tribunal has been provided with the relevant Haughey Boland account at Allied Irish Bank, 7-12 Dame Street, Dublin 2, from which the payments were made.

It has also been provided with the statements of various accounts in Guinness & Mahon under the control of the late Mr. J. Desmond Traynor. An examination of credits to the Haughey Boland account and debits to the various accounts in Guinness & Mahon shows that, with the exception of the year 1988, there were debits to various accounts in the name of Amiens, whether Amiens Investments Limited or Amiens Securities Limited or Kentford Securities Limited.

Now, an example of the exercise which has been carried out

will be just shown on the overhead screen in relation to just six payments for the moment.

In evidence, we will be covering approximately 21 corresponding credits and debits in relation to this bill-paying service.

Now, this particular example was taken from the year 1987.

It shows the date, the amount of the credit to Haughey Boland No. 3 account and the date, the amount and the account in Guinness & Mahon, showing the debit corresponding to the credit in the Haughey Boland No. 3 account in respect of the bill-paying service. On the screen, for the purpose of example, if we just move it along, we can see that on that particular page, there are six such examples shown.

Now, Ms. Sandra Kells has informed the Tribunal that there do not appear to be any debits to the Amiens Accounts for the Kentford account or any other likely account under the control of Mr. Traynor which appear to match credits to the Haughey Boland No. 3 account for the year 1988. The Tribunal has not been able to ascertain how the account in Haughey Boland was funded during that period. While the Tribunal has yet to take up the matter with one other witness who may be able to provide assistance to the Tribunal concerning the operation of the account in that year, it is also possible that there may be other Amiens Accounts, the records of which are no longer available.

This is because, as has been stated in evidence by Ms. Kells, Guinness & Mahon has not been able to retrieve, from its microfiche records, full sets of statements from all of the Amiens Accounts. It is a question, therefore, whether the bill-paying service in 1988 was funded through the Amiens Accounts or through other accounts in Guinness & Mahon or whether, in fact, there was another source of the funds during that year.

Mr. Paul Carty has not been able to provide the Tribunal with any information concerning the source of the credits to the Haughey Boland account and has, in earlier evidence, informed the Tribunal that it was not until the Tribunal's investigations began that he became aware of the existence of accounts known as the Amiens Accounts. He has, however, in evidence already given to the Tribunal, explained that the funds for the account were at all times supplied on foot of requests to Mr. J. Desmond Traynor.

Turning now to the operation of the bill-paying service by BEL Secretarial Limited, the company controlled by Mr. Jack Stakelum. Mr. Stakelum has given evidence to the McCracken Tribunal of how he took over and operated the bill-paying service through his company, BEL Secretarial Limited, from February of 1981 onwards - sorry, 1991, I beg your pardon.

The manner in which the service was operated by Mr. Stakelum was essentially the same as in the period during

which it was operated by Haughey Boland. The total amount of money which went through the bill-paying service while it was operated by Mr. Stakelum was in the order of two million pounds. It was Mr. Traynor who requested Mr. Stakelum to operate the service and initially the funds for the service were provided by Mr. Traynor. Mr. Stakelum has informed the Tribunal that whenever the account he used to operate the service was running low on funds, he informed Mr. Traynor, from whom he would then receive a bank draft to put the account in credit. He had no input as to the amount of any lodgment to the account and simply received whatever funds were provided by Mr. Traynor from time to time.

Mr. Stakelum has informed the Tribunal that on the death of Mr. Traynor in May of 1994, contact was made between himself and Mr. Padraig Collery, with a view to Mr. Collery taking over from Mr. Traynor in supplying funds to Mr. Stakelum for the operation of the bill-paying service. As before, funds were received by Mr. Stakelum by way of bank draft from Mr. Collery and the manner of disbursement was the same as before, that is on the instructions from Mr. Haughey received through his secretary. There was, however, one change from that arrangement which obtained prior to Mr. Traynor's death, in that after May of 1994, Mr. Stakelum received from Mr. Collery memoranda detailing the balances of four separate accounts from which funds for the service were drawn from time to time. Starting in the

period up to the 31st March, 1994, these memoranda showed the balances on several accounts described as:

No. 1 sterling account,

No. 2 sterling account,

US dollar deposit,

Deutschmark deposit.

I think perhaps to focus and just show the type of memoranda which were furnished. The date of the document is the 5th July, 1994. It shows the balances as of the 31st March, 1994, with accrued interest added on to bring it up to the end of June of 1994 in each case. This was the first time that Mr. Stakelum had knowledge or information concerning the fund from which the bill-paying service was drawn.

Evidence will be given by Mr. Pdraig Collery indicating how, at least in the period while the service was operated by Mr. Stakelum, the funds came from these accounts. Most of the funds for the account were provided by way of bank draft, although some may have been provided by cheque.

There was one exception to this, in the case of a lodgment to BEL Secretarial Services account on the 12th November, 1996. This is a lodgment of €24,630.50. This was the then equivalent of sterling €25,000.

The Tribunal has been informed by Mr. Stakelum that the circumstances of this lodgment were as follows, and we can see the lodgment credited to the account of BEL Secretarial Services on the 12th November, 1996. Mr. Stakelum has informed the Tribunal that from time to time he would meet Mr. Haughey and on one occasion, around October of 1996, Mr. Haughey asked him to contact Mr. Dermot Desmond of NCB Stockbrokers. Mr. Haughey had indicated to Mr. Stakelum that Mr. Desmond would be making a lodgment for the purpose of defraying bills, that is for the purpose of the bill-paying service. Mr. Stakelum contacted Mr. Desmond and subsequently received a payment from him of STG €25,000, which was lodged to a sterling account in the name of Business Enterprises Limited Nominees. Business Enterprises Limited Nominees was a company controlled by Mr. Stakelum. The Irish pound equivalent was then lodged from an Irish pounds client account under the control of Mr. Stakelum to the BEL Secretarial Services account used for the bill-paying service.

This is not the only contact Mr. Stakelum had with Mr. Desmond at the request of Mr. Haughey. There is one further contact, which I will refer to later on, in the context of financial dealings between Mr. Desmond and Mr. Haughey.

Mr. Stakelum has also provided assistance to the Tribunal in connection with a sum of money used to fund the No. 1

sterling account which I have already mentioned. In the memorandum of balances on the various accounts furnished to Mr. Stakelum for the period to the 30th September 1995, the balance in the No. 1 sterling account as of that date was €283,060.91. This included a credit described as a transfer from NCB, but that this was all the information Mr. Stakelum had at that stage - I beg your pardon, I will go over that again. The balance is €283,060.91. There is a transfer of €168,036.81, and that's the only information Mr. Stakelum had concerning that particular transfer at that stage. He has, however, informed the Tribunal that after the McCracken Tribunal had commenced its business, he made contact with Mr. Padraig Collery and inquired from him as to the identity of this lodgment. He was told by Mr. Collery that it was from an investment account of Mr. Haughey. He then contacted Mr. Haughey and asked him what the lodgment was in respect of and Mr. Haughey's answer to that was, "Isn't that from an investment account." The Tribunal has made inquiries concerning the operation of this investment account and it is the involvement of NCB brokers, the second of the four items I have mentioned above, to which I will now turn.

Now I want to deal with the operation of an investment account by NCB brokers.

In the course of the Tribunal's examination of the bill-paying service, the transfer from NCB, which I have

just mentioned, came to its attention with the result that queries were raised with NCB concerning the transaction.

Mr. John Keilthy, a director of NCB and the head of the private client division of the firm, has assembled documentation and provided information to the Tribunal in response to queries from the Tribunal concerning this transaction and other transactions which came to the attention of the Tribunal in the course of dealing with NCB. Mr. Dermot Desmond of NCB has also provided information to the Tribunal in connection with these matters.

Mr. Keilthy has informed the Tribunal that this payment of œ168,036.81 was made on the closing of an account operated by NCB on the instructions of Mr. Desmond Traynor. This account had been set up by Mr. Dermot Desmond at the request of the late Mr. Desmond Traynor. Mr. Keilthy has informed the Tribunal that the account was set up sometime in or about the 7th July, 1988. The account was a nominee account and the name of the account was Aurum Nominee No. 6 account.

Mr. Keilthy has informed the Tribunal that Aurum Nominees Limited is a nominee account used by NCB stockbrokers. It is similar to nominee accounts operated by most stockbrokers on behalf of clients for the purposes of ease of administration and to facilitate settlement of accounts between stockbrokers on the purchase and sale of securities

and so forth. Apart from holding securities, such an account may also hold cash from time to time, arising from dividend income and/or from the proceeds of the sale of securities. Each client of a stockbroker is allocated a separate nominee account and any securities, or cash, for that matter, held for the benefit of that client within the account are segregated. Securities purchased through a nominee account are registered in the nominee name. This enables the authorised signatories for the nominee account to execute transfers and to deal with the account in a timely fashion, facilitating efficient administration.

In the case of Aurum Nominees, it would appear, as Mr. Keilthy has informed the Tribunal, that each client had a separate individually identified bank account, and I think that is also clear from the example on the overhead projector. These accounts were held in the Ulster Bank Limited at College Green in Dublin.

Insofar as Mr. Keilthy is concerned, having examined information available in NCB, the identity of the account holder on the Aurum Nominee No. 6 account was an entity known as Overseas Nominees Limited. Overseas Nominees Limited is the nominee company of Ansbacher Cayman. Mr. Dermot Desmond has informed the Tribunal that this was also the only knowledge he had concerning the identity of the person for whose benefit the account was held.

From entries in the Aurum Nominees bank account at Ulster

Bank, the following lodgments appear to have been made to the account (that is the No. 6 account):

A payment of €105,586.26 lodged to the account on the 26th July, 1988.

A lodgment of €149,432.16 lodged to the account on the 23rd August, 1988.

And €98,504.50 lodged to the account on the 26th September, 1988.

I think on the overhead projector, those two lodgments are shown as being credited to the account on those dates.

These sums appear to have been received into the NCB settlement account, which was then with the Bank of Ireland and then transferred by NCB to the Aurum Nominee No. 6 account at Ulster Bank. It would appear that the source of the funds transferred from the NCB settlement account at Bank of Ireland was an NCB sterling account number 25581879, also in the Bank of Ireland. To date, NCB has not been able to identify the source of the funds in the sterling account and inquiries with NCB and with the Bank of Ireland are in train with a view to endeavouring to ascertain the sources of these funds.

Mr. Keilthy has informed the Tribunal that, generally speaking, it would appear that the stocks that were bought and sold appear to be typical of the range of stocks dealt in by other clients of NCB over the period the account was active. He has also informed the Tribunal that withdrawals

from the account were as follows:

€206,613.57 was withdrawn on the 8th May, 1990.

The date is obliterated on the copy which is on the screen,

but that is the date, the 8th May. That's a sterling

draft, to purchase a sterling draft.

On the 15th March, 1991, there was €95,000 withdrawn, again

to purchase a sterling draft.

And on the 18th September, 1994, €165,471.99 was

withdrawn.

Dealing with each of the withdrawals, it would appear that

the €206,613.57 was used to purchase a sterling draft for

€200,000 made payable to Overseas Nominees Limited, the

nominal holder of the account. Now, the copy which is on

the screen isn't the clearest, but it is made payable to

Overseas Nominees Limited and it's in the sum of €200,000

sterling and with the amount of the Irish, the amount of

the withdrawal.

The €95,000 withdrawal appears to have been used to

purchase a sterling draft payable to Ansbacher Limited at

the request of Mr. Desmond Traynor. That is the actual

copy of the copy of the actual draft.

Turning to the third withdrawal, it would appear that on

the 8th February, 1994, Mr. Desmond Traynor wrote to NCB

instructing that the balance of securities on the account

be sold and it's a letter addressed to NCB and it's

re Aurum Nominees account, and it gives the account number and it goes on to read, "I have received from Mr. John Furze, in Overseas Nominees Limited, a copy of your letter dated 24th January, 1994, together with the valuation referred to therein. Enclosed herewith is a copy of the valuation dated 6th March, 1991. I will be grateful if you would, A. Arrange to dispose of the total holdings; B. Let me have a reconciliation of the account from the 6th March 1991, to the 31st December, 1993. Yours sincerely, J.D. Traynor."

Mr. Traynor died on the 11th May, 1994, and on the 25th September, 1995, as I have already indicated, the account was closed. This was done on the basis of a written instruction from Mr. Padraig Collery. The balance on the account at closing was €165,471.99. This sum was used to purchase a sterling draft for €168,036.81. That sum appears to have been credited to the No. 1 sterling account, the Hamilton Ross account, the records of which were kept by Mr. Padraig Collery. It has the amount which Mr. Collery has described in the memorandum of accounts he provided to Mr. Stakelum on the 30th September 1995, as the "transfer from NCB". In fact, a draft may not have been purchased, it may just have been a transfer of funds directly.

From documents made available by Mr. Keilthy, it would appear that Mr. Collery, writing on notepaper headed

"Hamilton Ross Limited" and with an address at 8 Inns Court, Winetavern Street, Dublin 8, wrote to Mr. Keilthy directing him to transfer the balance on the account to Irish Intercontinental Bank at 91 Merrion Square, Dublin 2, for the account of Hamilton Ross Limited, account number 02/01354/81. And if we see on the overhead screen, just if we take it down, it's on the account, on the notepaper of Hamilton Ross Company Limited, giving an address of P.O. Box 887, Grand Cayman, Cayman Island, British West Indies, and on the left-hand side corner, "Please reply to 8 Inns Court, Winetavern Street, Dublin 8." It's dated the 12th September 1995, and it's addressed to Mr. Keilthy in NCB Stockbrokers, and it's re Aurum Nominees. It reads, "Dear Mr. Keilthy, further to Mr. Traynor's letter of the 8th February, 1994, I should be grateful if you would now transfer the balance on the account to Irish Intercontinental Bank Limited, 91 Merrion Square, Dublin 2, account Hamilton Ross Company Limited, account number 02/01354/81, and advise me of the amount. In addition, please let me have a reconciliation of the account from the 6th March, 1991, to when all the holdings were sold. Yours sincerely, D.P. Collery."

Mr. Collery has informed the Tribunal that he gave this instruction to Mr. Keilthy at the direction of Mr. John Furze, who also directed that, on the transfer of the funds to Irish Intercontinental Bank, the amount of the balance was to be credited to S8. It would be recalled that at

paragraph 26 of chapter 11 of the McCracken Report, it is stated that at least two of the memorandum accounts or sub accounts in Ansbacher (Cayman) Limited were held for the benefit of Mr. Charles Haughey, being those designated S8 and S9. As the balance of the funds in that Aurum Nominees investment account held ostensibly for the benefit of Overseas Nominees Limited was paid into an account for the benefit of Mr. Charles Haughey, it is a question as to whether, by reason of the fact that the closing balance on this account was credited to an account which appears to have been held for the benefit of Mr. Haughey, the total amount of the money held in the Aurum Nominees account was, in fact, at all times, held for the benefit of Mr. Haughey.

I now turn to financial arrangements involving Mr. Dermot Desmond. Two press statements were issued on behalf of Mr. Dermot Desmond in January of 1998 concerning matters which appeared to the Tribunal to be germane to the Terms of Reference. The first statement was a statement dated the 8th January, 1998. It was headed, "Statement on behalf of Mr. Dermot Desmond", and it reads:

"Following publication of an article today in Magill magazine and the attendant comments in other media outlets, Mr. Dermot Desmond would like to clarify issues relating to his dealings with Mr. C.J. Haughey and to correct considerable misinformation which has been reported.

"Mr. Desmond did not make any payments to Mr. Haughey while he was in public office or, indeed prior to 1994. Any arrangements which he had with Mr. Haughey since that time are of a private nature.

"Mr. Desmond never at any time collected or solicited money for or on behalf of Fianna Fail. He has no idea who might be the 'source' of information to the contrary because it is not true.

"Regarding contracts awarded to NCB between 1987 and 1992, NCB and its affiliates companies were awarded nine contracts or consultancy agreements from seven state or semi-state organisations. A competing stockbroking firm and its affiliates during the same period were awarded more than twice this number (on a comparable basis, it is believed that between 1987 and 1992, more than 100 such contracts would have been awarded.) Only two of the contracts awarded to NCB required ministerial or governmental approval. One was Irish Life, where an international competition was won by NCB and Goldman Sachs. The other was the sale of the State shareholding in Tara Mines in which case the Government could not have publicised its intended share sale in advance and therefore a tender situation was not appropriate.

In relation to the International Financial Service Centre, Mr. Desmond made no money from the centre nor from the

building which he bought in the development. In fact, audited accounts show that Mr. Desmond made a loss of 6.2 million pounds in the purchase and sale of that building.

Mr. Desmond did not receive any favourable treatment from anyone in relation to his involvement in the IFSC. Indeed, he is not aware of having received any political favours from any party on any matter.

There has been comment with regard to litigation which Mr. Desmond has pursued against sections of the media in recent years. Mr. Desmond confirms that he has pursued actions where there have been inaccurate or defamatory statements made against him or his businesses. In twelve such cases, Mr. Desmond has agreed financial settlements totalling more than a six figure sum, all proceeds of which have been donated to charities in Ireland. The time and cost involved in pursuing these cases have been borne by Mr. Desmond.

For information, Mr. Desmond's solicitors are issuing proceedings against Magill magazine, its editor and the reporter in question.

If any of the above matters fall within the Terms of Reference of the current Tribunal, Mr. Desmond will offer his full cooperation, including confirmation that he has not, and never has been an account holder or a beneficiary of the so-called Ansbacher accounts. In the interim, Mr.

Desmond just wishes to correct the inaccuracies and mischievous suggestions which have been made", and it's dated the 8th January.

The second statement issued on behalf of Mr. Desmond was dated the 10th January, 1998, and it's headed, "Statement on behalf of Mr. Dermot Desmond", and it reads:

"Further to a statement of the 8th January 1998 regarding Mr. Dermot Desmond's dealings with Mr. Charles J. Haughey, questions have been asked about any dealings which Mr. Desmond has or had with other members of Mr. C.J. Haughey's family. We wish to set out these relationships as follows:

In 1987/'88, Mr. Desmond invested €17,500 in a full partnership operated by Mrs. Eimear Mulhern. This partnership interest has continued and is now held by Mrs. Pat Desmond.

In 1990, Mr. Desmond arranged loans in consultation with Mr. Conor Haughey totalling €75,546 to refurbish the boat Celtic Mist, of which he is skipper and owner together with the other Haughey children. These loans have been settled. To date, Mr. Desmond and related companies have also invested a total of €275,000 in Feltrim Mining Plc, (now Minimet plc), of which Mr. Conor Haughey was a founding director. To date, Mr. Desmond has sold shares in Feltrim to the value of €744,000 and retained shares with a

current value of €112,000 pounds. The net realised and retained profits exceed €500,000.

In 1995, IIU Limited (of which Mr. Desmond is Chairman) made a commercial advance of €100,000 to Celtic Helicopters to cover flying hours for executives. Mr. Ciaran Haughey is a Director and shareholder in Celtic Helicopters. To date, hours to the value of €56,150 have been used.

Over the years, Mr. Desmond has contributed not more than €2,000 to Mr. Sean Haughey TD in relation to funding his election expenses.

There are no other gifts or payments except for wedding and Christmas presents which in aggregate do not exceed €15,000.

The foregoing transactions, and payments made by Mr. Desmond to Mr. C.J. Haughey since 1994 are matters that could fall within the terms of reference of the Moriarty Tribunal. Mr. Desmond has already stated that he will fully cooperate with this Tribunal.

No other payments have been made or arranged, directly or indirectly, to Mr. Haughey and his family by Mr. Desmond." And the statement ends.

Arising from these statements to the press, the Tribunal sought the assistance of Mr. Desmond. In response to the Tribunal's request, Mr. Desmond has provided the Tribunal

with documentation and information concerning his dealings with Mr. Charles Haughey other than those dealings referred to already in relation to the investment account placed with NCB by Mr. Desmond Traynor in the name of Overseas Nominees Limited.

Mr. Desmond has informed the Tribunal that in or about November of 1987, he was approached by the late Mr. Desmond Traynor, who asked him whether he would be prepared to participate in a proposed five or six person syndicate which would advance funds to repay what the late Mr. Traynor described as "Our friend's borrowings" . Mr. Desmond understood this to be a reference to Mr. Charles Haughey. Mr. Desmond declined to provide any financial assistance. It will be recalled that evidence has been given by Mr. Noel Fox that he received a similar telephone call from the late Mr. Traynor in 1987. Evidence has also been given as to the date which this telephone call may have been received. Apart altogether from the dating of the call, it will be recalled that the approach to Mr. Noel Fox was not with a view to soliciting the assistance of Mr. Fox, but rather with a view to soliciting assistance from Mr. Bernard Dunne. Evidence has been given that, consequent upon that approach, Mr. Dunne made substantial payments in excess of over €1 million for the benefit of Mr. Haughey.

Mr. Desmond has informed the Tribunal that apart from

instructions he received from Mr. Traynor concerning the opening of an account with NCB, instructions to which I have already referred, he had no further dealings with Mr. Traynor concerning Mr. Charles Haughey. However, it appears that Mr. Desmond did make two further payments for the benefit of Mr. Haughey in 1994 and in 1996 respectively. These were made in circumstances which were obviously unconnected with Mr. Traynor. I have already mentioned one of those payments and that is the payment of €25,000 in connection with the evidence to be given by Mr. Stakelum. At this point, I propose to deal with the payments chronologically.

The first payment of €100,000 was made in September of 1994. Although this payment was not made to a Business Enterprise Limited account associated with Mr. Stakelum, it was, nevertheless, a payment with which Mr. Stakelum was involved. Mr. Stakelum has informed the Tribunal that sometime after the funeral of the late Mr. Traynor, he was in touch with Mr. Haughey who requested him to contact Mr. Dermot Desmond and that he should advise Mr. Desmond of the details of a bank account to which the payment for Mr. Haughey could be made. Mr. Stakelum contacted Mr. Pdraig Collery, who gave him detailed information, identifying a bank account, a code for the bank, and such like similar information. Mr. Stakelum passed this information on to Mr. Dermot Desmond by telephone. While at that stage Mr.

Stakelum did not know that Mr. Desmond was to make a payment for the benefit of Mr. Haughey, he did not know the amount of the payment and, in fact, at the time he did not know whether the payment had or had not been made.

What he was aware of was that in the memorandum of accounts given to him by Mr. Collery, there was a credit for the 3rd October 1994, reference to a lodgment of €99,988 and that is shown on the overhead screen. But even at that stage, he did not know where this money had come from. However, subsequent to the commencement of the McCracken Tribunal, Mr. Stakelum inquired from Mr. Collery as to what his knowledge was concerning this lodgment, and Mr. Collery informed him that it had been made by Mr. Dermot Desmond.

Mr. Desmond has confirmed that a sum of sterling €100,000 was transferred on the 20th September, 1994, for the benefit of Mr. Haughey. The route taken by the money involved a payment by Anesia Etablissement, Banque Scandinave, on Suisse, Geneva, and the instruction is yes, it's actually a confirmation of the payment and it's re the transfer of sterling €100,000, dated 20th September, 1994: "We herewith confirm having executed the above mentioned instruction. As per attached document, we have transferred sterling €100,000 on the 21st September, 1994, for value dated the 23rd September, 1994, in favour of Henry Ansbacher & Company Limited for further credit to CIBTC that's Cayman International Bank Trust Company

to Royal Bank of Scotland, London EC 2. We hope the above is to your satisfaction and remains. Yours sincerely."

The payee was the Royal Bank of Scotland, 67 Lombard Street, London. The payment was for the account of Henry Ansbacher & Company Limited, with the Royal Bank of Scotland for further credit to Cayman International Bank Trust Company, account number 190017/101. The €99,988 credited by Mr. Collery in the account, of which he furnished memoranda to Mr. Stakelum, represents the bulk of the sterling €100,000 payments made by Mr. Desmond. The shortfall appears to be accounted for by bank charges.

The second payment of sterling €25,000 on the 28th October 1996, took the following route: Payment of sterling €25,000 was made by Anglo Irish Bank Corporation (Isle of Man) Plc, to Royal Bank of Scotland, St. Helier, Jersey, for the account of Allied Irish Banks (Channel Islands) Limited. Again, we have the confirmation issued as of April of this year and it's addressed "To whom it may concern. Dear Sir, I write to confirm that on the 28th October 1996, a payment of STG €25,000 was made by ourselves to Royal Bank of Scotland, P.O. Box 64, St. Helier, Jersey, sort code, 16-10-28, with the following details: Pay AIB Bank (Channel Island) Limited, account number 11158833, reference AITC, account number 1205. Yours faithfully, for and on behalf of Anglo Irish Bank Corporation (Isle of Man) Plc."

The Tribunal has been informed that the nominal account from which the payment was sourced was an account in the name of a company entitled "Bottin - B-O-T-T-I-N - (International) Investments Limited". Mr. Desmond in one of the public statements to which I have already referred, has described these payments as being of a private nature.

Apart from his direct dealings with Mr. Haughey, Mr. Desmond has also had dealings with other members of the Haughey family and with the company associated with Mr. Haughey and his family known as Larchfield Securities Limited.

In his public statement made on the 10th January, 1998, Mr. Desmond stated that he arranged loans in consultation with Mr. Conor Haughey totalling €75,546 to refurbish the boat "Celtic Mist", of which Mr. Conor Haughey was skipper and owner together with the other Haughey children. Mr. Desmond stated that these loans had been settled. The Tribunal raised queries concerning the loans and has now been informed by Mr. Desmond that between April of 1990 and February of 1991, the sum of €75,546 was paid by him to Ron Holland Yacht Design on behalf of Mr. Conor Haughey in respect of the repair and redesign of the boat "Celtic Mist".

He has informed the Tribunal that these payments arose in the following circumstances:

That Mr. Conor Haughey indicated to Mr. Desmond that the boat needed refurbishment but that funds were not available to him to do this; that Mr. Desmond informed Mr. Haughey that he would arrange a loan and an introduction to Mr. Ron Holland, the designer of NCB Ireland, a yacht sponsored by NCB brokers for the round the world race;

that Mr. Conor Haughey understood that he was dealing with Mr. Desmond and that Mr. Conor Haughey, in turn, made a loan to Larchfield Securities, who Mr. Desmond understood to be the owners of "Celtic Mist";

that the loan has not been repaid but that, approximately three years ago, Mr. Desmond dealt with the manner in which Mr. Conor Haughey would repay him and it was agreed that the loan was to be repaid by Mr. Conor Haughey when funds became available to him from the sale of "Celtic Mist";

that no securities were formalised in relation to these liabilities.

From information made available by Mr. Desmond, it would appear that the following payments were made to Ron Holland Yacht Design: On the 3rd April, 1990, €10,000; on the 4th April, 1990, €10,000; on the 24th April, 1990, €10,000; on the 23rd May, 1990, €38,353; on the 30th August, 1990, €4,606; and on the 14th February, 1991, €2,587, totalling €75,546.

From information furnished by Mr. Desmond in response to queries from the Tribunal, it would appear that, in fact,

the loans were made available by Dedeir - D-E-D-E-I-R - Limited, then of 48 Lower Mount Street, Dublin 2, (now of 19 Mount Havelock, Douglas, Isle of Man) and by Freezone Investments, care of 13 Avenue Morely, St. Petersport, Guernsey. It would appear that Freezone was wound up in January of 1997. Mr. Desmond has informed the Tribunal that the loans by both Dedeir and Freezone were consolidated in the accounts of Freezone Investments Limited, that the consolidated loan was taken over by a Mr. Colin Probets, a director and sole shareholder of Freezone Investments Limited, and that this loan was subsequently taken over by Mr. Desmond in an arm's length transaction.

Mr. Desmond has informed the Tribunal, however, that no assignment documents were executed in respect of the taking over of this loan by Mr. Probets, nor, indeed, the taking over of the loan by Mr. Desmond. The Tribunal anticipates receiving further information from Mr. Desmond concerning the circumstances in which these payments were made in the role of Dedeir and Freezone in the making of them.

The Tribunal has also sought the assistance of Mr. Conor Haughey in connection with the dealings of Mr. Desmond concerning "Celtic Mist". He has informed the Tribunal that after the boat was purchased, it required refurbishment and that it had been assessed by Mr. Ron Holland, a well-known yacht designer. Mr. Conor Haughey has stated that he knew Mr. Desmond and he knew Mr. Desmond

would be in a position to give him sound financial advice, but he also knew that Mr. Desmond's company, NCB, was having a yacht designed and built by Mr. Holland at that time. He, therefore, asked Mr. Desmond to help him to get a good price from Mr. Holland and also for advice as to how the project might be financed.

In Mr. Conor Haughey's Memorandum of Evidence to the Tribunal, he has stated that Mr. Desmond indicated to him that he would lend the money for the refurbishment, that it was understood between them that the loan would be backed by Mr. Conor Haughey's shares in Feltrim Mining Plc. Mr. Conor Haughey has said that the loan had not yet been repaid.

I now turn to the fourth matter which I have indicated will be dealt with at this first stage of these public sittings, and that is aspects of the operation of the S accounts.

Mr. Pdraig Collery has already given evidence to the Tribunal on a number of occasions concerning the operation of the Ansbacher accounts and specifically with reference to the S8 account, which as I have already stated, is described in the McCracken Tribunal as having been held for the benefit of Mr. Charles Haughey. He has now provided the Tribunal with further evidence and further information concerning the operation of a number of other accounts with the designation S.

Mr. Collery's association with the Ansbacher accounts began when he joined Guinness & Mahon in 1974. At the time he joined the bank, Mr. Desmond Traynor was the joint managing director. From that time until 1984, he was also Chairman of Guinness Mahon Cayman Trust. From sometime shortly after Mr. Collery took up his employment with the Accounts Department of the bank, Mr. Collery was involved in posting transactions across certain confidential Ansbacher accounts. In the main, this involved the keeping of records of individual balances in sterling funds, which at that time were held in accounts not in the name of the individuals entitled to those balances but in the name of Guinness Mahon Cayman Trust. In other words, these balances were held in a pooled account in the name of Guinness Mahon Cayman Trust. Even after he left the bank, that is Guinness & Mahon, in 1989, Mr. Collery continued to do this work but he no longer kept the records in Guinness & Mahon's premises but rather at the premises of CRH at 42 Fitzwilliam Square, the offices from which Mr. Traynor operated. From January of 1991, the bank accounts were held not at Guinness & Mahon but at Irish Intercontinental Bank.

Apart from the sterling funds held in pooled accounts with Guinness & Mahon in the name of Guinness Mahon Cayman Trust, currency accounts held by Guinness Mahon Cayman Trust with Guinness & Mahon, that is to say accounts in currencies other than sterling, were not kept in pooled

accounts. The currency accounts represented the funds of single customers or single beneficiaries in the case of each account.

Mr. Collery's association with the operation of these accounts continued after the death of Mr. Traynor. On the death of Mr. Traynor, Mr. John Furze, who was a director of Guinness Mahon Cayman Trust, which was by then known as Ansbacher (Cayman) Limited, asked Mr. Collery to continue to assist with the keeping of the records of various Ansbacher accounts until he had time to make alternative arrangements.

Mr. Collery has informed the Tribunal that the S accounts formed part of the holdings of Poinciana Fund Limited. Poinciana Fund Limited was a company registered in the Cayman Islands, according to Mr. Collery. While he has no direct knowledge of any trust associated with the company, he believes that the shares in the company were held by the trustees of the Cayman Trust and that the company was the vehicle through which the Trust held bank accounts and administered funds held under the Trust. He has also informed the Tribunal that his impression from his dealings with the S accounts and with other monies held for the Poinciana Fund is that the Fund was the vehicle used by the late Mr. Traynor for his own monies, for the monies of Mr. Charles J. Haughey and other monies which he, Mr. Traynor, directly controlled.

Mr. Collery recalls that sometime in or around August or September of 1992, the late Mr. Traynor identified a number of accounts, the records of which had been kept in confidential memorandum form, and which he wished to move into a new structure. The new structure was to be under the name of Hamilton Ross Limited, which Mr. Collery understood to be a Cayman registered company owned by the late Mr. John Furze. It would appear that the accounts which were transferred to this new structure included the S series, which were held by Poinciana Fund Limited. New sterling accounts were opened in Hamilton Ross by the transfer of funds from the main Ansbacher (Cayman) Limited deposit account, then with Irish Intercontinental Bank under account number 02/01087/81, to the Hamilton Ross Limited sterling account with the same bank, with account number 02/01354/81. For non sterling funds, that is the currency accounts at Ansbacher Cayman which were non pooled accounts, were closed and new currency accounts were opened in the name of Hamilton Ross Limited. As in the case with the old currency accounts, the new currency accounts were likewise not in the form of pooled accounts. As before, therefore, accounts were operated both in pooled form and in non pooled form. The S sterling accounts in Hamilton Ross were kept in respect of pooled funds and the currency accounts in Hamilton Ross were kept in respect of the funds of single customers or a single beneficiary in the case of

each account.

The Tribunal has asked Mr. Collery to provide details of his knowledge, direct or indirect, of the beneficiaries of various S accounts. He has provided the Tribunal with the following information: The S8 sterling account appears to have been operated like a deposit account. The McCracken Tribunal reported that this account was held for the benefit of Mr. Charles Haughey. It was an account which received funds from time to time and for which funds were drawn down on a regular basis. From evidence given to the McCracken Tribunal and from further evidence which would be given by Mr. Pdraig Collery, drawings on the account from the 1st October, 1992, were used to fund Irish pound cheques issued by Irish Intercontinental Bank, payable to BEL Secretarial Services Limited.

Mr. Collery is able to say, from his own knowledge, that from May of 1994, when he assumed direct responsibility for operating the accounts, that is after the death of Mr. Traynor, the Irish pound drafts were, to his knowledge, delivered to Mr. J.J. Stakelum.

The S8 A sterling account was a blocked deposit account and was maintained at a balance of $\text{€}100,000$ sterling. The McCracken Tribunal reported that this blocked account was used to support a guarantee given by Irish Intercontinental Bank to Bank of Ireland in respect of a loan facility given by the Bank of Ireland to Celtic Helicopters Limited.

The S8 deutschmark was a call deposit account which was held directly with Irish Intercontinental Bank by Hamilton Ross, being account number 04/39231/81. The account operated from October 1992 to November 1992 and the drawings from the account appear to have been by way of foreign exchange deals in support of Irish pound drafts; two of these drafts were payable to BEL Secretarial Services, one was payable to Dr. John O'Connell. One of the drawings was used to support the purchase of two drafts, one for Mr. Sean Haughey and one for Mr. Conor Haughey.

The S9 sterling account was also a call deposit account. To date, the Tribunal has succeeded in obtaining only one statement in respect of this account. This is the statement for page number 24 which records transactions, all of which were dated the 1st October, 1992. The funds represented by this account were held in Ansbacher call deposit account 02/01087/81. The sterling balance on this account of £1,203,295.23 was used to purchase deutschmark 3,049,981.14. These deutschmarks were then credited to a deutschmark account in the name of Hamilton Ross S9 account number 04/39236/81. From this account, funds were debited to purchase Irish pound drafts payable to BEL Secretarial Services and given to Mr. Jack Stakelum. This is the S9 deutschmark account mentioned in the McCracken Tribunal as having been held for the benefit of Mr. Haughey.

The S9 A US dollar account was also a blocked deposit held with Irish Intercontinental Bank in the name of Hamilton Ross, account number 03/39312/77. As the McCracken Tribunal reported, the funds in this account were blocked to the order of Irish Intercontinental Bank Limited in support of a guarantee given on behalf of Celtic Helicopters Services Limited.

The S9 deutschmark account was a call deposit account which was held directly with Irish Intercontinental Bank Limited in the name of Hamilton Ross Limited as account number 04/39246/81. This was opened on the 8th October, 1993, with a lodgment of deutschmark 3,049,981.14, which arose from the conversion of the sterling funds drawn from the S9 account which I have just mentioned.

The S7 sterling account was a call deposit account which appears to have been in the form of a portfolio account in the Poinciana fund. It appears to have been used by the late Mr. Traynor to monitor and control the purchase of and the sale of investments. Mr. Collery has informed the Tribunal that, to the best of his knowledge, funds were at one time held in this account for the benefit of Mr. Charles Haughey.

The S sterling account, that is S, letter on its own, was also a call deposit account used by the late Mr. Traynor as a type of control or working account. Mr. Collery has

informed the Tribunal that this appears to have been used as a tracking account, that is receiving transfers from other accounts and making transfers to other accounts on a regular basis and making payments on a regular basis.

Turning now to the balances on the individual S accounts:

It appears from the statements of the S accounts that as of the 30th September, 1992, the total sum held to the credit of the S accounts for what appears to have been the benefit of Mr. Charles Haughey was sterling œ1,286,661.70, made up of sterling œ83,266.47 held to the credit of the S8 sterling account, and sterling œ1,203,395.23 held to the credit of the S9 sterling account.

Apart from the accrual of interest on the various S accounts, a further sum of sterling œ460,847.50 was lodged to the S8 sterling account between the 1st October, 1992, and the 31st December, 1996, the details of which are as follows:

On the 30th October, 1992, sterling œ108,017.69. I will say that again - œ108,017.69. In evidence previously heard by the Tribunal, this appears to have been the sterling equivalent of Irish œ100,000, dated the 21st September 1992, payable to Credit Suisse and drawn on Bank of Ireland, Dundrum, Dublin 14, account Mike Murphy Insurance Brokers Limited.

Sterling €84,000 on the 10th December 1992. It appears from evidence previously heard by the Tribunal that this represented the sterling equivalent of a cheque for €80,000 dated the 30th November 1992, payable to cash on and drawn on Bank of Ireland Rotunda bank, account Carlisle Trust Limited No. 1 Account, lodged to Bank of Ireland, St. Stephen's Green, account Kentford Securities Limited No. 2 account.

Sterling €99,993 lodged on the 31st October, 1994. It appears that this was the proceeds of a payment made by Mr. Dermot Desmond.

Sterling €168,036.81 on the 29th September, 1995. It appears that this was the proceeds of the credit balance on the Aurum Nominees No. 6 held with Ulster Bank Limited.

On the 30th September, 1992, funds from both the S8 sterling account and the S9 sterling account were withdrawn and converted into deutschmark or placed on two separate accounts with Irish Intercontinental Bank, each in the name of Hamilton Ross Company Limited. As a result of the withdrawal of funds, the S9 sterling account was closed.

From the 1st October 1992 to the 31st December 1992, drawings were made from the S accounts to fund cheques and drafts payable to BEL Secretarial Services which were lodged by Mr. J.J. Stakelum to the account maintained by him in Allied Irish Bank from which he made payments on behalf of Mr. Charles Haughey. The Tribunal has prepared a series of tables showing the accounts from which these

drawings were made. As appears from the tables in October and November 1992, funds were debited from the S8 deutschmark account number 04/39231/81. The tables prepared by the Tribunal show the credit, various credits to the BEL account from which the bill-paying service was operated, the debits to the IIB account and the debits to the account, where available, held in the memorandum form.

By the 18th November, 1992, the credit balance on this account was drawn down. That is on the deutschmark S8 deutschmark account, was drawn down and the account was closed. In the period from December 1992 to August 1993, the sterling equivalent was debited to the Hamilton Ross sterling account number 02/01354/81 which held pooled funds in the name of Hamilton Ross and corresponding debits were made to the S8 sterling account. Again, the tables reflect those particular transactions being recorded across the various accounts. From August 1993 to November 1995, the deutschmark equivalent to meet the cheques was debited to Hamilton Ross S9 deutschmark account number 04/39236/81, all ultimately debited to the Hamilton Ross S9 deutschmark account.

During the remaining period from December 1995 to December 1996, the sterling equivalent was again debited to the Hamilton Ross number 02/01354/81 with corresponding debits to the S8 sterling account. These tables again reflect the posting of transactions across the accounts which show the

ultimate source being the S8 sterling account.

There were some further drawings to the S accounts during these years which will be dealt with by Mr. Padraig Collery in the course of his evidence to the Tribunal. Mr. Charles Haughey has been provided with all of this material but, as yet, has made no comment in relation to it.

As I have said, Sir, these are the four areas or matters which the Tribunal will hear evidence in these public sittings, that is in the first stage of these public sittings, and in the second stage, the Tribunal will deal more comprehensively with the style and manner of the operation of the Ansbacher accounts.

MR. COUGHLAN: Very good. That completes the opening statement, Sir.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AS FOLLOWS AT 2 P.M.:

CHAIRMAN: Good afternoon.

MR. HEALY: Mr. John Keilthy.

JOHN KEILTHY, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY

MR. HEALY:

CHAIRMAN: Thanks, Mr. Keilthy, please sit down.

Q. MR. HEALY: Thank you very much, Mr. Keilthy.

MS. MULDOWNNEY: Mr. Chairman, if I may address you. My name is Margaret Muldowney from A & L Goodbody, solicitors, I am representing NCB Stockbrokers Limited and I am applying for limited representation, if that's in order.

CHAIRMAN: Very good, Ms. Muldowney, in the context of the considerable amount of background work involved with liaising with the Tribunal, I think it's appropriate that I do accede to granting limited representation and whilst not indicating remotely specifically as regards your clients, that, on the usual basis, is not to be taken as any guarantee of any eventual cost adjudication.

MS. MULDOWNNEY: I am obliged.

Q. MR. HEALY: Thank you. Mr. Keilthy, you are a director of NCB and you are the head of its private client division?

A. Correct.

Q. Now, when did your association with NCB begin?

A. About 1986.

Q. You have been asked to provide assistance to the Tribunal in connection with a number of queries raised by the Tribunal concerning dealings which took place in the late eighties and early nineties, isn't that right?

A. Correct.

Q. And while you yourself were not intimately involved in these dealings, you have been able to help the Tribunal by assembling information and documentation in your role as a

director of NCB in response to requests from the Tribunal?

A. Correct.

Q. And I think that process is still ongoing, in fact?

A. In relation to some matters, yes.

Q. Yes. Now, you have provided a statement to the Tribunal which is in response to a number of queries, and what I propose to do is to take you through the statement first and then we may look at some documents either as we go through it or perhaps afterwards and maybe even during the statement and afterwards, and if there are any further queries we will discuss those after I have been through the statement.

What you say is that your memorandum is based on a review of the relevant files and documentation of NCB Stockbrokers and on the basis of documentation obtained by it in furtherance of requests made by the Tribunal relating to a nominee account operated by NCB in the name of Aurum Nominees, 333006 OS. Do you know what the OS means?

A. It appears to us to stand for "overseas".

Q. Which was the name of the beneficiary of that particular nominee account.

A. Well, we are not sure who the beneficiary of the nominee account is, but it seems to refer to the holder of the account.

Q. Right. Well, we will come back to the identity of the beneficiary later on. The first query to which you have addressed yourselves is as to the manner in which nominee

accounts are operated by NCB, i.e. the use of dedicated bank accounts and so forth, and you say, "All stockbrokers operate nominee accounts on behalf of clients to ease administration and to facilitate settlement. Apart from holding securities, a nominee account may also hold cash from time to time arising from dividend income and/or the proceeds from the sale of securities. Aurum Nominees is a nominee account used by NCB. Each client is allocated a separate nominee account and any securities held within the account are segregated." If I could ask you to clarify one thing for me at this point; are all of the individual client nominee accounts called Aurum Nominees No. 1, No. 2 and No. 3 and so on?

A. Correct.

Q. So each client to whom a nominee account is allocated in the Aurum series, if I can call it that, would be given a number?

A. Correct.

Q. With the name Aurum Nominees No. 1 Account, and this was obviously the sixth such account?

A. Correct.

Q. Right. "Securities purchased through a nominee account are registered in a nominee name. The authorised signatories for the nominee account are therefore in a position to execute transfers and deal with corporate actions in a timely fashion facilitating more efficient settlement.

In the case of Aurum Nominees, each client has a separate individually identified bank account. These accounts are held in Ulster Bank, College Green, Dublin. The securities and cash held within the nominee account are deemed to be beneficiary owned by the account holder and are clearly segregated and separate from the assets of other clients and from the assets of NCB."

You were then asked about the date on which the No. 6 account was opened and you say, "That you have not been able to establish the exact date on which the account was opened, but on the basis of the correspondence file and an entry in the relevant bank statement, it appears that this nominee account was set up on or about the 7th July of 1988."

And it might be of assistance at this point if we were to refer to one of the first documents made available, which is the first statement of the Aurum Nominees Limited No. 6 account, and I don't know if you have a hard copy. If you haven't, I will make one available, but if you look on the monitor in front of you there, you should see a copy of that account. You will see that on the right-hand side, under "account type", it says statement No. 1, which is, I take it, how you formed the conclusion that the account must have been opened on the date of the opening balance on this statement?

A. Correct.

Q. And the account appears to have been opened, the first

entry in any case, it's the 7th July 1988, with a nil opening balance, indicating that somebody must have set it up on that date without any money actually going into it, and then there's a credit to the account on the 26th July of 1988 we will encounter the manner in which that credit came into the account later of €105,586.26, which is the first credit to the account?

A. Correct.

Q. Now, you yourself were not involved in setting up this account?

A. No.

Q. And again, just to clarify that, your conclusion is based on this document that we see here?

A. Correct.

Q. I don't know, I think certainly your solicitors, I think, would have been given a copy of a statement made by Mr. Dermot Desmond in which he says that he first got instructions in connection with such an account from Mr. Des Traynor, are you aware of that?

A. I am.

Q. You were asked about the identity of the account holder, which you were informed the Tribunal understood to be Overseas Nominees. You say that, "On the basis of the designation allocated to the nominee account asset out on the bank statement, the designation on certain contract notes and other documentation on file, the identity of the account holder of Aurum Nominees 333006 OS appears to have

been Overseas Nominees Limited." And when we come to some of the other documents later, I think we will be able to draw attention to some of the matters that you mentioned in that response.

You were then asked about the person by whom and to whom instructions appear to have been given in relation to the operation of the account. You say, "I would emphasise here that I was not primarily involved in the operation of this account, although I may have dealt in the purchase of shares for it when purchasing shares on behalf of a number of clients generally. I did deal with correspondence received by this firm in relation to the account in February of 1994 and September of 1995. However, on the basis of my review of documentation on the correspondence file, Mr. Des Traynor appears to have been the person who gave the instructions on the account up until his death.

From the correspondence on file and from my own knowledge, Mr. Dermot Desmond was the contact point in NCB.

Following the death of Mr. Traynor, Mr. Pdraig Collery corresponded with NCB in relation to the account which was closed in September of 1995. "

Can I just ask you when Mr. Desmond severed his association with NCB?

A. Ultimately in 1994 when NCB was acquired by Ulster Bank.

Q. Yes, but had he an operating association with it at that time or was he somebody merely with an interest in the

company but not an operating or executive involvement?

A. Correct, his operating involvement in NCB had ceased some years earlier when he stood down as Chairman of the company.

Q. When was that, roughly?

A. 1991, 1992.

Q. I see. You were then asked about the crediting of sums to the Ulster Bank account and the apparent source of those funds. And your response is, "On the basis of entries in the bank account statements, a sum of €105,586.21 was lodged to the account in the amounts of - sorry, lodged to the account on the 26th July, 1988. We just mentioned that lodgment. It appears that a further two lodgments were made to the account in the amounts of €149,432.16 on the 23rd August, 1998, and €98,504.50 on the 26th September, 1998. On the basis of entries on bank account statements, these were received into NCB's settlement account, which was then with the Bank of Ireland, and NCB then appears to have transferred them to this Aurum account at Ulster Bank, and you again go on to further efforts you are making to identify the source of the funds in the Bank of Ireland.

We might just go over that now. I have already drawn your attention to, on a previous page, to that page, which is Page two. I have drawn your attention to the first credit to the account, and I think you have the documents at this point, is that right, do you have the actual originals?

A. Yes.

Q. Original copies, in any case. Hard copies. On the second page of that account, we see the second credit to the account of €149,332.16, that seems to be on the 3rd August - the 23rd August, sorry. The copy is a poor copy. The next one is of €98,504.50, which is on the 26th September.

I think on your copy, as on my copy, the first or the line of tens on the date seems to be gone. That brought the balance on the account to €338,437.17.

Now, that was an account, if you like, the beneficiaries of which was, so far as you knew in any case or so far as you can judge from the documents, Overseas Nominees Limited?

A. Correct.

Q. And the money that came into that account came at least, in the first instance, from an NCB account in the Bank of Ireland?

A. A settlement account.

Q. A settlement account.

A. Correct.

Q. That is the account on which NCB itself wrote its own cheques or got money into it, which then went to particular locations, particular pigeon holes, whether it was the accounts of individual clients or whatever, is that right?

A. Correct.

Q. And you have drawn the attention of the Tribunal to four pages of that account. It was at the time operating under the name of National City Dillon and Waldron Brokers, which

was, presumably, the name of the company at the time, is that correct?

A. It was.

Q. If we could just have that up on the overhead projector.

From the 11th July, 1988, up until the 26th

September - sorry, up until the 23rd August, 1988, there

are a number of credits to that account which I understand

NCB believed account for the credits to the individual

account of Aurum Nominees No. 6?

A. They do.

Q. And, just for the sake of the record, I will put each of

those pages up. That's the page for the 12th July, 1988, I

think. If you go on to the next page. In fact, that was

the statement for the 11th. If we go on to the next page,

which is the 26th July of 1988, and, finally, up to the

23rd August, which was the date, I think, of the last, not

quite the last payment we mentioned. If we go on to the

next, is it debit of £145,432.16 on what would appear to be

the 23rd August? I haven't drawn your attention to the

fact that it's the first page I showed you, the page of

the 11th July, 1988, shows a credit to the account. The

next page shows a debit of £105,000. The next page, which

is the page for the 23rd August, shows a credit for

£149,432.16, and the next page shows a debit of that amount

on the 23rd August also, and the final page shows a debit

of £98,504.50 on the 26th September, all of which you say

account for the credits to the Aurum Nominees No. 6

account.

A. We believe them to be, yes.

Q. Now, you were then asked about movements on account and you

say that on the basis of relevant entries on the bank

account statement, dividend counterfoils and contract notes

on NCB files between 1988 and approximately 1991, various

stocks were purchased and sold through the account.

Generally speaking, the stocks that were bought and sold

appear to be typical of the range of stocks dealt in by

other clients of NCB at the time and would have been

actively dealt stocks across the market. Again, from the

bank statements, the amounts invested appear to have been

in proportion to either the amount of stock available for

purchase at the time or the amount of a cash balance

available for investment. You say that you are not in a

position to comment on specific transactions and that's

understandable. You then go on to say that on the you

say on the 8th May, 1990, £206,613.57 was withdrawn from

the account and I think we have that on the overhead

projector. The balance on that statement of £340,761.05

being reduced by a debit of the £206,000-odd I mention.

On the 15th March, 1991, a further £95,000 was withdrawn

from the account and you say that from 1991 onwards, the

account was largely dormant other than for the receipt of

dividends and interest. You say that on the 8th February,

1994, Mr. Des Traynor wrote instructing that the balance of

the securities be sold, and on the 25th September, 1995,

the account was closed on the basis of a written instruction dated the 12th September, 1995, from Mr. Padraig Collery and the balance on the account, which was then closed, was transferred as per Mr. Collery's instructions. We may come back to look at some of the documents relating to those activities on the account in a moment.

You go on now to deal in more detail with the withdrawals which I have just mentioned and you say, "My review of the file discloses that on the 8th May, 1990, €206,613.57 was withdrawn from the account and used to purchase a sterling draft for €200,000 sterling made payable to Overseas Nominees."

Now, a moment ago I put up on the overhead projector, the bank statement showing the €206,613.57 withdrawal. I think one of the next documents on the book that you have in front of you and which is provided by NCB is a copy of a requisition for €200,000 sterling, and it shows that the cost of purchasing the sterling was €206,613.57, and you recognise those documents having been provided by NCB?

A. That particular one, I think, was provided by the bank to us, which we passed on to you.

Q. I see. As a result of a request, presumably authorised by you?

A. Correct.

Q. The next withdrawal, if we can have it on the overhead

projector, or debit to the account, was of €95,000 in March of 1991, and on the next page we have a copy of a sterling draft, because I think that the withdrawal of the €95,000 on the 15th March, 1991, was used to purchase a sterling draft for €85,640.24 made payable to Ansbacher Limited. And although it's hard to see it on the overhead projector, you can just make out the name "Ansbacher" in the space for the payee on that draft.

Now, you may not be aware of where that draft went to, but if you look at the back of the draft, which I think is the next document in the exhibits which you have, Sir, and I think you may have as well, Mr. Keilthy, the back of that cheque, I think you can see that it was lodged to Irish Intercontinental Bank on the 25th March of 1991.

In your statement you go on to say, "That the account was closed on the 18th September, 1995 as you have mentioned earlier in your statement and that the balance of €165,471.99 was transferred to Irish Intercontinental Bank to the account of Hamilton Ross on the basis of their written request received from by Pdraig Collery. If we just look at that movement firstly on the bank statement, you will see that the account was reduced to a nil balance on statement Number 77 as of the 18th September, 1995, interest is added and the full amount of the remaining balance is then debited, and I take it that the legend icon on the left-hand side under "particulars" is a reference to

Intercontinental Bank, is that right?

A. I presume it is.

Q. Now, some other documents were also produced by NCB dealing with various instructions and so forth received on this account. I am going to refer to your statement first and then we will examine the individual documents. You say that the correspondence on the file covers information on dividends received, valuations, statements of safe custody and corporation actions. You say there is a letter on file dated the 19th March, 1991, from Des Traynor to Mr. Dermot Desmond thanking Mr. Desmond for the receipt of the withdrawal of €95,000 from the account. There is a further correspondence from NCB to Overseas Nominees Limited dated the 24th January, 1994, confirming the stock then held in safe custody within the account. There's further correspondence from Mr. Traynor to NCB of the 8th February, 1994, requesting that all remaining stocks held within the accounts be sold. You say, "It's my recollection that I brought this correspondence to the attention of Mr. Desmond at the time that it was received and that Mr. Desmond indicated that he would make contact with Mr. Traynor. In September of 1995, following the death of Mr. Traynor, Mr. Pdraig Collery wrote to NCB referring to Mr. Traynor's correspondence of the 8th February, 1994, requesting that the balance on the account be transferred to the account of Hamilton Ross at Irish Intercontinental Bank. The funds were transferred on the 5th September, 1995, in accordance

with this instruction and the account was closed."

We will just look at some of that correspondence. Firstly, a letter of the 24th January, 1994. It's from NCB Stockbrokers addressed to Mr. John Furze, Overseas Nominees Limited, account OS, care of International Trust Group, P.O. Box 887, Grand Cayman, British West Indies. It's re Aurum Nominees account 333006 OS. And it says, "Dear Mr. Furze, as part of our 1993 year end reconciliation of Aurum Nominee accounts, I enclose a valuation of the current holdings in the above account. I also enclose a safe custody statement. Should you have any queries about the enclosed, please do not hesitate to contact me." Sincerely, and so on, signed NCB Stockbrokers.

With that letter, then, is a list of the securities held, valuations of the portfolio, which I don't think we need go into.

On the 8th February, which is the next letter I want to look at, of 1994, Mr. Des Traynor, or the late Mr. Des Traynor, wrote to Ms. Nancy Egan of NCB Stockbrokers. It was Ms. Nancy Egan who signed the letter that I just mentioned a moment ago that was written to Mr. John Furze. Mr. Traynor, who is writing from 42 Fitzwilliam Square, re Aurum Nominees account, "Dear Ms. Egan, I have received from John Furze, in Overseas Nominees Limited, a copy of your letter dated 24th January, 1994, together with the

valuation referred to therein. Enclosed herewith is a copy of the valuation dated 4/3/1991. I would be grateful if you would, (a) arrange to dispose of the total holdings and, (b) let me have a reconciliation of the account from the 4/3/1991 to the 31/12/1993. Signed J.D. Traynor."

The next document is a letter of the 2nd March, 1994, and it's addressed to Mr. Des Traynor at 42 Fitzwilliam Square. It refers to the letter which I have just mentioned and it says, "Dear Des, I refer to your letter of the 8th February, 1994, regarding Aurum Nominees account 333006. I confirm that the total holding as set out in the valuation has been sold. In relation to the reconciliation, I am awaiting details on a few outstanding items in order to complete the exercise. I will revert to you shortly with the information. Yours sincerely, John Keilthy, head private clients' division."

I am just wondering why you were addressing Mr. Traynor as "dear Des", do you know him well enough to deal with on a regular basis?

A. I had some knowledge of him, yes.

Q. Had you been dealing with him in relation to these accounts?

A. Not this particular account.

Q. Other accounts unconnected with the Terms of Reference of this Tribunal?

A. Correct.

Q. Were they other accounts of Overseas Nominees?

A. I believe them to be, yes.

Q. But were they other accounts held on Aurum Nominees accounts with different numbers to the numbers of this account?

A. They were indeed.

Q. Yes, I see. Were they accounts all opened at the same time as this account was opened or do you know?

A. No, at various stages after this account was.

Q. This account was opened first and then the other ones?

A. Correct.

Q. And do you know if all those other accounts were also Overseas Nominees accounts?

A. Offhand, I am not entirely sure. We believe they had connections with Overseas Nominees.

Q. You will see the way Ms. Egan, when she was writing to Mr. Furze in relation to this account, clearly seemed to be satisfied that the person to whom information concerning this account could be given, and it was, after all, one assumed, private and confidential information to Mr. John Furze with an address at Overseas Nominees, so she certainly assumed that Overseas Nominees was the person entitled to the information and Mr. John Furze was at liberty to be given it?

A. Correct.

Q. Can you say, and if you don't know the answer no doubt you can get it, how many other Overseas Nominees accounts there

were?

A. I believe up to five.

Q. I see. And were they all closed at the same time as this one, or do you know?

A. I am not I can't answer, I am not sure.

Q. And would the balances have been roughly the same as

A. Varying, smaller

Q. Varying, smaller?

A. Some larger and some smaller.

Q. I see. Can I ask you do you know whether those accounts are still active?

A. My understanding is they are all closed.

Q. All closed.

A. Yes.

Q. I asked you a moment ago whether they were closed at the same time this account was closed; were they closed subsequent to that time?

A. I am not in a position to answer, I would need to check that.

Q. I am sure you can find out.

A. Of course.

Q. The instruction in relation to the Overseas Nominees accounts, would they have come from Des Traynor as well?

A. Possibly would have. All this information has been provided to yourselves.

Q. In relation to the other accounts?

A. I thought so, yes.

Q. I am sure we can check that.

MS. MULDOWNNEY: I want to clarify, I don't know whether Mr. Healy is asking about accounts outside the Terms of Reference of the Tribunal.

CHAIRMAN: I don't think there's any question of that, Ms. Muldownney. There will be, not only the questions within the Terms of Reference, but obviously paramount questions of notifying such persons, as I understand. It was confined only to identifying the overall procedures used and was not seeking to infringe on potential privacy interests of any other persons.

MS. MULDOWNNEY: Fine, Mr. Chairman.

Q. MR. HEALY: In any case, Mr. Davis has confirmed we have some other information and, as Mr. Keilthy suggested, we can examine that if and if any other matters arising we can make contact?

A. As I understand it, we provided you with all the information in relation to those accounts.

Q. Following your letter to Mr. Traynor, you received a letter which was, although dated the 12th September, 1995, in reply to or at least in connection with Mr. Traynor's earlier letter of instruction calling on you or directing you to close the account and to transfer the balance, isn't that right? That's a letter of the 12th September, 1995, from Hamilton Ross, addressed to you at NCB Stockbrokers.

If we could have that letter, please, on the overhead projector.

This is a letter addressed to you at NCB re Aurum Nominees accounts: "Dear Mr. Keilthy, further to Mr. Traynor's letter of the 8th February, 1994, I should be grateful if you would balance transfer the balance of the account to Irish Intercontinental Bank, 91 Merrion Square, Dublin 2, account Hamilton Ross Company Limited, account number 02/01354/81, and advise me of the amount. In addition, please let me have a reconciliation of the account from the 6th March, 1991, to when all the holdings were sold, and this is signed D.P. Collery."

Now, I want to leave that letter up for a minute, though I just want to draw attention to the fact you subsequently replied to that letter confirming that you had complied with the request for the closing of the account and the transferring of the business. I just want to ask you one thing about the letter. You will note that it comes from, if we pull the top of it down, it comes from Hamilton Ross Company Limited, Grand Cayman, Cayman Islands, British West Indies, and the letter contains a direction to reply to 8 Inns Court, Winetavern Street, Dublin 2, and directs you to transfer the balance to Irish Intercontinental Bank to an account at Hamilton Ross. Can I just ask you whether you weren't in any way curious that the instruction to transfer the balance came from Hamilton Ross, the company presumably

hadn't heard of the company then?

A. Well, in the first instance, I was obviously aware that Mr. Traynor had since died.

Q. Yes.

A. So we didn't expect that we were going to get any correspondence from Mr. Traynor in relation to the matters.

Q. Of course.

A. I was aware that Mr. Collery had correspondence from Mr. Traynor in relation to this particular account, so we were satisfied, in as much as we could be satisfied, that Mr. Collery appeared to be a person that we could deal with in relation to this account in the absence of having any other contact points.

Q. Well, did you have Mr. Furze as a contact point, is that right?

A. He was in relation to an aspect of the account, he did.

Q. Well, did you speak to Mr. Collery or did anyone else associated with NCB, to your knowledge, speak with Mr. Collery?

A. I can't recall.

Q. Have you ever spoken to him about this?

A. About this account? I can't recall.

Q. Or have you generally spoken to him about these accounts?

A. Not in relation to these accounts, but I would know of Mr. Collery.

Q. What would you know of him?

A. I knew that he worked with Guinness & Mahon.

Q. You knew him to be associate with Guinness & Mahon?

A. Correct, yes.

Q. But at this point he wasn't writing to you in connection with anything to do with Guinness & Mahon?

A. I was aware he had associations with Mr. Traynor and, in a sense, I wasn't surprised we would receive correspondence from Mr. Collery.

Q. You did have a contact address in the form of Mr. John Furze?

A. Yes.

Q. To whom you had addressed your earlier letter?

A. Yes.

Q. Is it possible that you made contact with Mr. Furze at this point to

A. I don't believe so. I mean I don't know.

Q. To vouch

A. I don't have any recollection of contacting Mr. Furze.

CHAIRMAN: Well, your dealings with Mr. Traynor had already made it apparent to you you didn't have to go to Grand Cayman as he was contactable at 42 Fitzwilliam Square.

A. Indeed.

Q. MR. HEALY: You wrote, in any case, by letter of the 15th September, 1995, which is the next letter, if we could have it on the overhead projector, to Mr. Collery, at 8 Inns Court, Winetavern Street. I refer to your letter of the

12th September, 1995: I confirm that today I have given instructions to transfer the balance on the above account to Irish Intercontinental Bank as per the details provided. I will forward you a reconciliation of the account as soon as possible." And we know that, in any case, from other material which has been made available to the Tribunal, that that was done and the money was transferred to Irish Intercontinental Bank.

A. Correct.

Q. Can I just go back now to deal with one or two other things, Mr. Keilthy. You will recall that in your statement you mentioned the withdrawals from the Aurum Nominees No. 6 account and the fact that one of these withdrawals on the 15th March, 1991, was for the sum of œ95,000, and you say in your statement that was withdrawn and used to purchase a sterling draft made available to Ansbacher Limited at the request of Mr. Traynor. Could I just ask you how you knew that was to be paid to Ansbacher at the request of Mr. Traynor?

A. I don't actually know.

Q. I see. Is there some document that you examined that enabled you to make that statement?

A. Sorry, just give me that again.

Q. I am reading from a passage in your statement, paragraph seven.

A. Yes.

Q. The second sentence, "On the 15th March, 1991, œ95,000 was

withdrawn and used to purchase a sterling draft made

payable to Ansbacher Limited at the request of

Mr. Traynor." I am not going to delay about it.

A. Is your question how did we know it was at the request of

Mr. Traynor?

Q. Yes.

A. My recollection is there was a letter on file. Maybe there

is a supposition here, there's a letter on file from Mr.

Traynor thanking

Q. You are absolutely right and you have referred to that.

A. I don't know whether that answers your question?

Q. Yes. You have referred to a letter from Mr. Traynor

thanking you for acknowledging, I think, the receipt of the

money in Irish Intercontinental Bank?

A. So, rightly or wrongly, I will presume he asked for the

money in the first place.

Q. I see. Now, if I could just go to the Ulster Bank

statement. I think your attention has been drawn to the

fact that when that withdrawal was made or the making of

that withdrawal put the account into overdraft if we

could just perhaps pull the overhead projector over to the

left. Thanks very much. You see that the debit of œ95,000

which went to purchase the sterling draft drove the account

into the red to the extent of œ23,461.94, and I just want

to ask you how it is that a client account like this could,

as it were, go into the red. Speaking as a lawyer, one is

not used to seeing overdrafts on client accounts.

A. Well, specifically I can't explain the circumstances on which this did happen. The circumstances under which it might happen might be that a request from the client for that amount of money was made and that it wasn't questioned as to whether that full amount was actually in the bank account and the money was withdrawn. How this might have happened in regard to Ulster Bank is that my understanding as to how Ulster Bank treated these accounts is that, on occasions, the accounts did go overdrawn for different reasons. Ulster Bank were satisfied that in those circumstances, NCB had sufficient securities in place to cover those situations. Ulster Bank, as I also understand it, looked at the total balances on all the Aurum bank accounts at that time. I would presume that the total balance was a credit balance.

Q. Of course, obviously one client account could have plenty of money into it and another client account mightn't have so much money in it, but the reason I am drawing it to your attention, in the ordinary way one wouldn't imagine the credit of one client account could be used to balance out a debit in another client account?

A. Well, as you will see from the account, this has been ring fenced within this account. The balance did go overdrawn, monies were returned to the account, overdraft interest was charged on the account, so there was no question of any other client funding this particular overpayment on this account and

Q. But assuming that the matter didn't happen, or assume for the moment that the matter didn't happen accidentally, in the ordinary way one imagines that a firm of stockbrokers will not simply give somebody €95,000 because they ask for it without checking whether there's a €95,000 balance in that person's account.

A. Sure.

Q. And if we assume that people behaved in most cases in the way you would expect them to behave in the ordinary way, then another explanation would be found or have to be found for how this overdraft occurred, is that right?

A. That could be the case.

Q. And I assume you'd agree a potential explanation could be that NCB or the person dealing with the account at the time in NCB agreed to the overdraft, is that a possibility?

A. It is a possibility, but there are probably other explanations as well which are equally plausible.

Q. Apart from the mistake explanation?

A. Well, maybe, you know.

Q. What other plausible one is there?

A. The mistake is not an unreasonable explanation, but I don't know so

Q. To judge from the letter that Mr. Traynor sent, or that you believe he sent, acknowledging and thanking you for the sum of €95,000, he appeared to be in no doubt that €95,000 was what he was looking for in any case, and the account seems to have been in overdraft in this way for some considerable

time, isn't that right?

A. For a number of months.

Q. Yes. Again, I just suggest to you that apart from the fact that that would be a mistake, and I would be the last person to suggest that NCB Stockbrokers made such a mistake, it's also possible that this was because of some indulgence granted, is that right?

A. I couldn't answer that question.

Q. Is it more likely that it was a mistake than there was an indulgence granted? Somebody in NCB simply said to Mr. Traynor, "Look, don't worry about it, we'll fix it up later on"?

A. All I can do is answer for myself in that regard and that wasn't the case, but you might have to put that question to other people.

Q. You wouldn't do that, in any case?

A. Well, I didn't.

Q. In the ordinary way are you aware of client accounts ever being operated in that way?

A. In which way?

Q. In a way which would allow a client to have an overdraft?

A. Not in the general sense.

Q. It would require some specific authorisation?

A. It may have, yes.

Q. Who was specifically dealing with this account at that time?

A. Well, from the files and from the records, I have indicated

that Dermot Desmond was the contact point in NCB.

Q. Correct me if I am wrong, Mr. Keilthy, but I think I said I'll come back to the question of the source of the monies used to fund the credits in the Ulster Bank Aurum Nominees account. As you have indicated, the monies came, in the first instance, from the Bank of Ireland settlement account. Did I take up with you the source of the monies in the Bank of Ireland settlement account?

A. No.

Q. I think that since this statement was provided at the request of the Tribunal, you have been doing some further work and making some further inquiries and I am sure you will correct me if I am wrong in what I say; these inquiries have now now suggest that the monies in the National City Dillon and Waldron, as it then was, or, if you like, for short, the NCB settlement account used to fund the Aurum Nominees account came from an NCB sterling account?

A. It appears to be the case.

Q. So you are now at the stage where you have to see can you find any documents or otherwise information which would enable you to identify the source of monies in that NCB, am I right in calling it a sterling settlement account?

A. Yes, indeed.

Q. And those inquiries are being pursued with the Bank of Ireland?

A. They are.

Q. In due course, once that information or any other useful information connected with any of these queries comes to hand, you will make contact with the Tribunal?

A. Absolutely.

THE WITNESS WAS EXAMINED BY MR. CONNOLLY AS FOLLOWS:

Q. One or two matters. I want to ask you one or two questions on behalf of the Revenue Commissioners, Mr. Keilthy. First you described Mr. Desmond as being the contact point; does that mean that he would have access to any of the documentation that was available to you from Ulster Bank?

A. Specifically what?

Q. Well, what is meant by the contact point, who was dealing with this Aurum account?

A. Mr. Desmond.

Q. So any of the documentation that was addressed to you would have been available to him?

A. Yes.

Q. Nothing in the documentation examined by you on these nominee accounts refers specifically to Mr. Haughey or any member of his family as being a beneficiary?

A. No information.

Q. Would it be correct to say you describe the documentation, as director of private clients during this period of time, certainly between 1988 and 1995, you had no reason to believe that Mr. Haughey was a potential beneficiary?

A. No reason to believe it.

Q. Thank you.

CHAIRMAN: Ms. Muldowney?

MS. MULDOWNEY: Nothing more, Mr. Chairman.

CHAIRMAN: Very good. Thank you very much for your cooperation, Mr. Keilthy.

THE WITNESS THEN WITHDREW.

MS. O'BRIEN: Mr. Ross McArthur, please.

MR. ROSS McARTHUR, PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS BY MS. O'BRIEN:

CHAIRMAN: Mr. McArthur, you were already sworn from what seems a very considerable time back.

Q. MS. O'BRIEN: Thank you, Mr. McArthur. You have previously given evidence to the Tribunal in relation to transactions involving Ulster Bank accounts, like with transactions in relation to Ulster Bank itself and, on this occasion, the Tribunal has requested that you provide certain assistance in relation to the Ulster Bank account on which the Tribunal has just been hearing evidence, an account in Ulster Bank, College Green, in the name of Aurum Nominees Limited?

A. Yes.

Q. And I think you have assisted the Tribunal by providing a memorandum of the evidence which you are in a position to

provide to the Tribunal in relation to the transactions across this account?

A. Yes.

Q. And I think you should have a copy of that before you and maybe also you have copies of certain documents which I think the bank produced to the Tribunal through NCB. I will just hand you up those.

(Document handed to witness.)

You will also be able to see them on the screen beside you there as they go up on the overhead projector.

Now, firstly, if we could just have page one of the statement on the screen. Firstly, the Tribunal requested you to indicate whether the bank had any information as to the source of the three lodgments to the Ulster Bank account. If we just point those out initially on the screen. On Page one you can see the account seems to have opened on the 7th July, 1988, is that correct?

A. Well, from the evidence there, we have no other information other than what is shown on the statements.

Q. From the statement that appears to be the position. Now, the first of these lodgments appears, again just from the accounts statement, to have been on the 26th July, 1988, in the sum of €105,586.26.

A. Yes.

Q. I think on page 1 of the statement, we can see the other two lodgments to the account, the second one is on the 23rd August 1988 of €149,432.16?

A. Yes.

Q. And I think, in fact, we are missing, just on the left-hand side, the first number on the date. I think that, in fact, should properly read the 23rd August. I think that's apparent from the statement as well?

A. Yes.

Q. I think then the third of these was, in fact, on the 26th September, and again the date is slightly masked on the left-hand side of the statement, and that was in the sum of œ98,504.50 on the 26th September of 1988.

A. Yes.

Q. I think that then brings the balance, the cash balance on this account to œ338,437.17?

A. That's correct, yes.

Q. And that was a punt account?

A. Yes.

Q. Now, the Tribunal has asked the bank if it has any information or can produce any documents in relation to the sources of these credits?

A. No, we have nothing at all in relation to those other than the information that's on the bank statement.

Q. So the only information, the bank statements the bank itself has no copy documents and I think, in fact,

Mr. Keilthy, you will have heard, who has just given evidence, it appears to NCB the source of these credits, from an inspection of their accounts, was their own NCB settlement account in Bank of Ireland.

A. According to Mr. Keilthy, yes.

Q. I think the Tribunal also asked you to provide assistance as to the application of certain debits to the account, and again they have also been dealt with by Mr. Keilthy in his evidence. The Tribunal requested you to deal with them from the point of view of Ulster Bank. I think the first of the debits which the Tribunal refers you to was a debit of €206,613.57 on the 8th May of 1990, and we can see that on statement number 13 of the account.

A. Yes.

Q. And I think again the information available to you was totally based on what appears on the face of the statement, except that you have also been able to produce certain documents to the bank?

A. That's correct, yes.

Q. And I think the position is that it represents a withdrawal of funds to meet a sterling draft.

A. That's correct, yes.

Q. And I think again you will, you have been able to produce to the Tribunal not a copy of the draft itself but the copy of the requisition for the draft?

A. That's correct, yes, we have been unable to locate the draft.

Q. And I think that indicates that the requisition, presumably, correct me if I am wrong here, would have been completed by NCB or Ulster?

A. It could be either. From the writing I think it was

probably completed by NCB, but it could be completed by the bank or by NCB.

Q. Presumably if it was completed by NCB, it would be lodged to the bank, presented to the bank together with that amount, together with the NCB instruction?

A. Exactly, yes.

Q. I think that indicates, on the right-hand side, what was being sought was a sterling draft of £200,000, and I think, below that, that then shows the IR£ equivalent that was required to fund the conversion to sterling to meet that draft?

A. That's correct, two pounds commission brings it up to the total of 206.

Q. And the two pounds commission, we forget that?

A. Yes.

Q. On the left upper side, if we can just make it out, it's quite faint, it may be clearer on the hard copy before you, the draft was to be payable to Overseas Nominees?

A. That's correct.

Q. There seems to be two stamps on this draft, and I wonder could you assist me on this, then. On the left, for the requisition for the draft, there appears to be stamp of the 8th May, and then a stamp on the 9th May, and both of those seem to be Ulster Bank stamps. The one on the left seems to be Ulster Bank, College Green, Dublin 2, and then the one on the right also appears to be an Ulster Bank stamp, and that may possibly be a central clearing stamp, would

it?

A. Yes, sterling drafts are issued through our International Department. The brand on the right, while you can't see it there, it actually says the word "international" on it and would have reached our International Department on the next day, so that's the reason for the one day between the 8th and the 9th.

Q. So the requisition would have been lodged with the College Green branch on the 8th May, sent forward, then, with requisitions presumably from a number of other branches to the international branch, and stamped there on the 9th May?

A. And a number of other requisitions from our own branch as well.

Q. From all branches. Then the second of the debits which the Tribunal requested your assistance on was a debit in March of 1991 in the sum of œ95,000, and we can see that, I think, on the statement number 23, and it indicates there, I think, also, in respect of a sterling draft, the numbers are given, 098196. Would that indicate the number on the sterling draft that was issued or what would that signify?

A. Yes, the number of the sterling draft was 098196.

Q. I think you have informed the Tribunal that it appears that that debit was again debited Irish pound funds in order to be converted into sterling, to fund the issue of the sterling draft?

A. Correct.

Q. I think Ulster Bank have been able to provide the Tribunal

with a copy of the sterling draft, and if we could have that on the overhead projector. You will see there it's dated the 5th March, 1991, is that correct?

A. 15th.

Q. 15th March, 1991. It's payable to Ansbacher Limited?

A. Correct.

Q. And it's in a sum of sterling œ85,640.24.

A. That's correct.

Q. And I think the number there on the bottom left-hand side of the draft matches the number of the draft as shown in the account statement?

A. That's correct.

Q. Then in relation to debits to the account, the final debit on which the Tribunal requested your assistance is the debit which we have had to close to the account and that was on the 18th September of 1995. You will see that there. It's punts œ165,417.99 and it's described as ICON.

Do you know what this description signifies?

A. Well, the instruction we have is that this was to be paid to Irish Intercontinental Bank, and I assume that's the abbreviation for it.

Q. That's the abbreviation used. And I think you have also been able to produce a copy of the instruction that was received from NCB Stockbrokers, and again we have had already referred to that in the evidence of Mr. Keilthy.

It was dated 15th September, 1995: "Could you please effect the following transfer of funds for value today."

I think that signifies what they want you to do is transfer so the payee would receive value for that amount on that same day.

A. That is correct.

Q. The transfer or details, that indicates the amount, €165,427.41, Aurum Nominees account designation, and that's the Ulster Bank account number and that's the number of that particular Aurum Nominees No. 6 account, is that right?

A. That's correct, yes.

Q. And then the transferee details given below, Irish Intercontinental Bank, account number 02/01354/81, and then, right at the very bottom, account name, Hamilton Ross Company Limited, and presumably the signatures, the base, there are three signatures altogether. Presumably the signatures there are the authorised signatories on the Aurum Nominees Ulster Bank, and it's signed by Nancy Egan of NCB Stockbrokers?

A. That's correct.

Q. If we go back to the account statements themselves. I think that withdrawal, in effect, closed the account and the account balance was reduced to zero. There was another matter which again was briefly covered by Mr. Keilthy which the Tribunal has also asked the bank about and this is the overdraft which appears to have arisen overdraft that appears to have arisen on this account when the withdrawal of €95,000 was made in March of 1991. Maybe it we could

have statement number 23 on the overhead projector again, you will see there that the balance, I think, the credit balance prior to that instruction was £71,538, is that correct, or 33, I am not sure whether it's an eight or a three and six pence, and then there's the withdrawal of £95,000 and that pushes the account balance into overdraft to the tune of £23,461.94. And then, I think, in that, that overdrawn balance, the overdrawn balance was reduced but wasn't actually brought back out of overdraft until October of 1991, and I think we can see that on statement page number 30. I think we see there the account was in overdraft before the lodgment of the 23rd October, 1991, so that was an overdraft for approximately six months, and I think the Tribunal asked the bank whether there were any special facilities, overdraft facility or special arrangements in relation to that overdraft which existed, and I think you have informed the Tribunal that the account did not have an overdraft facility.

A. That's correct, yes.

Q. I think you stated further that NCB operated a number of nominee accounts and were they all Aurum Nominee accounts or different nominee accounts?

A. They were all Aurum Nominee accounts and just a number to denote the account.

Q. So there would have been Aurum Nominees 1 to 5. We are dealing with Aurum Nominee 6, and there would have been a number of further others I think you said I think you

said there were occasional overdrawings on one or more of these nominee accounts?

A. That's correct, yes, from time to time, which we understood, really, was just a timing difference in the sale of stock and we understood at all times we looked at this to be a risk of NCB, not to the client, because it was NCB had control of that and we understood that they held stock or timing differences that covered those overdrawn balances at any time.

Q. I think you said also that most of the accounts operated in credit and consequently there was a general levelling out between the accounts?

A. Yes - well, just, not levelling out, we couldn't off-set one against the other, but on the balance we look at what the risk was to NCB, so if one was overdrawn we were happy to rely on NCB on the understanding that they had stocks to cover that.

Q. To cover that. I think you have informed the Tribunal also that there were no special arrangements existed to cover the amounts in overdraft during the period under inquiry?

A. That's correct.

Q. Looking at the accounts overall, in your experience and somebody looking at those that were overdrawn and of the length of time they were overdrawn, was it unusual that an account would be overdrawn to the extent of £23,000 and to remain, then, in overdraft for a period of six months?

Would that be roughly representative of the pattern of

movements on the other accounts?

A. Well, I wasn't in the branch at that stage but in the overall context of the size of the relationship and the connection, €23,000 wasn't a hugely significant figure, as I say, in the dealings that we had with NCB.

Q. It wasn't significant in terms of Ulster Bank's dealings with NCB?

A. That's correct.

Q. One final matter which the Tribunal asked you to assist on in relation to exchange control and whether there were any exchange control implications of the withdrawal of these funds from an account which, it has been indicated to us, was an Irish pound account and a conversion to sterling in order to fund sterling drafts in 1990 and 1991 during which time the exchange control code was in operation?

A. It was our practice to complete the E4 forms for all such transfers. These originally were sent to our International Department and forwarded in bulk to the Central Bank and as regulations eased, I think in the early 1990s, the forms were sent directly to the Central Bank. Now, I think it may have been NCB were approved agent and there was a separate form that they could send to the Revenue in certain circumstances. There weren't copies kept of those forms, it wasn't our practice to do so, so I haven't been able to give you any further information on that.

Q. So if it was the case that Ulster Bank were dealing with it, an E4 form would have been completed?

A. Yes.

Q. And the necessary inquiries would have been made in order to satisfy the bank that it was an appropriate transaction for exchange control?

A. Yes.

Q. And that would have been returned initially to the International Division which would have remitted it on to the Central Bank?

A. Yes.

Q. As you indicate, as matters became more lax or as the exchange control code itself became less strict, it was dealt with directly by the bank?

A. Yes, we sent our forms, because on occasion we sent them directly across to the Central Bank.

Q. Thank you very much, Mr. McArthur.

MR. CONNOLLY: No questions, Mr. Chairman.

CHAIRMAN: From what you say, Mr. McArthur, you are not of the view of any particular facility shown in favour of NCB, it was the type of facility your bank would probably have extended to any of the other major brokers with whom you might have been doing international business?

A. It seemed to be a small transaction, yes.

CHAIRMAN: Thank you very much.

A. Thank you.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Mr. Phillip Dalton.

MR. PHILLIP DALTON, PREVIOUSLY SWORN, WAS EXAMINED AS
FOLLOWS BY MR. COUGHLAN:

CHAIRMAN: Thank you again, Mr. Dalton. Once again, of
course, you are already sworn.

Q. MR. COUGHLAN: Mr. Dalton, I think you are an authorised
officer of the Central Bank of Ireland concerning exchange
control requirements, isn't that right?

A. That's correct.

Q. And I think the Central Bank has been asked by the
solicitor to the Tribunal, this Tribunal, to comment on the
exchange control requirements applicable to transactions
consisting of a withdrawal from an Irish bank account of
€206,613.57 on the 8th May, 1990, to fund a sterling draft
and a withdrawal from the same account of €95,000 on the
12th March, 1991, also to fund a sterling draft?

A. That's correct.

Q. And I think that, in that regard, the Central Bank has been
informed by the solicitor to the Tribunal that the relevant
amounts were withdrawn from an account held with Ulster
Bank Limited at its branch at College Green, Dublin 2, in
the name of Aurum Nominee account 333006, isn't that
correct?

A. Yes.

Q. And that Aurum Nominees was the nominee holding company of

NCB Stockbrokers Limited?

A. Correct.

Q. I think the Tribunal has also informed the Central Bank that the withdrawal in May 1990, that is the €206,000-odd, was for the purpose of funding a sterling draft which was credited to the account of Ansbacher (Cayman) Limited with Guinness & Mahon Ireland Limited, is that correct?

A. Yes.

Q. The draft itself has not been seen, but the request for the draft has been furnished, isn't that correct?

A. That's correct.

Q. I think the bank has been, Central Bank has been furnished by the Tribunal solicitor with a photocopy of a draft in the sum of €85,640.24 sterling issued by Ulster Bank made payable to Ansbacher Bank Limited, which was funded by the withdrawal of €95,000 Irish, and that you have been informed by the solicitor that this draft was lodged to an account of Ansbacher (Cayman) Limited with Irish Intercontinental Bank as would appear from the brand of that bank which is stamped on the reverse side of the draft, is that correct?

A. Yes.

Q. Now, I think you, on behalf of the bank, were asked to consider these particular transactions and to comment on the exchange control applicability to them, is that correct?

A. That's correct.

Q. And, in that regard, do you wish to indicate to the Tribunal the relevant exchange control rules or do you

A. Well, I mean, they are set out in the statement. Do you wish me to go through them?

Q. Yes, please. In general terms, you needn't go through them in the full format you have given them in the statement, just the applicability of the general exchange control rules at various statements?

A. Based on the information that has been supplied to the bank, the process for the issue of the payment of the sterling draft, the one that was shown to the bank for œ85,426.40 sterling, it would have been generally œ95,000 Irish had been debited from the Aurum Nominees account for the purpose of funding the request to Ulster Bank for the sterling draft.

Q. Yes.

A. Ulster Bank as an authorised dealer under the exchange control legislation. Now, it would have to be satisfied as to the beneficial ownership of the Irish pounds to establish generally if exchange control regulations applied.

Q. Yes.

A. Based on their determination, the sterling draft then would have been issued and the draft was remitted to Irish Intercontinental Bank, which, from the draft that was submitted to us, was received on the 25th March 1991, for credit of Ansbacher (Cayman) Limited account with the

bank. They, in turn, remitted the draft for collection, again based on the stamps on the draft, Royal Bank of Scotland in London, on the 27th March 1991, and they, in turn, cleared it for payment through National Westminster Bank in Old Broad Street in London, the bank on which the draft was originally drawn.

Q. Yes. Now, just in respect of that, take the draft for the moment, and we will deal with the request for the draft for sterling €200,000 in a moment, but the draft itself, on the face of it, is made payable to Ansbacher Limited. If we take the sequence of events on the evidence that has been given here, it was drawn, first of all, in Irish pounds on the account of Aurum Nominees, isn't that correct?

A. That's correct.

Q. And I don't know if you were here for the evidence today, but that that was the nominee, the nominee in the account was Overseas Nominees Limited as far as National City Brokers were concerned?

A. Okay.

Q. And they were requested to or they were instructed to either dispose of securities or make the payment in respect of monies which were held in that nominee account?

A. Okay.

Q. And it was appropriate for them to, in the first instance, draw that down in Irish money, is that correct, out of the account because it was

A. This is an Irish bank account, yes.

Q. And on the face of it again, the beneficiary was an overseas entity, is that correct, on the face of it as far as they were concerned?

A. Well, it was Aurum Nominees Limited.

Q. Yes, but as far as NCB were concerned, in the first instance, Overseas Nominees, which was a Cayman company, were, in fact, the beneficiary entitled to the shareholding, as far as they were concerned. That was the evidence, on the face of the paper. And on receiving instructions from Overseas Nominees Limited, or somebody on their behalf, they received instructions, then, once it was drawn down in Irish pounds, to convert that to sterling for transmission?

A. Yes.

Q. Again, on the face of the paper, that would seem to be an appropriate transaction

A. Yes.

Q. as far as exchange control regulations were concerned, isn't that correct?

A. If the beneficial owner of the account was a non-resident, yes.

Q. Was a non-resident. That's really what I want to get at with you, Mr. Dalton, because whilst evidence has not been given yet and we may have to return to a comment on specific evidence, but if, in fact, unknown to Ulster Bank or to the person who had complied with the instruction, NCB, the true beneficial owner, was an Irish resident, what

would, in general terms, be the exchange control

implications or requirements in those circumstances?

A. Well, if the beneficial owner if it was known that the beneficial owner was a resident, then the exchange control rules and regulations would have applied. In that regard, the authorised dealer, in this case Ulster Bank, would have been required to cite the relevant documentary evidence, documentary evidence that the sterling draft be issued. The evidence could be an invoice, a bill of lading, whatever, or it could be a specific permission from the bank, because I am talking hypothetically here, obviously. Based on the information given that the draft is payable to Ansbacher Limited, it would suggest that it was a bank or a bank account. So, therefore, the specific permission from the Central Bank for the resident to open that account should have been available.

Q. That's what I want to get at because we know, and much evidence has been given on it, was how business had to be contacted that approval was forthcoming from banks operating as authorised agents of the Central Bank or dedicated agents of the Central Bank to issue foreign currency drafts or cheques on sight of an invoice?

A. Normal commercial purposes.

Q. But if the true beneficial owner of an account, an offshore account, was an Irish resident, would Central Bank approval have had to be granted for that person to have an account offshore?

A. Yes.

Q. And would that person be entitled to have an account offshore even through another intermediary?

A. What exactly do you mean by "intermediary"?

Q. Well, we can take a situation that if the account offshore was in the name of Overseas Nominees Limited or Hamilton Ross or Mr. John Furze but that the beneficial interest in money in an account was an Irish resident

A. There should have been specific permission for that.

Q. From the Central Bank?

A. Yes.

Q. Now, of course, on the face of the documentation, and there's no criticism here of Ulster Bank or National City Brokers on the face of the documentation here, but there can be little doubt that if the true identity of the beneficiary of the ultimate beneficiary was known, as I have set out to you, Central Bank approval would have had to be required?

A. If those facts were proven.

Q. And, likewise, in relation to the request which you have seen for a sterling draft of €200,000, and again you may have to return to comment on specific evidence which may be given at the Tribunal, but if I ask you that in this context, once again if the sterling draft was, in fact, purchased and it went offshore but that the ultimate true beneficiary was an Irish resident, would Central Bank approval have been necessary, both for the person to be

involved in the account offshore and to have this money transferred offshore?

A. If the circumstances were similar, I would say yes.

Q. And apart from the conduct of trade, was an Irish resident, during the period of 1979 to 1992 when exchange control was applicable, was any Irish resident entitled to hold deposits offshore?

A. Not as a deposit, no, but residents were permitted in specific circumstances, which was on application to the bank, which was determined on its individual merits, to operate accounts abroad, yes.

Q. But the applicability would have to be made to the Central Bank?

A. Absolutely, it wasn't a delegated authority, it was a specific authority.

Q. It was a specific authority. But without that specific authority, an Irish resident was not allowed hold monies in deposits offshore?

A. Correct.

CHAIRMAN: Would that consideration of merits, Mr. Dalton, usually have been based on, perhaps, the Irish individual having a bona fide trading relationship abroad?

A. Absolutely, or on secondment for six months, nine months, diplomat, any situations like that.

Q. MR. COUGHLAN: People might be moving abroad and need to transfers funds for purchase of houses or other such

matters.

A. Yes.

Q. And, in that regard, would a person, would an Irish resident obviously they wouldn't be allowed hold their own deposits abroad, would they also be prohibited from having deposits under anyone's name abroad? In other words, was it the beneficial aspect of the deposit which was of concern?

A. Yes, the beneficial owner.

Q. The beneficial owner was the thank you.

MR. CONNOLLY: No questions.

CHAIRMAN: You have nothing, Mr. Connolly? Thanks very much again, Mr. Dalton, for your attendance.

THE WITNESS THEN WITHDREW.

MR. HEALY: As frequently happens, Sir, we have managed to make more progress than was envisaged essentially in the case of Mr. Dalton's evidence and there will be no further witnesses until tomorrow morning.

CHAIRMAN: Half ten tomorrow morning.

THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,
WEDNESDAY, 1ST DECEMBER, 1999, AT 10:30AM.