

THE TRIBUNAL RESUMED AS FOLLOWS ON MONDAY, 1ST FEBRUARY  
2000, AT 10:30AM:

CONTINUATION OF EXAMINATION OF MR. PADRAIG COLLERY BY  
MR. COUGHLAN:

Q. MR. COUGHLAN: Now, Mr. Collery, I think on Friday I was asking you whether when you sent the statements relating to the account A/A40 to Mr. Foley, you said that you would have sent those by post, isn't that correct?

A. Yes, because I do not recall having any other meeting with Mr. Foley only one meeting well two meetings in total.

Q. I think I was really asking you then was there a covering letter or a compliment slip or something to indicate to the recipient that these were his accounts?

A. Well I don't usually have compliment slips, I have no such thing as compliment slips and I don't recall that I did actually because obviously as I explained, in all of these cases I just used the time best available to me to copy these and then send them on or give them to the person involved.

Q. So do you think you would have sent a letter?

A. I don't think I would have sent a letter, no, I don't think there would have been any reason to.

Q. Could I just go back for a moment after something because of a further letter which has come to the attention of the Tribunal. I had been asking you earlier, I think on

Friday or perhaps on Thursday, about the letter you wrote to Mr. Foley in January of 1990 informing him that you had left Guinness & Mahon and if he wanted to make contact or to come and see you, that you had one or two matters to discuss with him and that letter came from 42 Fitzwilliam Square, isn't that correct?

A. Yeah.

Q. There is the letter there. Sorry, I beg your pardon, the letter was dated March 1990.

A. Correct.

Q. And the I think what we had put up in fact was a letter where we had obliterated the telephone number. The letter was one which went out in March of 1990?

A. That is correct.

Q. And the only other letter which was available then there were two other letters available in a chain of correspondence, one was a letter from you to Mr. David Humphreys, isn't that correct, effectively closing the account?

A. Requesting a cheque for the balance of the account, yes.

Q. I think that is the letter in November, isn't that correct?

A. That is correct, yes.

Q. And it makes reference to a letter from Mr. Humphreys to you of the 16th July 1990, isn't that correct?

A. That is correct.

Q. And then the third letter that we had available to us was the letter from Mr. Humphreys to you enclosing the cheque,

I think, isn't that correct?

A. No, I think it was me acknowledging the cheque.

Q. Sorry, you acknowledging receipt of the cheque, I beg your pardon, you are absolutely right. You have seen the letter from Mr. Humphreys to you dated 16th July 1990 has become available, isn't that correct?

A. That is correct.

Q. If we just look at that. It's dated 16th July 1990 and it's addressed to you at your home, isn't that correct?

A. That is correct, yes.

Q. And it reads "Dear Padraig, I note that back in January you had advised me that you had written to D. and M. Foley concerning mandate etc., please advise present status.

Yours sincerely, David Humphreys."

A. Correct.

Q. And if we now go to the letter the letter which you sent to Mr. Humphreys requesting the balance on the account, you say "Dear David, further to your letter of the 16th July 1990, could you please arrange and send me a cheque payable to Mr. and Mrs. Foley" as it appears on that particular letter.

A. Correct.

Q. What I want to ask you is, does the sight of the letter from Mr. Humphreys of July 1990 add anything to your store of knowledge which could enable you to assist the Tribunal further about this particular transaction?

A. As I said, I thought that the events were triggered by

something and I think both Mr. Humphreys' written note which you had also given to me, and the letter of the 16th July appear to be after the date of a statement which had been produced and I trust that the arrangements were that in my hand-over, anything that came in for my attention after leaving Guinness & Mahon would have gone to Mr. Humphreys, and therefore I believe that this would have triggered him contacting me and saying "what do I do with this account?" and these are the triggers in regard to that.

Q. Now, all of this correspondence relates to a resident account, isn't that correct?

A. That is correct.

Q. And we know that in the letter of the 16th July 1990, Mr. Humphreys is writing to you at your home address, isn't that correct?

A. That's correct, yeah.

Q. Where were these letters being filed?

A. This one letter?

Q. No, no

A. Sorry

Q. The chain of correspondence, effectively.

A. I presume I got that in my home. You know, and at that time, ten years ago, I don't have that letter any more, so I probably just dealt with it or would have referred back to Mr. Traynor, as I said, that "Look, I have got this query from Mr. Humphreys, what do we do here?" And in due

course, as I said in evidence, I believe I would have got instructions from Mr. Traynor to request the closure of the account.

Q. But what I am asking you is this, you were dealing with the correspondence, you were the author of the first letter that went to Mr. Foley in March of 1990, isn't that correct?

A. I believe it was as a result of a correspondence from Mr. Humphreys.

Q. Well, let's look at the letter of March. You write to Mr. Foley in March of 1990. We just want to obliterate that particular number. You know the letter we are talking about?

A. Yes, of course.

Q. And you were asking Mr. Foley to come and see you in that letter.

A. That is correct.

Q. You either dictated that letter or you wrote it out to enable whoever typed it up and the reference is Ms. Williams?

A. I believe it must have been Ms. Williams.

Q. Would that be correct?

A. That is correct, yeah.

Q. The letter had to go into a file of some sort, isn't that correct?

A. I would believe it would have, yeah.

Q. Where was the file?

A. I don't know. Or it may have been handed to me, I don't recall what happened to it.

Q. Did somebody put it into a file?

A. I don't know, Mr. Coughlan.

Q. You then receive a letter from Mr. Humphreys dated July of 1990, you say that the statement would have been generated in the meantime

A. When we looked at the statements

Q. Within a month or so of that particular letter, would that be correct?

A. No, no

Q. Or in that month?

A. I think it was the 15th January and 15th July that the statements were produced so I think in or around that day the statements would have been produced which triggered obviously Mr. Humphreys writing a letter to remind me that I hadn't got back to him.

Q. And he is saying to you in that letter that you had advised him back in January of that year, would that have been around the time the previous statement might have been generated?

A. I believe so, yes, that is correct, because again if you well we have the handwritten note of Mr. Humphreys which is the 22nd January where he has a note saying that he wrote to me.

Q. He wrote.

A. Yeah, or he spoke to me rather.

Q. He spoke to you.

A. Yeah.

Q. So obviously the conversation must have taken the form of him asking you about what to do with this particular account, would that be fair?

A. That is correct.

Q. And can we take it that what you would have said to Mr. Humphreys would be words to the effect "I will see about it or I will make contact with Mr. Foley."

A. Or with the appropriate people, yes.

Q. What I am trying to ascertain here though, Mr. Collery, is that there is correspondence relating to an account here in Ireland, an ordinary resident account, isn't that correct?

A. That is correct.

Q. One of those letters went to your home in that chain of correspondence?

A. That is correct.

Q. Can we take it that it would be the system adopted by you as somebody who had experience of working in the bank, of keeping the record?

A. Not a letter such as that. You know, as far as I would have been concerned, I would have thought at the time that I dealt with it and that was the end of the story.

Q. Well, could we just think about that for a moment, Mr. Collery. These copies have become available from Guinness & Mahon, isn't that correct?

A. That is correct.

Q. And is it not normal banking practice that when there is correspondence relating to an account, that it's maintained on some file?

A. Yes, and obviously this letter was on the bank's file.

Q. You were dealing with it effectively on behalf of the account holder, isn't that correct?

A. Well at this time I had left the bank now

Q. I appreciate that, but you you weren't dealing with your own particular affairs where you might decide you dealt with that and just discard the letter. You were dealing with this on behalf of somebody?

A. Yeah, but I had been fifteen years in the bank, you know.

Over that period after I left the bank, Mr. Coughlan, there were many things, you know, that the bank sought guidance, questions, and I was delighted to help them because of my years of service with the bank and this would have been one such item that I helped them with.

Q. The bank weren't looking for any assistance about this.

As far as the bank were concerned, they had a deposit account, that's all.

A. Well you know, I think they must have been, you know they had a statement which was care of my address and I was seeking to get instructions as to where that statement, I presume, should go in the future.

Q. No, the statement wasn't care of your address

A. Sorry, it was care of me.

Q. It was care of you at Guinness & Mahon.

A. That is correct.

Q. And whilst one could understand that the bank might make contact with you to know where was the statement to go now, could I just ask you in relation to the other statements you received on behalf of customers in Guinness & Mahon, did you have to go through the same process with them?

A. No. In some cases I was able to tell Mr. Humphreys who he was to deal with. In this case as I previously said, I believe that the statements in relation to this account that were care of me were given to Mr. Traynor.

Q. Well you told us before that it had to be a senior banking official within the bank received statements for customers of the bank, isn't that correct?

A. Correct.

Q. And this was a facility offered by the bank?

A. Correct.

Q. You believe that you might have received statements for approximately ten customers or thereabouts, would that be

A. From the memory I have

Q. Thereabouts?

A. Thereabouts.

Q. Nothing turns on this in particular and this just happens to be one of a series of customers?

A. Yes.

Q. In relation to the other nine, or thereabouts, customers, did you have to do anything in respect of their accounts or

did Mr. Humphreys, who took over your position, receive their statements for them?

A. I believe he received those statements and would have carried out the instructions that I would have left with him in relation to those.

Q. And can we take it that if Mr. Humphreys wanted to find out anything about the accounts as the person who received the statements, he would make contact directly with those customers, would that be the way the information would be obtained?

A. It may well have done, but as I say, there were other examples and not necessarily statements where he contacted me for, "What would you have done in this case?" and I would have helped him.

Q. Now he wasn't asking you for that sort of assistance here, isn't that correct?

A. Well he had obviously some question re: mandate etc., but...

Q. Well he is asking "What's the present status? What does that mean to you?"

A. That is correct, yeah.

Q. Wouldn't that could that mean what he is asking you is he to continue sending them to you?

A. No, I believe that Mr. Humphreys would not send another customer's statement to me because I have left the bank now, so I believe that he is looking for instructions from the customer either to the address to which they should be

sent, I would say that's probably what he is looking for.

Again I am making an assumption as to what Mr. Humphreys

Q. Perhaps we will hear from Mr. Humphreys on it but what I

want to find out from you is this. What seemed to trigger

this particular letter was the fact that he was on

the on the correspondence anyway seems to be of the

view that you had advised him back in January that you had

written to the customer, isn't that correct?

A. Yes.

Q. So it wouldn't be unreasonable for him to contact you and

say "What's the position?"

A. That's correct.

Q. And the response, in effect, to him asking "What is the

position?" is you then issuing instructions to effectively

close, to clear or to obtain a cheque for the balance on

the account?

A. A number of months later, correct.

Q. And you make reference to this particular letter?

A. Correct.

Q. Now, all of this correspondence relates to somebody else,

somebody else's account or somebody else's money?

A. That is correct.

Q. And what I want to know is this, Mr. Collery, where was the

correspondence kept?

A. Well a copy of that letter or the actual the original

came to me.

Q. Yes.

A. I don't have a copy of that letter and the correspondence written to the bank, I don't have a copy of those two letters either. Now where the copies were held, I cannot recall. I don't know or I don't know if I got a copy for my own self but I certainly have neither of the three letters.

Q. Well, where were files kept that you dealt with?

A. Well, personally I didn't have any files up until '94. I trust if this letter was written in Fitzwilliam Square, a copy of it would have been held by Ms. Williams perhaps somewhere and how she would have filed it. I have no knowledge as to how she would have done that.

Q. Well we know from evidence you have given that there existed approximately three filing cabinets relating to Mr. Traynor's clients dealing with offshore facilities, isn't that correct?

A. That is correct, yes.

Q. Were there other files kept at 42 Fitzwilliam Square which related to resident accounts of clients of Mr. Traynor's?

A. I am not aware that such files existed.

Q. Now, can we take it that if you wrote to Mr. Foley on the 22nd March 1990 from 42 Fitzwilliam Square, and you were asking Mr. Foley to make contact with you and you gave a telephone number which we have excluded from the particular letter, that was a number you could be contacted at.

There is no doubt about that?

A. That is correct, yes.

Q. And you say "You can leave a message with Joan Williams, Mr. Des Traynor's secretary, at the above number and she'll contact me." And you are saying "I'd be grateful if you would give me a call in the next week or so to arrange a meeting as there are one or two things I would like to discuss with you." Can we take it that if you were expecting somebody to make contact with you by telephone, that you would have known what you wished to discuss with them?

A. At that particular time I would have, yes.

Q. And that you either had some documentation relating to the person or access to documentation relating to the person at that time?

A. I don't believe I had any documentation. As I said, I believe that I was acting on the request from Mr. Humphreys at the particular time which was initiated by his phone call to me.

Q. But Mr. Humphreys only wanted to know one thing, what was the status of the account or what was the status in relation to the account, isn't that correct?

A. I don't know what the meaning what is meant by that word where it is, do we have an address for this man? What does he want done with his account etc.?

Q. Well if they had gone back over the records in Guinness & Mahon, they would have seen, because there was a period of time that you took over receiving the statements, isn't that correct?

A. That is correct, yes.

Q. So it couldn't be something like an address for the person, in fact Mr. O'Dwyer had received a handwritten letter from the customer in relation to the mandate on the account, isn't that correct?

A. That is correct.

Q. Which was available on the files of Guinness & Mahon, isn't that correct?

A. That is correct.

Q. So that can not have been the purpose of all of this.

A. Well, as I said, I don't believe Mr. Humphreys would have sent out a statement of a customer to me now outside the bank, and as I said in previous evidence, when I saw the statements and I saw the dates which these things were triggered on, I believe that in January and July, which are the two dates which the statements were produced, that's what must have triggered Mr. Humphreys calling me.

Q. Well now, Mr. Collery, doesn't it appear that the letter of March means that there was to be a discussion about a number of things, not just one thing, where the statements might be sent to?

A. As I said, I believe you know, that's loose English, that's my turn of phrase one or two and I don't think there was more than one, I cannot recollect anyway.

Q. Perhaps when we come on to other matters, it might jog your memory in respect of things.

A. Okay.

Q. I think in any event, if we return to the memorandum of information sought from you and your responses for the moment, Mr. Collery. I think we had been dealing with the matters raised in paragraph 12, isn't that correct, of the query raised with you by the Tribunal.

A. Sorry, I thought we were on 14, but you are going back to 12, are you?

Q. Sorry, I beg your pardon, you are right, you are right. If I could just go back to 13 for a moment and you were asked by the Tribunal whether you provided Mr. Foley with a copy of the handwritten statement for account A/A40 for the period April 1997 to July 1998 and if so, the date, place, the circumstances in which the account statement was furnished, isn't that correct?

A. That's correct.

Q. And I think you have informed the Tribunal that you do not believe that you provided Mr. Foley with a copy of the handwritten statement. "They were intended to be a protection for myself. If I were asked for an up-to-date of a balance on an account, I would have advised that person to get the details from Mr. Barry Benjamin..."

A. That is correct.

Q. Then I think the Tribunal asked you for details of your dealings with Mr. Foley since July 1998 and in particular, a meeting which took place at Dublin Airport at some time in the late summer of 1998 including the manner in which this meeting was arranged, the purpose of the meeting, the

matters discussed and any action taken by you or Mr. Foley as a result of the meeting. In this regard the Tribunal has been informed by Mr. Foley that he requested the meeting in order to request you to provide him with statements as he wished to put his financial affairs in order, isn't that correct?

A. Yes, I believe I confirmed that, yes.

Q. I think you respond to that by informing the Tribunal that you do not recall meeting Mr. Foley at Trust House Forte, Dublin "I do recall meeting Mr. Foley at Trust House Forte, Dublin Airport", and you say "I thought it was early in 1999 but cannot recollect the exact date." Is that correct?

A. That's correct.

Q. "My recollection of the morning is that Mr. Foley was particularly looking for information in relation to the closing of his account in Guinness & Mahon Ireland Limited. He asked me if I could assist him in tracking where these funds went as he believed they went into an account controlled by the late Mr. Traynor."

A. That's correct.

Q. You informed the Tribunal that you informed Mr. Foley that you had "no access to such account details and that you were unable to help him in this matter." Is that correct?

A. That's correct.

Q. I think you have informed the Tribunal that Mr. Foley then reminded you of the €50,000 which you had arranged for him

in August 1995, is that correct?

A. That is correct.

Q. And that you mentioned to him that you had seen the records of Mr. Furze in the records of Mr. Furze a reference to him in conjunction with A/A40, is that correct?

A. That is correct.

Q. I think you informed the Tribunal that Mr. Foley appeared surprised at this and proceeded to show you a copy of the letter he had sent to Guinness & Mahon Ireland Limited in which he requested the account to be held in joint names with his daughter and you refer to earlier reference, I think that's the handwritten mandate, is that correct?

A. The handwritten letter.

Q. The handwritten letter in respect of the mandate address to Mr. O'Dwyer, is that correct?

A. I believe so yeah, that is correct.

Q. Now, I think you have informed the Tribunal that he that's Mr. Foley also advised you of his personal circumstances which gave rise to the changing of the account to the joint account holders, isn't that correct?

A. That is correct.

Q. I think he informed you that he was also of the opinion that any funds which Mr. Traynor was looking after for him were to be held for the benefit of his daughter and that he would advise Mr. Traynor of this around the same time as he changed the account name in Guinness & Mahon Ireland Limited, is that correct?

A. That is correct.

Q. Is that your recollection of what Mr. Foley informed you?

A. That is my recollection of the conversation we had.

Q. And I think you informed the Tribunal that you may have brought the generated the computer generated copies of A/A40 records with you to the meeting and that you may have given the documents to Mr. Foley and then you say that you trust that he is in a position to confirm if you gave him such records and that you had no further meetings or contact with Mr. Foley since the meeting, is that correct?

A. That's correct.

Q. Now in May of 1998, Mr. Traynor was definitely not in Guinness & Mahon, isn't that correct?

A. Sorry

Q. In May 1998, Mr. Traynor was not in Guinness & Mahon?

A. Sorry, Mr. Traynor died in

Q. Sorry, I beg your pardon, in May of '88, Mr. Traynor was certainly not in Guinness & Mahon?

A. That is correct.

Q. And we know that Mr. Foley did give instructions in writing to Guinness & Mahon in May of 1988 in respect of the resident account?

A. That is correct.

Q. And it's your belief that Mr. Foley, at this meeting at the hotel at Dublin Airport, informed you about this particular instruction, isn't that correct?

A. He did indeed, yes.

Q. And in fact he showed you, to the best of your recollection, a copy of that letter?

A. He did indeed.

Q. And it's your recollection that he informed you that at the same time, or around that time, he had instructed Mr.

Traynor in respect of the funds Mr. Traynor was holding for him, is that correct?

A. That is correct.

Q. How did the meeting at Dublin Airport come about?

A. I believe I got a phone call from Mr. Foley, to the best of my recollection, saying could I meet him. I asked him presumably when he was coming to Dublin and how. Obviously these meetings that I had with any person cannot be within my work time, so I would have said look, it can be very early in the morning or late in the evening and I believe he said, look, I can make arrangements I have to believe, I can't recollect the exact words but something to the effect of yes, I can fly up from Farrenfore Airport early in the morning and I can meet you and that meeting suited me fine, because I live in the west side of Dublin and to go out the M50 and meet him in the airport and to carry on to my place of work was ideal for me.

Q. And what was the purpose of the meeting?

A. Well, as I say, the purpose of the meeting was initiated that there were things he wanted to talk to me about and as I recall, it was in relation to his it started off in relation to his account that he had with

Guinness & Mahon and then it went on, not specifically, but in the overall conversation, about an account that he had with Mr. Traynor and that this account, he believed, should be in the name of his daughter and to support that, he showed me this letter that he had also written to Guinness & Mahon around the same time and he explained the circumstances, as I said, which gave rise to the change in his instructions relating to these accounts.

Q. Now, you knew of course who Mr. Foley was, isn't that correct, at this meeting?

A. I knew of him and

Q. Hold on a second now, Mr. Collery. You had met this man previously and handed him €50,000 in cash. You knew who he was?

A. Yes, I did know him.

Q. And you knew you knew that Mr. Foley, at this meeting, was account A/A40, didn't you?

A. I did, because at that time I had come back from Cayman

Q. I will come to that in a moment, but let's get this straight. You knew at that meeting that this man was A/A40, isn't that correct?

A. I knew he had connection with that account.

Q. You knew he was now, Mr. Collery, let's not be tedious about this. You had withdrawn €50,000 in cash in respect of account A/A40 and handed it to this man in Jurys Hotel, isn't that correct?

A. Yes, I did.

Q. Let's not beat about the bush on this. You knew that this was A/A40, isn't that correct?

A. I did.

Q. And you never needed to go to Cayman to know that?

A. As I explained, my recollection of the meeting with Mr. Foley in '95 was extremely hazy and, with respect, I think you will understand the circumstances at the time.

But I did have it confirmed when I went to Cayman of that. There was no records in Ireland that confirmed that to me.

Q. Then.

A. Then.

Q. Then

A. Yes, I do accept that.

Q. Because they had been removed to Cayman, isn't that correct? If any records had been removed to Cayman I will come to that in a moment they were removed to Cayman from Ireland?

A. Yes.

Q. The record always existed in Ireland, isn't that correct?

A. Yes, it did.

Q. Not just the statements in respect of A/A40, but the file in relation to A/A40, isn't that correct, in the filing cabinets kept by Mr. Traynor, isn't that correct?

A. I didn't see a file.

Q. We will come to that in a moment, Mr. Collery, and the destruction of the files. Mr. Traynor kept files in

respect of the accounts in 42 Fitzwilliam Square, you have told us, isn't that correct?

A. Yes, indeed he did, yes.

Q. And you have told us that from those files it was capable of ascertaining who the account holders were, isn't that correct?

A. That is correct.

Q. And it was after Mr. Traynor's death that an exercise was gone through whereby some of those files or some of documents on some of the files were destroyed and the rest removed to Cayman, isn't that correct?

A. Some files were removed to Cayman. Some were left here. Some of those subsequently were handed over to Ansbacher Cayman and the remainder of those files remain here in Ireland at the moment. So there are a number of categories of files.

Q. Yes. But there can be little doubt but at this meeting you knew Mr. Denis Foley was A/A40?

A. I now accept that.

Q. And you had been to Cayman in fact around that time?

A. I certainly had.

Q. Within a week or so of that time a week or two?

A. If it was August, it had to be. It was the end of July that I went there.

Q. And you had gone through an exercise of bringing the balances on the various accounts in Hamilton Ross up to date in terms of the application of interest?

A. Up to the then date.

Q. Up to then?

A. Yeah, 31st July.

Q. And you had also gone through an exercise of deducting from various account holders, including Mr. Foley's, sums of money to pay for Mr. Furze's legal fees in his opposition to the action taken by the McCracken Tribunal?

A. Yes, I recorded such transactions on the instruction of Mr. Benjamin.

Q. Well at the meeting at Dublin Airport, were you able to inform Mr. Foley of the balance on the account?

A. I trust I would have been at that particular time. I don't specifically recall that he asked me, but I just had been two weeks earlier doing an exercise on reconciling the balances, so it would have been fresh in my mind and if I were asked, then I would have been able to tell him.

Q. But Mr. Foley has informed the Tribunal and will give evidence to the effect that what he was seeking was statements in respect of the account. So can we take it that he must have been interested in what the balances were on the accounts?

A. Yes, I would expect he was.

Q. And you knew what the balances were?

A. As I said, if he asked me the balance, I expect I would have been in a position to confirm that balance to him.

Q. And you had no doubt that this related to Mr. Foley?

A. I accept that that is correct.

Q. And you would have so informed Mr. Benjamin?

A. Yes, I would have informed Mr. Benjamin while I was in Cayman.

Q. Because isn't it true to say that Mr. Furze was not the most assiduous of administrators in respect of these accounts, isn't that correct?

A. Well certainly it is, from what I have seen in his latter years and that may well have been due to his ill health, I cannot comment. I believe he was a reputable banker had a very high position

Q. I am not talking about that. But the reason you were going out there was because things were in a bit of a shambles, weren't they?

A. They certainly were.

Q. And Mr. Benjamin didn't know, isn't that correct?

A. Yes, he had just inherited this and he did not know.

Q. He didn't know anything about them really

A. That is correct.

Q. And you were the one who was able to confirm to Mr. Benjamin who owned the particular or who was entitled to the benefit of the monies in the Hamilton Ross accounts, isn't that correct?

A. Yes. I felt it my duty both to the clients and to Mr. Benjamin, as I said, as a professional person because he now was the person responsible for these files, to the best of my knowledge and to be aware of that.

Q. So Mr. Benjamin so can we take it that it was you, you

were the one who was able to inform Mr. Benjamin of who the various beneficiaries were in Hamilton Ross?

A. Obviously from correspondence or letters that were there, he had some knowledge. In other cases he had little knowledge and I filled him in on the background and indeed the background, as I have on a number of occasions, as to how the whole thing worked, what Mr. Furze's intentions were etc. and in general conversation and assist him in doing so.

Q. So at the end of that particular period of visit, the two people who knew about the whole of Hamilton Ross were you and Mr. Benjamin, isn't that correct?

A. Absolutely. As it was in '95 when I handed over to Mr. Furze, you know

Q. The only ones who knew then were you and Mr. Furze?

A. Yes.

Q. And no other person, isn't that correct?

A. That is correct.

Q. And the exercise that you engaged in when you went there was you brought documents with you to Cayman, isn't that correct?

A. I brought a listing with me which had the or the closing balance in March I think of '97

Q. Very good in respect of the various

A. Was it March '96? I can't

Q. I don't think much turns on that one way or the other.

A. It was March the previous year, so I think it would have

been it was March '96 and then

Q. You were able to bring the closing balances on all of those to Mr. Benjamin, isn't that correct?

A. Yes, I brought those with me.

Q. He would not have known that at that stage because the documentation in the Cayman was incomplete, isn't that correct?

A. It was. It was quite poor, yes.

Q. And he might have been able to glean from some of the correspondence who may have been entitled in general terms to the funds there but you were the one who was able to identify and give him an individual breakdown in respect of the funds under the control of the Hamilton Ross, isn't that correct?

A. That is correct, for 99 percent of the cases.

Q. So apart from bringing the information out, the second exercise carried out there was you bringing the balances up to date to July of 1998, the end of July of 1998 or thereabouts or June, was it?

A. July, I think July.

Q. You brought them up to date?

A. Up to date, yeah.

Q. And the third exercise which was done was a deduction from some, but not all, of those people who were entitled to money from Hamilton Ross to defray the costs which Mr. Furze had incurred in opposing the McCracken Tribunal in court?

A. That is correct.

Q. And I think it's correct to say, isn't it, that the deductions were not equal, in other words, you didn't just take the sum of 57-odd thousand pounds, which were the costs, and divide it equally among a number of clients, is that correct?

A. Pro rata. Mr. Benjamin did do that.

Q. Well now, you were there with Mr. Benjamin?

A. I was indeed, yes.

Q. Some people had larger sums deducted than others, isn't that correct?

A. That is correct.

Q. And how was that decided on?

A. As I said, it was purely at the discretion of Mr. Benjamin, they were his clients. This was a reconciliation item.

There were a number of items on the statement of drawings which totalled the 57,000 and it was his discretion as to the apportionment of those.

Q. Well how do you say they were Mr. Benjamin's clients? He didn't even know who some of them were.

A. At this time I had gone through the exercise.

Q. You had told him?

A. Yes.

Q. And you were the one who had been dealing with clients here in Ireland, isn't that correct?

A. From '94 onwards, that is correct.

Q. So can I take it there must have been a discussion so

between yourself and Mr. Benjamin as to how this exercise was to be carried out, isn't that right?

A. Yes, there would have been, yeah.

Q. And the two of you engaged in an exercise of apportioning it, isn't that correct?

A. Well as I say, the decision was his. I told him who the accounts were. I told him the background to the individuals and it was his allocations. It was not mine.

Q. Was the purpose for discussing the background to enable Mr. Benjamin to engage in an exercise of deciding how much should be deducted from the various accounts, is that right?

A. When I say the background, I mean the history of the account.

Q. Yes.

A. You know, I cannot go into what his mind was thinking at this particular time.

Q. But you were able to inform him of the history of each of the accounts.

A. To the best of my knowledge, particularly from '92 onwards, because those were the records that I had and I had been through them quite extensively at that time and a number of times during the period.

Q. But how is the background relevant to how much should be deducted from each of the clients?

A. I don't know. It was part and parcel of saying this is an account, it had a number of transactions over it, it has a

few transactions over it, then he made the decision how to apportion the fees.

Q. There and then?

A. Well he gave me a schedule of, you know there was 57,000 well in fact it exceeded I think by a couple of thousand

Q. About 3,000, isn't that correct?

A. Yeah, that's right.

Q. It exceeded by about 3,000. But this all took place between you and Mr. Benjamin and Mr. Benjamin decided on this, isn't that correct?

A. That is correct.

Q. There was nobody else involved?

A. No, nobody else.

Q. Now, if I might just put them up just to show how the deductions were done. I just want to though you I have obliterated references to anybody. I just want to show the breakdown of the deductions in this exercise and I think on the left-hand side the fees are on the very top, the legal fees, isn't that correct, and they come down and on the right-hand side you see in brackets then  $\$57,860.96$ , isn't that correct?

A. Correct.

Q. And then on the above that is a breakdown, I presume, of various payments or the bills or whatever

A. Those were the individual items on the account as I said.

Q. Then on the left-hand side, they would have been the

various codes, isn't that correct?

A. That is correct.

Q. After that, you would have written down various names after them, isn't that correct, on the copy that's not

A. I don't think on this sheet I did. I think it was purely the codes.

Q. And then there were the balances on the various coded accounts, isn't that correct, which we have kept off it?

A. They were held separately.

Q. And then you show the actual deductions in respect and who they were attributed to, isn't that correct?

A. That is correct.

Q. And I just want to get it clear at this stage of the evidence that the level of the deduction is not referable to the size of the balance in respect of the clients, isn't that correct?

A. When we looked at it, that is correct.

Q. Just to be clear about that, that there are, while some substantial deductions, and I am talking about a €15,000 deduction and the balances on that particular client's account are quite modest by comparison to the balances on some other accounts?

A. That is correct.

Q. And we know that in respect of Mr. Foley's, there was a deduction of €5,000?

A. That is correct.

Q. And we know that Mr. Foley has informed the Tribunal that

he was unaware that this transaction had occurred, isn't that correct?

A. That is correct.

Q. And can we take it that Mr. Foley was not informed beforehand or subsequently until the information became available to the Tribunal that this particular transaction had occurred?

A. I certainly hadn't informed him.

Q. You hadn't?

A. I hadn't informed him.

Q. And can we take it that when you went to the Caymans, you did not have instructions from any of the other people who were entitled to the monies under Hamilton Ross from whom deductions were made to deduct money?

A. That is correct.

Q. Or at any time did you have instructions to carry out this exercise on behalf of any of the clients?

A. To deduct the money?

Q. Yes.

A. No, I did not.

Q. I am not going into detail here. There were no deductions from some accounts, isn't that correct?

A. That is correct.

Q. And to the best of your recollection, do any of the clients know, before now, that there were deductions made from the accounts in respect of these legal fees?

A. To the best of my knowledge, I haven't advised anybody.

Q. And the only

A. Sorry, not to the best of my knowledge, I haven't. I haven't advised anybody.

Q. You have not advised anybody and to the best of your recollection, has Mr. Benjamin advised anybody?

A. Obviously I am not aware of whether he is having conversations with clients or not, I don't know.

Q. But before this was done, to the best of your knowledge, did Mr. Benjamin inform anybody?

A. To the best of my knowledge, no.

Q. I just want to come back to something then. When you sent Mr. Denis Foley the statements of the accounts in respect of A/A40 by post, was the deduction of œ5,000 in respect of legal fees shown on the statement?

A. No. As I said in evidence, I don't believe that I included that handwritten well the equivalent of that ledger sheet on there, that I just sent the computer generated ones.

Q. So in fact it wasn't a true statement of the account, isn't that correct?

A. It wasn't an up to date statement. It was up to whatever that March of

Q. July or whatever

A. No, I think it was March of '86, or '87 rather.

Q. But Mr. Collery, wasn't it an incorrect statement of Mr. Foley's affairs because you knew there had been a deduction made and Mr. Foley knew nothing about it?

A. It was, but as I said, I would have advised him that any subsequent information from that date on was the responsibility of Mr. Benjamin and that he should be contacting him.

Q. But what do you mean subsequent? You were the one who generated the information. You were the one who brought the statements or the balances on the various accounts up to date, isn't that correct?

A. Yes, but I had been consistently telling you that, and I still continue to do so, that my involvement with the giving of information from when it was handed over to Mr. Furze is now the responsibility of either Mr. Furze or Mr. Benjamin and that's my position.

Q. But now Mr. Collery, you had engaged in an exercise of deducting œ5,000 from a man's account.

A. Yes, and I believe it is Mr. Benjamin's responsibility to account for that.

Q. But you did it, like you did it physically.

A. I did the physical accounting record.

Q. The man then comes to you looking for a statement of his account and you furnish him with statements of account, but omit to inform him that "By the way, œ5,000 has been deducted from your account."

A. No, I think I also said, I believe I said in my statement that any further information you require from there on or from, on his account, would have to be got from Mr. Benjamin.

Q. But this wasn't when you spoke to Mr. Foley in August of 1998, he wanted to know what the state of his affairs were, isn't that correct? He wanted statements?

A. That is correct.

Q. Not an unreasonable request to make of somebody who is looking after your funds, would you agree?

A. That is correct.

Q. And as of that time, what he wanted to know was how things stood then, isn't that correct?

A. Yes

Q. When you spoke to him?

A. As I said, when he asked me for the balance, I believe I would have had it in my mind and I would have told him what the balance was, whatever it was, at that time.

Q. But the balance would have had to include the deduction?

A. It did include the deduction, yes.

Q. So

A. But it also would have included interest, yeah.

Q. Yes, yes, but it may be understandable that you could say to him "If you want information as to events in the future, you should contact Mr. Benjamin", but these were events which had occurred in the past.

A. I think you must understand my position, Mr. Coughlan, as I said, in relation to my affairs with the connections of Cayman, I made a definite decision that my cut off date was when those statements ceased here and Mr. Furze took the funds back to Cayman, because now the funds were under his

direct control and he was responsible for them.

Q. Mr. Collery, just be fair to yourself. Think about what you have just said there. After Mr. Furze took the stuff the documents back to Cayman, isn't it true you continued to operate the business here in Dublin?

A. You know, I couldn't operate then, because now I don't have any funds here.

Q. You did not conduct any are you saying that, and we are talking about after Mr. Traynor's death when Mr. Furze took documents back to Cayman, is that what you are saying?

A. No, no, I am saying up to '97.

Q. I see, I beg your pardon when he took the funds out of Irish Intercontinental Bank and took them to Cayman at the time of the McCracken Tribunal, that is?

A. That's I am very clear, that's my cut off date. You know everything else from there is now the responsibility of Cayman.

Q. But up to that you accept responsibility?

A. You know, I carried on on behalf of Mr. Furze from '94 to then, bookkeeping, transactions on behalf of his clients.

Q. You did more than that Mr. Collery, isn't that so? You weren't just an ordinary clerk carrying out a few exercises, you were effectively the new Mr. Traynor here at that time.

A. I would respect I would never aspire to that and that is not the case.

Q. We'll go into what happened physically to the operation

here in Dublin so in a moment.

CHAIRMAN: Could I just raise one thing while it's in my mind, Mr. Coughlan. You had continued to calculate the interest rates that were due on these accounts and I think as you said at the conclusion of last week, you had continued up to a certain point to comparatively recently to notify clients of their interest accruals, isn't that correct?

A. No. Up until '97 I would have done that, Sir. From '97 onwards, the rate of interest on the accounts, because the balances were now in Cayman, I had no control over those. That when I went to Cayman in '98, obviously we saw the interest that was applied to the account, in fact it wasn't interest, it was kind of a unit trust scenario, so it was quite difficult to ascertain the true value of the money and in that exercise, I brought the balances up to and reconciled the balances in what was then the bureau account to the balance on the particular account and then handed that over to Mr. Benjamin. So he has got all that information there in Cayman. I don't have that information.

CHAIRMAN: But at least up until that demarcation point, you were calculating interest rates presumably based on money market and other considerations that were prevalent in this part of the world?

A. Absolutely. The rates that were given by Irish

Intercontinental Bank on the pooled account was then reflected into the individual accounts, that is correct, from '94 to '97.

CHAIRMAN: And which would have had no particular regard to what was transpiring in the Caribbean?

A. Absolutely not, no.

MR. DEVITT: Sir, I might just say at this stage that if Mr. Coughlan has made a suggestion that my client was the new Mr. Traynor and I hope that evidence will be put in that regard to Mr. Collery and Mr. Collery will be given an opportunity to

CHAIRMAN: Oh of course, Mr. Devitt. I think Mr. Coughlan has indicated he proposes to deal with that

MR. COUGHLAN: Absolutely. And just to indicate to My Friend what I intended by that was My Friend has been furnished with a statement of Mr. Sam Field-Corbett about the request which Mr. Collery made to use his premises and it's contained in that and I will be going through that in detail with Mr. Collery.

When you spoke to Mr. Foley at Dublin Airport, I take it you knew what the balance was and you new the deduction had taken place, isn't that right?

A. It's reasonable to believe I expect I should have.

Q. Of course you did, sure it only happened a week or two

beforehand; that's why you had gone out to Cayman?

A. Of course, yes, I have confirmed that I reasonably would have.

Q. When you sent the statements to Mr. Foley, could you have forgotten about what was contained on the handwritten document which contained the balances and showed the deductions?

A. No.

Q. And you kept that from a client?

A. Well, he is Mr. Benjamin's client.

Q. You were sending him the statements. You were sending him the statements, isn't that correct?

A. Yes, I was.

Q. He had asked you for the statements?

A. That is correct.

Q. And the information you furnished him was at best inaccurate, isn't that correct?

A. Incomplete, I would prefer to say.

Q. Inaccurate. It didn't show that a deduction had been made from his account of œ5,000?

A. Well, it was up to a certain date, and he would have known that there should have been transactions and entries applied from that date.

Q. What transactions other than drawings could there have been applied to it?

A. There would have been interest.

Q. Absolutely, so it should have been growing as far as he was

concerned?

A. Pardon?

Q. It should have been growing as far as he was concerned?

A. Yes.

Q. And unless he made drawings, there wouldn't be any other transactions, isn't that correct?

A. That is correct.

Q. Other than perhaps, as you say, it was now being managed in some sort of a unit fund. There may have been small administrative fees applicable to that, but that would be the extent of it, would it, in terms of deductions?

A. Yeah, that's correct.

Q. Now, can I take it that when you were carrying out this transaction of making the deductions, you didn't believe that there was anything irregular about it as far as you were concerned?

A. As far as I was concerned, he was again on the instructions of Mr. Benjamin, he was now answerable to his client for that deduction.

Q. Well I am asking you now for your own view. You were involved in this particular exercise. Can I take it that you did not believe that there was anything irregular in what you were doing, you yourself?

A. Personally, you know, I don't know how the allocations of fees within offshore accounts or offshore litigations are apportioned and I believe that Mr. Benjamin would have been aware of that and therefore, if he was instructing me, I

believe him to be an honourable person and that there was nothing irregular about it.

Q. Well can I ask you this, you have been involved in banking all your life, haven't you?

A. I have indeed.

Q. And I think you would have a general awareness that if a bank is involved in litigation on its own behalf, the fees would be paid out of the profits of the bank, isn't that the normal?

A. Unless there was some arrangements with the bank.

Q. Unless there was an arrangement made with customers or clients of the bank that the bank would conduct the litigation effectively on behalf of the clients and the clients would have to pay for it eventually?

A. Correct.

Q. So those are the two situations which could pertain, isn't that right?

A. That is correct.

Q. But in order to make deductions from any client's or customer's account in the bank, you would have to have the permission of the customer?

A. You certainly would, and I would expect that to be the case.

Q. The litigation in Cayman conducted by the McCracken Tribunal was in pursuit of information of payments to politicians out of Dunnes Stores companies, I will use that in its broadest sense, isn't that what it was about?

A. I believe that to be so, yes.

Q. It had nothing whatsoever to do with the individual clients whom you now know or whom you knew to exist on this particular date?

A. That is my perception of the case, I cannot speak obviously of what the perception or the understanding of people in Cayman was.

Q. So Mr. Benjamin was not there when the litigation occurred, isn't that correct, or was he?

A. Yes, I think he would have been, yes.

Q. He was there at the time the litigation

A. I believe so, because that was that was '86/'87 was it?

Q. '97.

A. '96/'97. He would have been there because Mr. Furze had left Ansbacher and joined that company, I don't know, but I believe that he was there because they set the company up jointly together.

Q. But from your conversations with Mr. Benjamin at the meeting in Cayman where this exercise occurred, you say it was he and he alone who indicated what should be deducted from each client?

A. Yes. It was his belief that, you know, these should be deducted from his clients and he assigned the apportionment of those funds.

Q. Now, there is a critical matter I have to ask you about at this point. There were no deductions made from certain

clients, isn't that correct?

A. That is correct.

Q. Why was that?

A. Well one of those clients was myself.

Q. Yes.

A. And the conversation was, I felt I had incurred enough of personal time and expense and I didn't see why I should be incurring any more incurred by John Furze.

Q. Well can I take it that in respect of the litigation involving Mr. Justice McCracken's tribunal, that you yourself had not issued any instructions to John Furze in respect of your affairs to oppose that litigation?

A. I did not issue any instructions, no.

Q. And when you say that you felt that you had incurred enough expense in assisting the Tribunal, I take it you mean the McCracken Tribunal, is that correct?

A. That is correct. Well it would have been in general. You know, I have given an extreme amount of time, personal time to both tribunals

Q. Cooperating with the Tribunal?

A. In cooperating with them.

Q. Cooperating with the Tribunal.

A. Okay.

Q. So what expenses are you talking about so there?

A. Well it's time, you know, time

Q. Time, very good. But the œ57,000 represents expenses in resisting the McCracken Tribunal, isn't that correct, not

assisting it or cooperating with it, in resisting it, isn't that correct?

A. That's I believe the litigation, whatever it took or whatever form it took and I really don't have the details because it was outside in Cayman, whatever those legal fees were and I have to believe, because there is Irish pounds, there must be some legal fees here in Ireland that are being paid for as well as you can see there.

Q. And what I really want to ask you about this is, you believe there was nothing irregular being done; therefore there was absolutely no reason why Mr. Foley or the other clients couldn't have been told that deductions had been made from their monies?

A. None whatsoever, nor were there a reason. As I said, and I do please have to go back and reiterate again that my cut off date is March '97. And any time forward from that was the responsibility of Mr. Furze until he died in, I think it was July of '97, and then thereafter Mr. Benjamin's.

Q. You are talking about responsibility, you are very clear, it's responsibility you are talking about?

A. I am very clear.

Q. Not knowledge of the state of affairs or your involvement with things up to that time?

A. No. He has now I have accounted to him and I have, in the balance that was transferred out of Ireland to him, I have reconciled each of those balances to the balances that he now has in the bank accounts in Cayman and I believe he

is now responsible and accountable to the clients that own those funds.

Q. Did you give that particular information to these clients then?

A. As I speak to clients, yes, I do.

Q. Only as you speak to them?

A. Only as I speak to them.

Q. You have not informed these clients that you have no responsibility for their funds and that they are with somebody else?

A. No.

Q. Or that they should contact Mr. Barry Benjamin?

A. No, because as again, that is the responsibility, and I do emphasise the responsibility and an exercise Mr. Benjamin should be carrying out.

Q. I suppose that raises the question, why did you meet Mr. Foley then? You weren't giving him the information that he was looking for.

A. Well unfortunately again, my goodwill in trying to help people has got me into a lot of difficulties here.

Q. Ah now Mr. Collery, you benefitted greatly from your involvement in these affairs, didn't you, personally?

A. I can assure you I had no benefit from meeting Mr. Foley.

Q. Sorry now, Mr. Collery, let's be careful about this. Do not attempt to portray the image that you were just helping people. You received substantial sums of money for the carrying out of your works, didn't you?

A. Up to a certain date, yeah.

Q. Now, I want to move on, if I may then for the moment, and inquire of you in respect of the query raised at paragraph 15 by the Tribunal and that is you were asked for full details of all the circumstances in which you informed the Tribunal in November 1998 that the money in the A/A40 was held for the benefit of Mr. J. A. Furze and not, as you were aware, for the benefit of Mr. Foley. You responded and in fact I want to clarify a certain matter here with you, because we have examined the transcript of the private sittings from which the public were excluded whereby you gave sworn evidence. You also furnished the Tribunal, I think, with a document which had been prepared by the Tribunal showing the various codes, isn't that correct, and you had written opposite it some of these codes whom you believed or said were the clients, is that correct?

A. That is correct.

Q. And I think you have said that at a private sitting of the Tribunal in November 1998, "I delivered a schedule of names cross referenced to a confidential account number in relation to A/A40. I had cross referenced the account with the name Mr. John Furze and indicated that Mr. John Furze controlled the account." I think that is the document which the Tribunal have prepared indicating various codes and you had written opposite A/A40, John Furze, isn't that correct?

A. There were a number of documents I will accept that,

yes.

Q. You now say in the statement "I was unclear then as to who was the true beneficial..." sorry, I should just halt there for a moment and say that you also in evidence indicated that it may be referable to another account holder, I don't want to mention the name here in public

A. I can't recall.

Q. But that's neither here nor there. You never informed the Tribunal either in the schedule or in the witness-box that it was Mr. Foley, isn't that correct?

A. That is correct.

Q. But you say in this statement or this memorandum "That I was unclear then as to who was the true beneficial owner of these funds, although I now accept they either belonged to Mr. Foley or his daughter and I should have advised the Tribunal accordingly. My hesitancy in naming Mr. Foley or his daughter were due to a worry about not being 100 percent sure of the matter rather than any desire or reason to be unhelpful to the Tribunal." Now, do you want to correct or clarify anything in respect of that now?

A. I wish to apologise, Mr. Chairman, in omitting this information and I regret it. There are certain doubts about this. There was a series of events that gave rise to some hesitancy in my understanding of that and I would have been better advised to advise the Tribunal of that hesitancy rather than taking my other course of action.

Q. Well let's be clear about this. The decision was yours

not to inform the Tribunal?

A. My hesitancy my decision was mine and mine alone, yes.

Q. And there can be no doubt about it, that you had no reason for believing that the account A/A40 was Mr. Furze's or the other person who is an account holder whose name I do not want to mention now.

A. That is correct.

Q. And you had no hesitancy in attributing it to Mr. Furze or to the other person, isn't that correct?

A. I attributed it to Mr. Furze because of my hesitancy and that was incorrect and I, as I say, I do apologise for that.

Q. Now, what caused you to have this hesitancy?

A. I hadn't any records beforehand. Yes, I did give this gentleman œ50,000. Then in that same in the meeting at the airport, this letter was shown to me which was in relation, and I accept specifically towards his domestic account but were added to the effect that other funds of which Mr. Traynor were looking after for him, would have received the same instructions, be it verbally I believe, and that these were to be held for his daughter. Here I was in this situation at this point in time of giving out this money, I had been shown this letter and I am rather confused.

Q. Mr. Collery, let's go over this very slowly. You knew when you came back sorry, you knew ever before you went to the Cayman Islands that A/A40 was Mr. Denis Foley, isn't

that so? You knew it?

A. I gave him €50,000.

Q. You knew it.

A. Yes.

Q. You knew it. You went to the Cayman Islands, you deducted money from the account, isn't that correct, €5,000, for legal fees.

A. Mr. Benjamin did.

Q. You carried out the physical exercise?

A. Yes, I did.

Q. You then received a phone call from somebody who was looking for statements of their account, is that correct?

A. Well, you know, I cannot recall if the word 'statements' were used, but certainly information in relation to his account.

Q. Information in relation to his account, his account.

A. (Nods).

Q. You attend the meeting and Mr. Foley has informed the Tribunal that he was pressing you for statements, isn't that correct?

A. That is correct.

Q. No reason for any doubt or hesitation at that stage, was there?

A. No.

Q. Whatever other discussion you then have, you say that Mr. Foley showed you the letter he had written to Mr. O'Dwyer about his resident account and he was anxious to

know where that had gone, is that correct?

A. That is correct.

Q. And that resident account was being put into the joint names of Mr. Foley and his daughter, isn't that correct, the joint names?

A. That is correct.

Q. And you said that your recollection that Mr. Foley informed you at that meeting that he would have issued the same type of instruction or a similar instruction to Mr. Traynor about the funds Mr. Traynor held for him, is that correct?

A. That is correct.

Q. If that is so, can we take it that your state of knowledge or belief at that time then was well A/A40 may be in the joint names or should be in the joint names of Mr. Denis Foley and his daughter, is that correct?

A. That's correct.

Q. So where is the hesitance coming about then?

A. Well

Q. It's either to be it's Mr. Foley's or it's in the joint name of Mr. Foley and his daughter, that's all, isn't that correct? Isn't that all?

A. The information I had and if I believed that to be the case, and that was the information, I would have written on the schedule D. and M. Foley because I would have known it as a joint account. The information I had at the time when I was in Cayman was one name.

Q. The information you had as a result of this meeting, if

this particular conversation took place if this particular conversation took place is that either the only doubts you could be having would be that it was Mr. Foley's or Mr. Foley's and his daughter, isn't that correct?

A. That's correct.

Q. But Mr. Foley was always an account holder, either individually or jointly, isn't that correct?

A. That's correct.

Q. And there could have been no question of it being Mr. Furze or any other account holder, isn't that correct?

A. I have accepted that, yes.

Q. Why, Mr. Collery, why did you not inform the Tribunal of that?

A. I have expressed my reason and, you know, I don't if you wish me to repeat, and it will be a repetition.

Q. Well I will stay here all day until we get the truth out of you, Mr. Collery. That's the point I am trying to get at. I want you to inform the Tribunal truthfully why you did this?

A. I had given somebody €50,000 which I believed was out of the individual's account. Now I have information which is saying this is either a joint account or a sole account

Q. Yes.

A. And these this is the dilemma that I am with. I have given money out of this account. I am concerned about that.

Q. Concerned about that?

A. As to who the true beneficial owner of this is.

Q. What has that got to do with informing the Tribunal?

Let's go back on what you were concerned about now,

Mr. Collery.

A. I have already stated that, Mr. Coughlan, that I should have informed the Tribunal of that

Q. No, no, I want to know why you didn't inform the Tribunal.

I want to get behind the reason as to why you didn't inform the Tribunal of this most significant piece of information. Why, Mr. Collery?

A. I took that decision on myself for those reasons and there was no other reason why.

Q. Let's be very clear now so that the Tribunal can assess whether it's credible, the reason you are now putting forward. You say, for the first time, isn't that correct, now Mr. Collery, that you were concerned that you had given out €50,000 and that this may have been a joint account and that was the reason you didn't inform the Tribunal, is that so?

A. No. I stated in my statement "My hesitancy... due to a worry that I wasn't a hundred percent sure rather than any desire of being unhelpful to the Tribunal." I should have informed the Tribunal. I accept that. I apologise.

Q. There is something more significant here, Mr. Collery.

You must address it. You didn't inform the Tribunal

"Look, I have doubt here, I have a doubt here, I paid out

money, this may be a joint account but these are the joint account holders." You informed the Tribunal that it was Mr. Furze and in another instant, that it was somebody who was not Mr. Foley or his daughter. Now, Mr. Collery, this was a significant and a highly significant piece of information which you did not inform the Tribunal of, isn't that correct?

A. I don't have the transcripts. If you tell me that that is correct, then I accept

CHAIRMAN: Well Mr. Collery, would you accept that this Tribunal would have been barking up a substantially wrong tree if we had not obtained the documents in the briefcase in the most unforeseen of circumstances?

A. Yes, I do, Mr. Chairman.

MR. COUGHLAN: We'll come on to address that now in a moment. Not only did you not inform the Tribunal of this, you had documentation which would have been assistance to the Tribunal in respect of it, isn't that correct?

A. That is correct.

Q. And you were under a continuing obligation, when information became available to you, to inform the Tribunal, isn't that correct?

A. That is correct.

Q. And you undertook that particular obligation, didn't you, freely? Freely, you undertook to keep the Tribunal informed, isn't that correct?

A. I am continually cooperating with the Tribunal, so yes, yes, I have.

Q. Why then were the documents given to Ms. Keogh?

A. The documents in giving the documents to Ms. Keogh was a situation which I advised in that, I was again extremely concerned that when I went to Cayman and found that the records in Cayman were in the state that they were, that I was able to reconcile in my own mind up to date balances and bring them and reconcile them, that should any unforeseen thing happen in the future, then that I had a record that I had done that, and it was for those reasons that I kept those records.

Q. Why did you give them to Ms. Keogh?

A. Because, as I already stated, in that period of time, I believed that there were circumstances existing that I thought my phone was being tapped, I was I had and I think it was around that time, that the documentation relating to Mr. Ryan was delivered to me. I was afraid that my house was going to be raided.

Q. And you wanted to conceal these documents, isn't that correct?

A. I certainly wanted to keep them safe.

Q. You wanted to conceal the documents, isn't that correct, Mr. Collery?

A. It was not that word did not come to mind.

Q. Look, you mightn't have used that word. You gave them to somebody for safekeeping, isn't that correct?

A. I did, yes.

Q. To put them beyond the reach of the Tribunal, isn't that correct?

A. In that act I did, yes.

Q. Why did you do that? Why did you put them attempt to put them beyond the reach of the Tribunal?

A. It wasn't deliberate beyond the Tribunal. It was as I say, those records to me were for my personal protection.

Q. What do you mean it wasn't deliberate? Was it accidental that you gave them to her?

A. No

Q. It was a deliberate act, isn't that correct?

A. In regard to keeping them safe, yes.

Q. And by giving them to the Tribunal, how would you have not been protected? The documents would have been safe and available, isn't that correct?

A. I do accept that and it was a wrong decision.

Q. Ah come on, Mr. Collery. Come on. You never told us about any of this, isn't that correct?

A. This is correct.

Q. You never told the Tribunal about going to the Caymans, carrying out the exercise, the meetings with Mr. Foley, the sending of the statements, the €50,000, you never told the Tribunal about the €50,000 payment, isn't that correct?

A. That is correct.

Q. And in fact, and I just want to put this in its true context, when the documents did become available to the

Tribunal, you still did not inform the Tribunal of the payment of the €50,000 to Mr. Foley, isn't that correct?

It was Mr. Foley who informed the Tribunal, isn't that correct?

A. Well at that time, I believe we were going through the documents on

Q. The documents showed nothing about it, isn't that correct, at that time? The documents he had did not show it.

MR. DEVITT: Well now with respect, perhaps Mr. Coughlan could inform Mr. Collery when Mr. Foley told the Tribunal about the €50,000.

MR. COUGHLAN: With respect, the knowledge of the 50,000, or the transaction relating to the 50,000, was in the statements already with the Tribunal in bank statements.

A. No, in the memorandum statements.

Q. Sorry, when you say statements, you mean account statements?

A. In the confidential accounts statements, yes.

Q. In account statements. Not in a statement furnished to the Tribunal by you.

A. Understood, yes.

Q. Isn't that correct?

A. That is indeed correct.

Q. Why was all of this information kept from the Tribunal, Mr. Collery?

A. I would ask and go back over all I have said again, and

that is my one and only reason I did that. I regret it deeply.

Q. No, there was a reason, Mr. Collery. There was a reason. Why did you keep this important information from the Tribunal?

A. As I said, I had paid out €50,000. I do apologise, Mr. Chairman, because that is what I truly believed at the time

CHAIRMAN: I am not concerned about that, Mr. Collery. I do want to find your reasons.

MR. COUGHLAN: We want to get to the bottom of it. You paid out €50,000 to, at most, a joint account holder, isn't that correct?

A. That is correct.

Q. What had that got to do with keeping the information from the Tribunal?

A. At the time afterwards, it had, to me, nothing to do with the Tribunal because obviously it would have then followed through in a normal investigation.

Q. Mr. Collery, in a normal investigation in the Tribunal? Is that what you are saying?

A. Well, I misunderstood your question then.

Q. Yes. You have suggested that a matter which was exercising your mind, the reason you were giving, the reason you were giving for keeping this information from the Tribunal is that you had paid out €50,000 and you now

thought well, maybe this is a joint account. Are you seriously suggesting to the Tribunal that is the reason you didn't inform the Tribunal about this?

A. No. I am saying I didn't enjoy I didn't advise the Tribunal

Q. Inform, you didn't inform the Tribunal.

A. Inform the Tribunal because there was a doubt in my mind as to whether this account was a joint account, a sole account now in the name of Mr. Foley's daughter. It obviously wasn't in a sole name now because he had at least furnished the other documentation and I had paid out €50,000. That worried me and maybe that worry was insufficient to do what I did, but I did.

Q. Mr. Collery, whatever about the €50,000, at the very least, you knew or you had reason to believe from what may have been said to you that this A/A40 was D. Foley and M. Foley, isn't that correct?

A. And/or his daughter.

Q. Those two, that's what I am saying, D. Foley and/or D. Foley and M. Foley, and you came in here and you informed the Tribunal it was J. Furze and/or another person at another stage, not the Foleys.

A. Yes, I did.

Q. You had no reason to believe that it was Furze or the other person?

A. I now accept that.

Q. What do you mean you now accept it? You knew it at the

time you came in here.

A. Yes, I did.

Q. And you had no hesitation about it at the time, isn't that correct? You informed the Tribunal who A/A40 was?

A. I said it was Mr. John Furze.

Q. Why did you conceal the other information? Why did you conceal it, Mr. Collery?

A. That was my reason and my sole reason.

Q. Why did you conceal the meetings in Cayman?

A. I had you know, I don't see that was a reason of accounting to bring records up to date. I felt I was assisting Mr. Benjamin in that regard. I didn't feel it of any significance that I should do.

Q. Why did you conceal from the Tribunal the meeting with Mr. Denis Foley at Dublin Airport Trust House Forte Hotel?

A. I should have advised the Tribunal of that.

Q. No, no, I know you should have. You know that. But why did you conceal it?

A. For the same reason that gave reason to my doubt and it was that sowed the seeds.

Q. What doubt? What doubt? You informed the Tribunal it was John Furze. What doubt had you got, Mr. Collery?

Let's deal like adults now, Mr. Collery.

A. In my position, that's the way I felt. I am expressing to you and to the public how I felt and other than that, I cannot say.

Q. Did you discuss it with anyone?

A. Sorry, discuss which aspect of the that we are talking about here?

Q. The fact that you informed the Tribunal that A/A40 was John Furze and on another occasion another person?

A. No, I did not.

Q. Did you discuss what you now say were your doubts about the matter, that is whether it was Mr. Foley or Mr. Foley and his daughter, with anybody?

A. No, I did not.

Q. And you say that those doubts came about as a result of that meeting at Dublin Airport, is that correct?

A. There were certain

Q. Is that correct?

A. That is the main

Q. Is that correct?

A. That is correct.

Q. Why then did you send the statements on the account to Mr. Denis Foley in May of 1999?

A. Because he had said to me that he was bringing the affairs of that account into order and that he was meeting his accountant.

Q. Yes. This was a joint account. You now had doubts, isn't that right? You didn't know whether it was Mr. Foley's I am just trying to understand the reason you have just given for not informing the

Tribunal didn't seem to exercise your mind when you were prepared to send the statements to a person whom you now

had doubts whether he was the single account holder or not,  
isn't that correct?

A. That is correct.

Q. Did you take any steps to make contact with Mr. Foley's  
daughter?

A. No, I didn't, because I didn't

Q. Did you send her any of the statements?

A. No, I didn't, because again this item and indeed others are  
Mr. Benjamin's responsibility...

Q. Hold on a second now, I am talking about your  
responsibility to the Tribunal. You saw no reason why you  
shouldn't send the statements to Mr. D. Foley, is that  
right?

A. That is correct.

Q. You took no steps to send statements to his daughter, is  
that correct?

A. That is correct.

Q. You took no steps to make contact with his daughter to  
ascertain if she was a joint account holder, is that  
correct?

A. That is correct.

Q. And nevertheless, you are offering as your reasons to this  
Tribunal why you informed them that the account holder was  
somebody else is that because you had this doubt, is that  
correct?

A. That's as I had and that's as I still have.

Q. Mr. Collery, isn't it wholly incredible? Isn't it wholly

incredible? Think about it for a moment.

A. I understand your thoughts, but that is my reason.

Q. That is not my thoughts. I am asking you the question.

Would you accept that the public, faced with that reason, could well consider it wholly incredible .

MR. DEVITT: Mr. Chairman, really I must interrupt at this stage, Mr. Collery is being asked and he has given his evidence as a particular kind of witness, now he is being asked to confirm that a view of what the public might say is correct or incorrect. And I do really believe that that is getting into the realm of speculation. I think

CHAIRMAN: Mr. Devitt, I will uphold your objection to that question but I do hope that your client in his continued examination is going to seek to assist this Tribunal in a manner more appreciably helpful in a matter of very considerable importance. Let's proceed.

MR. DEVITT: I am instructed that he will.

MR. COUGHLAN: I was going to move on to something that may be a little bit lengthy.

CHAIRMAN: Perhaps, maybe better than going on for another five minutes. It may be desirable we will resume at ten to two.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AS FOLLOWS AT 1:50PM:

CONTINUATION OF EXAMINATION OF MR. COLLERY BY MR. COUGHLAN:

Q. MR. COUGHLAN: Mr. Collery, I just want to clarify and correct something in case I gave an erroneous impression in relation to a question I was asking you this morning. I think there is no doubt that you were furnished with a schedule or a list of codes by the Tribunal, isn't that correct?

A. I do recall such a schedule, yes.

Q. And in respect of A/A40, you noted the name John J Furze or John Furze, is that correct?

A. That's my recollection.

Q. And I think I put it to you that when you gave sworn evidence in the public session from which the public was excluded when you were asked to give names to enable the Tribunal put them on notice that access to their accounts was being sought, that you gave another name, I think I put that to you, didn't I, this morning?

A. I vaguely recollect that.

Q. I just wanted to be clear. You only ever indicated or wished to indicate that John Furze was attributable to A/A40, is that correct?

A. That's correct.

Q. In fact the error arises on my reading of the transcript where opposite A/A40 a name of an account holder not relevant at all is mentioned is not particularly referable to A/A40?

A. Thank you for that clarification, Sir.

Q. That is correct?

A. That is correct I believe.

MR. DEVITT: I think Mr. Collery would also welcome an opportunity to clarify evidence that he gave in relation to his visit to the Cayman Islands and I have mentioned this to Mr. Coughlan.

MR. COUGHLAN: Very good, do you wish to clarify

A. I was asked a question I seem to recall, did I discuss my visit of the Cayman with any person?

Q. Yes.

A. And yes, I would have discussed it with Mr. Sam Field-Corbett in social circumstances.

Q. Yes. Social circumstances?

A. Correct.

Q. Now, I think before lunch I was asking you about the reason why the true identity of the client A/A40 was not brought to the attention of the Tribunal but I want to go back again if I may just for a moment to the meeting you had with Mr. Foley at Dublin Airport.

A. Okay, Sir.

Q. Now it's your recollection, Mr. Foley will give his evidence and his recollection is not the same as yours, you understand that he says he has informed the Tribunal he came looking for statements and you understand that?

A. I do, I do indeed, yes.

Q. And he, in his statement furnished to the Tribunal, does not allude to any suggestion that he informed you that the monies held by Mr. Traynor were in the joint names of himself and his daughter but your recollection is different?

A. That's correct.

Q. I just want to make it clear what Mr. Foley will say. Now you say that at that meeting you were in a position to bring him up to date in relation to the balances of the account up to a certain date, is that correct, you would have been in a position to do that?

A. I would have been in a position. I had just come back from Cayman. If I were asked what were the balances of the account, as I have stated earlier the number of accounts had decreased significantly so it wasn't a difficult thing to remember the balance of that one account.

Q. Yes. And I think you have also said before lunch or correct me if I am wrong in taking this up, that you would have informed him that if he needed further information, that he should contact Mr. Barry Benjamin, is that correct?

A. Yes, that was my standard position in relation to that, yes.

Q. Now, I think that you had told the Tribunal that before you had given him the €50,000 back in 1995, you had informed him that his funds were under the control of a Mr. John Furze, is that correct? Maybe I am mistaken about that. When he first of all contacted you to withdraw some money

back in 1995.

A. It was in the conversation or during the meeting

Q. Yes, I am not really concerned

A. Yes.

Q. But you think you would have informed him the funds after Mr. Traynor's death were under the control of Mr. John Furze?

A. Yes, because at that time and again under the circumstances I was withdrawing totally, I was doing this as a favour and I was informing everybody that I met from now on, the person to contact would have indeed been Mr. Furze.

Q. Very good. And at this meeting in 1998, the summer of 1998, of course Mr. Furze was now dead.

A. Correct.

Q. And if you were informing Mr. Foley or anyone else to whom you spoke that they should contact Mr. Barry Benjamin, Mr. Barry Benjamin would be a stranger to them, is that correct? They would have no knowledge of Mr. Barry Benjamin, would that be correct?

A. That is correct and many feel Mr. Furze may have been a stranger to many people as well.

Q. How were people to contact Mr. Barry Benjamin?

A. I would have given them the phone number.

Q. You would have given them the phone number for Cayman?

A. For Cayman.

Q. Would you have explained who Mr. Benjamin was?

A. No, I wouldn't.

Q. You would have given the phone number for Cayman?

A. Of Mr. Benjamin's office, yes.

Q. And the name?

A. And his name.

Q. And had you ever given Mr. Furze's phone number to anybody?

A. I am sure I had, if people yes I would have, I am sure I certainly would have.

Q. And did you, I am taking this now in general terms, not just in relation to Mr. Foley, you would have informed these clients that they should make contact with Mr. Barry Benjamin?

A. That is correct.

Q. And can I take it that you were satisfied that you had identified to Mr. Benjamin who the appropriate clients were and that they were the people who were entitled to access to the monies?

A. They certainly had.

Q. And you are satisfied of that?

A. Or, in essence, it was his decision-making after that.

When the persons contacted him, what you know, what he would require in terms of proof that they were beneficiaries of those accounts, you know I'd leave it to him to make that decision.

Q. How could he make it?

A. I have no idea.

Q. Well let's just be clear about this now. You had kept the records in relation to these accounts nonstop, isn't that

correct?

A. That is correct.

Q. In fact going back to the late seventies, early eighties, is that correct, in Guinness & Mahon in the first instance and then outside Guinness & Mahon?

A. On Mr. Traynor's behalf, I kept the records.

Q. You kept the accounts, let's put it that way. You physically kept the accounts.

A. I was the I filed them but I was retaining them on behalf of Mr. Traynor.

Q. I am not going to get into that. You carried out the transaction.

A. I did, yes.

Q. You knew you could in fact trace the monies on the accounts, couldn't you, if you had gone through the exercise of just putting together all the statements, you could see all the transactions, isn't that correct?

A. With in relation to whom a general comment or specific?

Q. Yes, yes, yes.

A. Yes, I would have been able to trace transactions but I wouldn't necessarily know who the recipients of the funds were.

Q. Ah now, Mr. Collery, let's not go back over that again.

A. Pardon?

Q. Let's not go back over all that again. The files were in Traynor's office.

A. But I didn't have access at that time I didn't have access to those files, Sir.

Q. The files were here in Dublin.

A. Yes, they were indeed.

Q. Not in Cayman.

A. Yes.

Q. And you went through an exercise with Mr. Furze on Mr. Traynor's death when the files were removed from 42 Fitzwilliam Square and taken to the offices of MIS in Inns Court, isn't that correct?

A. That is correct, Sir.

Q. An exercise was gone through there of destruction of some files that were obsolete, would that be correct?

A. That is indeed correct.

Q. You were involved in that exercise?

A. I was.

Q. You saw those files?

A. I did.

Q. You knew who they referred to?

A. I would have seen names on them, yes.

Q. And you had kept the records of the actual statements referable to those files over the years, isn't that correct, by code?

A. Yes, I did.

Q. And this was a Dublin operation, isn't that correct?

A. The operation was carried out in Dublin, yes.

Q. So isn't it safe to assume that more was known about it

here in Dublin than there was by Mr. Furze in Cayman?

A. I wouldn't think about it, I think Mr. Furze would have known everything about it.

Q. Exactly the same information that was available here in Dublin, is that right?

A. I would think so, yes.

Q. And are you saying so that apart from the statements being sent out, the correspondence on the files in Dublin was also copied and sent to Cayman, is that what you are saying?

A. No, I am not saying that but I believe when he came to prepare accounts as he did once a year

Q. he would go through them with Mr. Traynor?

A. Exactly, so the information would be available to him.

Q. In Dublin?

A. In Dublin, yes.

Q. And all of this information, as far as you were concerned, was an accurate account of who was involved, would that be fair to say? There was no falsification.

A. No.

Q. And it was a clear record of those people who were beneficially entitled to the monies, isn't that right?

A. That is my understanding, yes.

Q. And that information was either conveyed to Cayman in one of two ways, some of it may have been taken back by Mr. Furze after Mr. Traynor's death, is that correct?

A. That is correct, yes.

Q. Some it went back to Ansbacher

A. That is correct.

Q. at the completion of the McCracken Tribunal, is that correct?

A. Well I don't think it was it was during the

Q. Around that time.

A. Yes.

Q. And you went to Cayman and were able to bring matters up to date or fill in any gaps which existed on your visit, isn't that correct?

A. That is correct.

Q. So there can be little doubt that it was conveyed to Mr. Benjamin in Cayman who was entitled to this money?

A. Absolutely, yes.

Q. Now when you informed people here who approached you or whom you approached - I am not really concerned how the contact was made - did you inform these people that if they needed further information and contact Barry Benjamin, that they would have to establish some sort of a legal proof to satisfy Mr. Benjamin that they were entitled to access to their own money?

A. No, I wasn't aware of

Q. Any such

A. any such arrangement.

Q. You were quite happy that matters had been brought up to date, it was possible to trace the whole thing and you had filled in any gaps which may have existed appropriately, is

that correct?

A. Well, I done the best I could in doing, in giving him the information that I had, that accounted for the funds in the accounts.

Q. Well I think you have already said to us there that it was his decision after that, that's what you

A. Absolutely.

Q. What I want to get is a fact here that when you left Cayman, it was possible to establish who was entitled to the money, every single penny, isn't that correct?

A. Yes, as per the schedule of the listing, I had listed those names and amounts against them.

Q. Yes. You had no doubt about it?

A. In my mind

Q. You have no doubt and that was put together from the documents which you had and from the records that you had of bringing the balances up to date on statements on a regular basis, is that correct?

A. As I said earlier, I brought the balances from the 31st March '86 up to the 31st July sorry, '96 to '97 and I reconciled that with the balances in the main accounts in Cayman.

Q. '97 to '98 it must have been.

A. Sorry, '97 to '98.

Q. And in fact you have informed this Tribunal that as a result of hearing from this Tribunal that people were having difficulty getting information about their state of

affairs from Mr. Benjamin, that you were concerned for your own reputation and it was one of the reasons why you went to Cayman to make sure matters were properly brought up to date and everything was all right, isn't that right?

A. That's right.

Q. And there was a proper record of who was entitled to

A. Yes.

Q. Now, I want you to look at a newspaper article that appeared in yesterday's newspaper the Irish Times and the Tribunal has ascertained from Mr. Colm Keena that he did have a conversation with Mr. Barry Benjamin and that this is an accurate report of that conversation.

A. Yes. (Document handed to witness.) There's nothing else over and above that. It's the first chance I have had to see this.

Q. I will go through the article and if you need further time to respond to anything, of course you are entitled to that time. Perhaps we will go through the article in the first instance.

A. I am happy to do that.

Q. I am going to go into the main body of the article. Very good.

"A Cayman Island businessman who has control over at least some of the money in the Ansbacher deposits has said the legal position is that the money belongs to the Cayman banker, the late Mr. John Furze.

Mr. Barry Benjamin said he knew that in fact the money belonged to a number of people, most of whom are Irish residents but he needed legal proof of this.

He said that at the moment, the only documentation available showed the money belonged to Hamilton Ross Company Limited, a Cayman company owned by Mr. Furze. Mr. Benjamin is executor to the estate of Mr. Furze. He said that any depositor who wanted to be given information about his or her account or make a withdrawal would have to produce proof that he or she was the true owner of the account. The Kerry TD, Mr. Dennis Foley is among the people affected. His account is understood to contain in excess of Stg €130,000.

Hamilton Ross formed part of the Ansbacher deposits and controlled the account owned by Mr. Charles Haughey. When Mr. Furze left the Ansbacher Cayman bank in 1995, he took some of the deposits he controlled with him to Hamilton Ross. Sometime after Mr. Furze died Mr. Benjamin received a list showing who owned what. However he said he needed legal proof that a particular person writing to him seeking information was in fact the person listed as having money in the deposits. Otherwise he is precluded under Cayman law from even replying to the person's letter.

When Mr. Benjamin received correspondence from the Moriarty Tribunal recently containing letters from depositors authorising him to disclose information about his affairs,

he took the view that the letters were not sufficient ownership of the account. He did not reply to the Tribunal."

You are aware that people did furnish such letters?

A. Yes, and if I were asked should they sign such letters, I actively encouraged that.

Q. Yes. And again, "... I need a third party verification, Mr. Benjamin said yesterday, "If anyone does not get information from me, it's because I don't have the authority to provide it. I don't have any documents that show this money belongs to anyone other than John Furze, though I know that is not the case."

He said he had released money in some accounts after being convinced it was proper to do so. In March 1997 as it became clear that the discovery of the Ansbacher deposits were imminent, Mr. Furze closed most of the accounts he controlled in Dublin and moved the money back to Cayman Islands. Mr. Foley's money was moved. It is not clear if Mr. Haughey's money was moved. Mr. Benjamin said he took instructions in relation to Hamilton Ross accounts from a person from whom he had been told by Mr. Furze to take instructions. Mr. Furze gave the instructions as he was about to undergo a heart operation from which he never recovered. Mr. Barry" - I presume that's Mr. Barry Benjamin "said he could not reveal the identity of the person giving the instructions. "That's something that

will never come out". It was revealed last week that the money had been taken from the depositors' account without their permission to pay legal costs Mr. Furze incurred in 1997 when he effectively fought the disclosure of the information to the McCracken (Dunnes Stores) Tribunal. Mr. Benjamin said he apologised for money being taken out of people's accounts. "I am really sorry but I was taking instructions. John Furze went to court to protect the other people, not to protect Charles Haughey."

The Tribunal heard last week that Stg œ5,000 was taken from Mr. Foley's account and that Mr. Foley will tell the Tribunal this occurred without him being consulted.

The former Guinness & Mahon Banker Mr. Pdraig Collery who looked after the accounts of Hamilton Ross in Dublin up to March 1997, travelled to the Cayman Islands in July 1998 to help Mr. Benjamin organise the company's books. Last week Mr. Collery apologised to the Tribunal for doing this and not informing the Tribunal. "He did it at my request and I feel bad he is taking some heat for that," Mr. Benjamin said."

Now, apart from you and Mr. Benjamin, have you ever been aware that there was any other person involved in the Hamilton Ross matters when you went to Cayman in 1998?

A. No, I am not. The only person that I understand is involved in Hamilton Ross but as a director is Mr. Furze's wife and that's the only other person

Q. She is a director of Hamilton Ross?

A. That's as I understand it to be.

Q. I want to be clear about this now. Were you ever aware that Mr. Benjamin took instructions in relation to Hamilton Ross accounts from a person from whom he had been told by Mr. Furze to take instructions?

A. I am not aware who he is talking about there.

Q. No, that's not the question I asked you. Listen carefully, Mr. Collery. Were you ever aware that such a person ever existed?

A. I was not aware that such a person ever existed.

Q. And to this day you are still not aware of such a person, if such a person

A. If such a person exists.

Q. And when you were in Cayman in 1998 with Mr. Benjamin, was the information which you were given something that he needed to bring the state of affairs up to date?

A. There were, there was lots of information there but he needed my assistance to collate the whole thing into a consolidated record of reconciling the actual balances to the balances in the account.

Q. In respect of individuals?

A. That is correct.

Q. That is something you did or assisted him in doing?

A. I did assist him.

Q. Did you have any doubts at that stage that the information was truly available to show who was entitled?

A. I believe that the names were associated to the accounts, the A/A X accounts, the annotated account and from where I sat at that point then, I had now fulfilled my obligation in giving that information to him to carry out his duties.

Q. And at that time when you were carrying out this transaction and the deductions were being made, that was done in your presence specifically on the instructions of Mr. Benjamin and nobody else?

A. That is indeed correct.

Q. And there was no other person involved?

A. Not involved. Obviously in the office and surrounding offices there were people there but

Q. But there was no other person involved in what you were doing?

A. That is absolutely correct.

Q. And can I take it that by your presence, you were able to verify to Mr. Benjamin when you were present that these individuals were entitled to those balances which you had brought up to date.

A. To the information that was available to me and indeed in some cases because I had paid funds out of those accounts to individuals, I believed that, yes, these were the cases. In some cases, obviously there were trusts involved

Q. Yes.

A. And he obviously had to deal with that himself but on the individual cases

Q. On the individual cases

A. Yes.

Q. you were able to verify to him as the person who had kept the record that these were the people who were entitled to those balances?

A. From the records that I had, from the records that I received in 1994 in the takeover and in reconciling all of those things, it was quite an extensive exercise, in my mind, you know, I gave that information to him. Now, I believed whatever he had to do with that information then would place the obligation on him.

Q. Well, what I am really trying to deal with here is a quotation from Mr. Benjamin, "I need third party verification..."

MR. DEVITT: Sir, I regret to interrupt Mr. Coughlan again but he has used this article from the Irish Times which apparently appeared yesterday. It's written by Colm Keena and it apparently is an interview of somebody who is outside the jurisdiction. Now, what I don't want to happen and is that Mr. Collery has been asked to test his evidence against the accuracy or the veracity of what appeared in yesterday's Times because if that is the case

CHAIRMAN: It is clear, Mr. Devitt, I think you have to remember this is not an adversarial civil case, there is inherently a necessary latitude in the task of the Tribunal

lawyers in trying to uncover facts which means on occasion strict evidential rulings in, for example, a High Court civil action as regards hearsay evidence do not apply and it appears to me that in this particular context, the content of the article is material. I shall certainly see that you have a full opportunity to examine your client in due course and that any versions relating to fairness to him will be fully observed but I believe in the circumstances of the essential fact finding task of the Tribunal, it is appropriate and indeed necessary that the content of this article be inquired into.

MR. DEVITT: I accept that, Sir. I am reassured.

Q. MR. COUGHLAN: Just to be clear and to deal with the fear My Friend has just expressed, just let's be clear about this. I am not testing your evidence against the article, Mr. Collery. What I am dealing with is dealing with the statements attributed to Mr. Benjamin. What I am asking you is for your understanding of the situation and try and ascertain the facts insofar as you can relate them to the Tribunal. That's all.

Now, the suggestion that there was a need for a third party verification, the only verification could have come from the records which had been maintained here in Dublin originally, is that correct?

A. Yes, but, you know

Q. I am just saying, I want to ask, isn't that correct?

That's how you'd verify that was the record?

A. That might be the balance of the account, you know, maybe I am misunderstanding the question.

Q. Right. Well we will split it up into two. First of all, there's the balances on the accounts which are coded and that is the record of what was happening on those accounts, isn't that correct?

A. That is correct.

Q. And the original of that was kept in Dublin and a copy was sent to Cayman.

A. That is correct.

Q. In Dublin before Mr. Traynor's death and for some short time afterwards, there also existed the files in relation to these individual coded accounts which would have disclosed the identity of the people entitled to the balances, isn't that correct?

A. That is correct and some of those files still exist, yes.

Q. And that was the record of verification. That's the record

A. Of the balance

Q. Not just the balance but files which would identify the people who were entitled to those balances, isn't that correct?

A. Yes, that is correct.

Q. They were removed from 42 Fitzwilliam Square, they were taken to Inns Court, isn't that correct?

A. That is correct.

Q. Mr. Furze and you went through an exercise then in destroying some of those files or portions of files which were, in effect, obsolete, isn't that correct?

A. That's as I understand it, yes.

Q. And there continued to exist the files which were the live files, isn't that correct?

A. To a large extent, that is correct.

Q. And some of those were kept here in Dublin, isn't that correct?

A. The files?

Q. Yes.

A. Yes, were kept here in Dublin.

Q. And did Mr. Furze take some of the files back to Cayman or did all the files stay in Dublin initially?

A. No, Mr. Furze, as I stated previously both in the McCracken and this Tribunal, did take some files back with him.

Q. Took some files back?

A. He did indeed.

Q. So therefore I am just trying to deal with this statement with Mr. Benjamin about verification and see where the record exists.

A. Okay.

Q. Some of the files continue to remain in Dublin, isn't that correct, right up to the time of McCracken?

A. They still exist.

Q. And some still do. That's fair to say.

A. Absolutely, yes.

Q. And those that don't went to Cayman.

A. I believe that to be the case, yes.

Q. Well don't you know it? Didn't Mr. Furze take them?

A. He did take files. I am saying I don't know if there's a file for every account.

Q. Very good. So you have given evidence that from the period of Mr. Furze leaving Ansbacher and moving Hamilton Ross out, that his administrative affairs were not in order, they weren't the best, if I could put it that way.

A. They weren't up the standard I would have expected.

Q. And part of the function fulfilled by you on the visit to Cayman was to bring the record up to date and get it right, isn't that right?

A. It's purely a financial reconciliation.

Q. Get it right.

A. Absolutely.

Q. Can you explain to me or do you have any knowledge of what further step a client could take other than contacting the person and saying "I am Joe Bloggs, I am A/A whatever number, this is proof of my identity," what other step could be taken as regards third party verification?

A. I am giving you my opinion and it may not be absolutely correct but there are two ways I suppose of establishing one's identity.

Q. Yeah?

A. One is your passport, it's a generally recognised document.

Q. In banks

A. Particularly in banks and I presume that an affidavit of some sort and I don't know the legal implications of this

Q. Very good.

A. Supporting that this passport indeed represents the person that is in front of me, a notary public or something of that nature that this is indeed so some legal document which would support the passport I would presume.

Q. Support

A. Support the identity.

Q. Support the identity of the person so what we are talking about, it's not unreasonable that anyone, a bank would always look for identification, particularly in relation to large amounts, isn't that right, if the person isn't personally known to them?

A. Yes.

Q. But that's only as regards to identity, isn't that correct, that's all that's necessary? Are you sure about that or can you say any other

A. I am pretty sure that it's a standard, it's an acceptable thing within banking that if I, if my son or your son or daughter were abroad and ran short of funds and you or I remitted funds to a bank in wherever they may be, a standard procedure is that the person would call to the bank with identification and collect the funds and that identification would be acceptable - the passport.

Q. Yes. Is there any reason why a request after all you were asking or telling people if they wanted further information to contact Mr. Benjamin, is there any reason why somebody writing to Mr. Benjamin or telephoning Mr. Benjamin and asking for a statement on their account should be precluded from having that information?

A. I can't see any reason.

Q. Any reason at all.

A. Any reason at all. Now, whether the laws of Cayman now preclude him from doing so, I am not aware of that.

Q. You mean that there would be a law in existence which would prevent a person from having access to their own financial information?

A. I am only reading from the document, I don't want to be provocative in the case of that, I am leaving that sentence there and personally I believe if sufficient identification is given in the form that, and that's one possible way I am sure there are others if we thought

Q. Can I come at it another way. Would you have been telling people they should contact Mr. Barry Benjamin for information when you were aware there was a law in Cayman which precluded him from giving the information?

A. Absolutely not, I encouraged people to

Q. This comes as news to you?

A. It certainly does.

Q. And are you surprised that in light of the requests for information made by these depositors for the purpose of

assisting the Tribunal and not made under the compulsion of any order at all that Mr. Benjamin has failed to comply with such requests?

A. I am indeed.

Q. Can I ask you this, are you aware if Mr. Benjamin had knowledge of the fact that you were requested sorry, I beg your pardon, that you were required to give evidence under oath at a public sitting of the Tribunal from which the public was excluded to disclose the names of people to enable the Tribunal put them on notice that access was being sought to their accounts either voluntarily or otherwise?

A. I beg your pardon, I have missed the thrust of that

Q. Very good. You were required to give evidence to the Tribunal at a sitting from which the public was excluded

A. Yes, I was.

Q. To protect the constitutional rights of people, privacy in their banks accounts, to first of all inform the Tribunal of who the people were so that the Tribunal could make contact with them and in the first instance ask them if they were prepared to assist the Tribunal and/or if necessary, to make any orders that were required, isn't that correct?

A. That is correct.

Q. Did Mr. Benjamin in Cayman know that you were doing that?

A. Yes, he was and I made him aware that I was indeed cooperating fully with the Tribunal.

Q. Yes. And again, because this was to do with Mr. Benjamin, were you able to inform Mr. Benjamin either personally or through lawyers of his, that you had made this information available to the Tribunal?

A. Yes, he would be aware that I made all the information available to the Tribunal.

Q. Yes. There's no criticism in it and that he would have been aware of whom you had identified as being referable to various accounts, would that be fair to say?

A. By default he would. I wouldn't have yes, he would have been aware.

Q. And that you had attributed the account A/A40 to John Furze?

A. I don't know whether I went down to that detail with him but he certainly was aware that all the accounts that we had gone through the accounts in detail and that I would have attributed names to those accounts.

Q. Well it's quite significant, isn't it, that and this is what I want to ask you about you were informing him because he was the person who had control over the funds at this stage?

A. Absolutely.

Q. And he was being put on notice by the Tribunal or Hamilton Ross Hamilton Ross and I want to ask you this, can you remember what you actually informed him that did you inform him I gave them such and such names and they were referable to such and such a code?

A. No, I don't think I no, I didn't say here's a list and it would have been a general statement with all the information, all the files, all the cross references that I had been able to do and to the best of my knowledge have been given to Tribunal so everything that I have the Tribunal has. Words or something in that general kind of statement.

Q. Now, of course that wasn't correct either, was it?

A. And that wasn't correct, yes.

Q. Well, did you tell Mr. Benjamin that?

A. I don't recall that I did.

Q. Well now, this is kind of crucial, Mr. Collery. Is it that you can't recall or that you didn't tell him?

A. I cannot recall. As I say, we went through the remaining accounts that were there and we allocated the names to those accounts with the help of the records that I had and I am now thinking what actually happened on the day, then in that case I would have to believe that in the record that I had, I would have 'J Furze' against that account.

Q. Yes.

A. Because it would have been there were at least two other accounts that had 'J Furze' against them which the names have now subsequently changed to the individuals.

Q. That's what I want to ask you about. You weren't, as far as Mr. Benjamin was concerned, you weren't dealing with an enormous list of names, isn't that correct?

A. No. The names

Q. As far as Mr. Benjamin was concerned

A. That is correct. The amounts of live balances that were now

Q. In Hamilton

A. in Hamilton Ross at this time have substantially decreased.

Q. There's still a substantial number of people involved in relation to Ansbacher still, is that correct?

A. That may well be the case, I am not aware.

Q. I just want to distinguish Ansbacher from Hamilton Ross at this period.

A. Understood.

Q. So Mr. Benjamin was talking about approximately how many names at that

A. It was nineteen or twenty.

Q. Nineteen or twenty. And when you were there, you were able to identify who they were referable to, is that correct?

A. That is correct.

Q. You then came to the Tribunal and in respect of A/A40, you wrote the name John Furze or J Furze, is that correct?

A. That is correct.

Q. And you informed, or am I correct, Mr. Benjamin of the names you had given to Tribunal and the codes they were referable to?

A. I think it would have been the reverse way around because I was with him previously.

Q. You gave them but he knew that you had informed the

Tribunal that A/A40 was J Furze, is that right?

A. I don't think he would have been aware of that because the list that I had brought back with me would have been 'D Foley' on it.

Q. Yes, I know that.

A. Yes, so I would have expected that he formed the opinion that I would have given 'D Foley' to the Tribunal. It would be reasonable because that's the record that he would have had there that I would have left there.

Q. He would have been left with the record of D Foley.

A. (Nods).

Q. Did Barry Benjamin know that you hadn't furnished the name D Foley to the Tribunal?

A. I don't think so

Q. Did he know that sorry, go on

A. you know, I presume that his assumption and again from the general conversation we had that I had given whatever names I had given to him, that those were the names that the Tribunal would have had.

Q. And would Mr. Benjamin have known that you hadn't furnished the documents to the Tribunal?

A. The handwritten ones?

Q. Or some of the other statements but that's the handwritten ones.

A. Probably not.

Q. He would have known you hadn't given them to the Tribunal?

A. I'd say he wouldn't be aware one way or the other. I did

not specifically advise him that I had or had not given those documents to the Tribunal.

Q. So far as Mr. Benjamin was concerned so, he had the name Dennis Foley or D Foley referable to A/A40, is that correct?

A. That's the list that I would have left, yes.

Q. And according to your evidence, you would have informed Mr. Foley that if he wanted further information, he should contact Mr. Benjamin?

A. That is indeed correct.

Q. And you would have given Mr. Benjamin's telephone number?

A. I believe I would, yes.

Q. Now, Mr. Foley provided a waiver to the Tribunal to allow the Tribunal have access to the information which Mr. Benjamin had. I think you are aware of that?

A. I'm not.

Q. And nothing has happened from Benjamin's end other than for the Tribunal to receive a solicitor's letter saying they had no instructions in respect of that. Does that surprise you?

A. It really does because all the information in relation to the account, you know, the Tribunal has so it has the statements from '92 onward. It has the balances, so...

You know, I cannot see why Mr. Benjamin has not replied to the Tribunal.

Q. When Mr. Foley specifically as the account holder or the client so instructed him to do.

A. Yes, I think more so I am surprised.

Q. Now, I think on the occasion which you gave sworn evidence before the Tribunal at the public [sic] sitting from which the public were excluded, you were asked by the Tribunal that if more information came to your attention, or documents, that you would so inform the Tribunal, isn't that correct?

A. I don't recollect but if it was, then I accept that that was the case.

Q. Perhaps I'll just I think after you had given a list of various or identified a number of matters, you were asked, "Now Mr. Collery this is the list to the best of your recollection and knowledge at this stage." To which you replied, "That is correct, Sir." And then you were asked, "You do understand that if any other names do occur to you, that they are names which you should bring to the attention of this Tribunal." And you answer, "As I have indicated, Sir, there is my list, I have done so and I have, as I have said previously to yourself, Sir, should you have any documentation you have in due course you feel you can show to me and I am able to help you, then I am more than willing to help you in identification of those."

A. Yes, and I will continue to do so, Sir.

Q. Now, but what you did is that you put documentation beyond the reach of the Tribunal, isn't that correct, which you had at the time?

A. As I said in relation to that documentation is the handwritten notes and indeed now, reviewing that position, I express my concern that it was important for me personally to (a) satisfy myself that all the funds were accounted for and that was my reason for creating those. If by default that is the position, but that was my prime concern in making that, in securing that documentation.

Q. You have apologised to the Tribunal, Mr. Collery, for putting the documentation beyond the reach or attempting to put the documentation beyond the reach of the Tribunal. Can there be any doubt in your mind but that you knew that this was relevant documentation to the inquiries being conducted by the Tribunal, any doubt at all?

A. I accept totally now that it is relevant documentation.

Q. And that you knew it was relevant, Mr. Collery.

A. I had a concern then. I expressed those concerns earlier.

Q. That's not the question I am

A. I do understand but I

Q. That may be between you and Mr. Benjamin what's going on in Cayman in relation to other people's money and that may be a concern, I understand that. My concern here is the task of the Tribunal carrying out the remit of the Oireachtas and you were aware at the time that you had documents which were relevant to the inquiries being carried out by the Tribunal?

A. In so doing, I now accept that.

Q. But you knew it at the time. You see, Mr. Collery, I come

back to the question and I'll come back to it over and over again and you may have to come back and give evidence again, Mr. Collery. The Tribunal wants to know why and the circumstances why you put this relevant information or attempted to put this relevant information out of the reach of the Tribunal?

A. As I say, there were circumstances and, you know, again I have to repeat and this supports some of my concerns which I was not aware of until we discussed it now of various aspects of this which I wanted to seek protection for myself.

Q. Protect yourself, I understand that.

A. And that was and if in so doing I made an incorrect decision and I accept now that I made a totally incorrect decision and it was clouded by this decision

Q. What decision?

A. By the decision to put those documents there, if that was incorrect and being clouded by my state of mind at that particular time, that is the sole reason why I did that.

That and no other.

Q. But, Mr. Collery, what you attempted to do was to put the documents relating, in effect sorry to put a document which would have disclosed that you had been to Cayman beyond reach of the Tribunal, isn't that correct? It had many other aspects to it as well, that's the first thing, it would have disclosed you had been to the Cayman?

A. Yes, I did not disclose that to the Tribunal.

Q. That an exercise had been carried out in the Cayman to bring the balances up to date in Hamilton Ross, is that correct?

A. I did not disclose that.

Q. This is what the document would have disclosed?

A. That is what the document would have disclosed, yes.

Q. That there were deductions for legal fees which were incurred on that occasion, is that correct?

A. That's what those documents would have shown, yes.

Q. And I know you say that there are two other names which were referable to John Furze but most strikingly, it would have disclosed that a member of the Oireachtas had an account in Hamilton Ross, isn't that correct?

A. Well I think, Sir, with respect, if I wilfully and I believe I didn't, if I wilfully went out to do, I wouldn't have come back with the document with those names on it. So I wilfully did not do that and that's what I contend.

Q. We will go back to that in a moment, Mr. Collery, but that's what the document would have disclosed, that there was a member of the Oireachtas a depositor with Hamilton Ross.

A. Yes, I do accept that.

Q. And you attempted to put all of that beyond the reach of the Tribunal, isn't that correct?

A. In my action I did achieve that, yes.

Q. That's what you did.

A. That's what I did, yes.

Q. Other inquiries were going on in respect of the Ansbacher accounts by other investigatory bodies, state bodies, isn't that correct?

A. That is correct.

Q. And I don't want to get into the detail of who they were but can I take it that in respect of some of those, you would have furnished information or been compelled to divulge information in respect of matters?

A. Yes, I did.

Q. And can I take it that you did not divulge to any other state agency or body carrying out investigations in relation to the Ansbacher accounts the identity of A/A40?

A. Other than the authorised and this is since in the latter couple of months, I did not divulge that name but I now have obviously given the information to those state bodies.

Q. Only after the Tribunal discovered the documents.

A. That is correct.

Q. That's the point I am trying to ascertain. Before the Tribunal obtained the documents, you did not disclose to any other state agency the true identity of A/A40, isn't that right?

A. That is correct.

Q. Or the existence of the documents?

A. That is correct.

Q. And can I take it that like the Tribunal, you allowed state agencies carrying out these inquiries to believe there were

no other documents?

A. By my action, yes I did.

Q. Can I take it that you are aware that these were very serious steps which you took? You were aware of that.

A. I am now aware of that, yes.

Q. And I take it that at the time you understood the legal obligations you were under in respect of the assistance you were rendering the various inquiries?

A. Yes I did.

Q. And are you informing this Tribunal that you did all of that without discussing it with anybody?

A. As I said, other than socially discussing with my colleague Mr. Sam Field-Corbett that I had been to Cayman and I did some accounting reconciliation, yes

Q. But that was just, that was informing him of something you had done generally?

A. That is correct.

Q. But this serious step of attempting to put relevant information beyond the reach of the various inquiries, you did not discuss that with anyone?

A. I did not discuss that with anyone. As I say, my judgment was totally clouded by this protecting these documents for myself.

Q. What protection were they affording you? How could you use them? We will have to come back to that another way, Mr.

Collery. What protection were they to you?

A. If, down the road, there was a dispute and I am totally

surmising here now, if somebody had a dispute and somebody undoubtedly with this document there will be somebody having a dispute with Mr. Benjamin, that I was in a position to say "Mr. Benjamin, I was able to account for all the funds that was transferred to you out of my control and I have accounted there for them and there is the record of that."

Q. I can understand that, Mr. Collery. I can understand that there might be a concern that somebody whom you didn't really know - Mr. Benjamin was taking over control of accounts which you had participated in their operation.

A. Yes.

Q. That there might be a suggestion that you had in some way hived off some of the funds or something of that nature and I could perfectly understand that you would wish to have a record to enable you to defend yourself if such an allegation was made. Absolutely. That is perfectly understandable. But how does that in any way, how does that in any way interfere with you giving the documents to the Tribunal?

A. As I say, my judgment, my reasons, whatever they were, of holding these to myself for my own protection and that's the only reason for these documents was a bad decision, bad judgment.

Q. It was all of those things, Mr. Collery.

A. Yes, it was.

Q. I am not saying it wasn't and I understand you wanting to

protect yourself and have something to defend yourself with but how can that be the reason for, in the first instance, giving the wrong information to the Tribunal, and in the second instance, concealing the true information from the Tribunal? How did that assist you in defending yourself? Didn't it make it just more difficult for you to do so?

A. It certainly has done that now.

Q. No, just think about it and the reasons you are giving me because you are going to have to face up to this and you are going to have to assist the Tribunal and if necessary come back again, because your suggestion that keeping the documents, concealing them from the Tribunal and giving erroneous information to the Tribunal were all something that could have assisted you in defending yourself if an issue ever arose that you had made off with some of the funds, is that what you are seriously asking this Tribunal to believe?

A. Well that's what I thought at that particular time.

Q. I am asking you, is that what you are asking this Tribunal to believe seriously?

A. That is the way that I thought.

Q. In fact, let's be clear about this now, Mr. Collery, how would you ever have used the documents to assist you?

Wouldn't the documents in fact have potentially implicated you in perhaps matters like potentially I am just saying potentially breaches of exchange control or other matters maybe pertaining to revenue?

A. Well

Q. Isn't that right?

A. Well I didn't think forward. I thought of the then position and that's as I did. I was not thinking of the future. I just thought this is what I have got to do, I have an opportunity to do it. I did it. I didn't sit down to methodically think if in the future something like this happens, what implications I might have.

Q. That's what you have just told us. You told us that you kept these documents, attempted to conceal them from the Tribunal and other state agencies carrying out investigations because you wished to use them to defend yourself.

A. And that I would have done.

Q. You must have thought something might happen down the road and I want to be in a position to defend myself?

A. I did.

Q. Let's carry that through and let's carry it through now, Mr. Collery. How did you think you could have used them to defend yourself?

A. I would have produced them.

Q. To whom? To whom?

A. To whoever was if it were a time somebody was suing me I would have obviously brought those documents forward.

Q. Mr. Collery, isn't that just fiddlesticks. Nobody

A. I know

Q. Nobody who was going to sue you in respect of matters

which were offshore? Now, Mr. Collery, come on, who was going to sue you or where do you think you were going to be sued?

A. There were people who have written, as you say, given signed documents and they are not able to get information.

Q. Yes. And isn't that all the more reason to give the information to the Tribunal? Like, who was going to sue you? Let's think about this. When we come to deal with the general way the accounts were used to back loans, like, how could the person risk surfacing by suing you? Let's live in the real world now

A. I am not a legal expert.

Q. You live in the real world, come on.

A. That was, that's the way I thought at that time. I reiterate that. My judgment was not right. I didn't think of the consequences in the future in the event of

Q. Very good. You could have just kept copies, is that right, and given them to the Tribunal and that would have been sufficient for your purposes?

A. Yes it would.

Q. Or you could have got the documents back from the Tribunal at the end of the Tribunal's deliberations, whatever, isn't that correct? Isn't that right?

A. That is correct. If we analyse the documents with the exception of the list, you know, they are purely financial records coming from one date forward so, you know, in their own self, they really are an extension of the documents

which is already in existence so there's nothing in that way

Q. But what is hugely significant, isn't it, whatever about wishing to have documents to defend yourself, you had informed the Tribunal when you knew that a member of the Oireachtas was an Ansbacher account holder, if I could use it in its broadest sense of the word, and you knew that there was a Tribunal of Inquiry carrying out inquiries in relation to this matter and this was relevant to its inquiries, isn't that right?

A. That is correct.

Q. And you consciously took the decision to give the Tribunal the wrong name attributable to the account, isn't that correct?

A. That is correct.

Q. And then you attempted to put the documents which would disclose the true identity beyond the reach of the Tribunal, isn't that correct?

A. By the actions which I did, yes.

Q. How could any of that have assisted you in defending yourself? And we will keep at this, Mr. Collery, we will keep at it, let me assure you, we will keep at it.

A. With respect, Mr. Coughlan, I am giving you exactly how I felt at the time, my decision-making reasons at the time and those are truly what I did. Whether they would be substantiated in the future, I didn't even think about that. Whether they could or could not be produced, that

did not enter my mind. As far as I am concerned from an accounting point of view and banking, I had now accounted for all the funds that were transferred from when I had control into the control of Mr. Benjamin. I had broken those down, I had calculated the interest, I was satisfied that each of the individuals from the time when they left my control to the 31st July were properly allocated, the interest which had accrued on the main account and that now that was secure and it was now Mr. Benjamin's responsibility to take it from there.

Q. Yes? And? And? What had that got to do with concealing them from the Tribunal? What had that got to do? I understand what you were doing, that isn't the issue, Mr. Collery. I want you to focus on the question I am asking you the whole time. Wasn't it or do you not consider it significant - significant, that you concealed the identity of a Member of the Oireachtas in the Ansbacher accounts from this Tribunal?

A. May I just say, step through in my thought process.

Q. Answer the question.

A. I do apologise.

Q. Isn't it significant? Isn't it extremely significant?

It's a fact that's significant that you concealed the identity of a Member of the Oireachtas from this Tribunal who had an Ansbacher deposit.

A. I have accepted that.

Q. It's true isn't it?

A. It's true.

Q. It's significant. Now just think about that now, Mr. Collery, just think about that. What was that to do with defending yourself? What was that to do with it?

A. I have thought long and hard about this, I can assure you. It's occupied my mind since last November and nothing else. I can bring you back to the circumstances of the meeting at the airport and as I said, where in the course of the conversation and I accept that I had given Mr. Foley €50,000 in 1995 where the conversation and it was general conversation, it wasn't point by point conversation where we talked about the joint account that was in Guinness & Mahon, the fact that it was in the joint names, the circumstances that led to Mr. Foley's making that decision of moving the funds into the joint names and I accept your client, you know, I should have come to the Tribunal and said "I am not sure about this because..."

Q. We all know you should have. I want to know why didn't you? I want to know why didn't you? We all know you should have

MR. DEVITT: I'm interjecting again but Mr. Collery was giving his evidence and to the best of his ability. He was trying to say why he had done certain things and Mr. Coughlan is interrupting without giving Mr. Collery a fair chance. He is volunteering, he is going through his evidence.

CHAIRMAN: I don't think there's been interruption, Mr. Devitt. As I understand the present situation, on what seems a necessary query that Mr. Coughlan has to pursue, it seems your reasons advanced thus far are of a twofold nature. In the first instance, you seem to have said before lunch that you were concerned Mr. Foley's account may have been a joint one with his daughter rather than a single one although you agreed with Mr. Coughlan you subsequently furnished additional documentation by post to Mr. Foley and in more recent evidence you have stated you felt you needed these documents for your own protection against possible contingencies in the future.

Now, without prejudging the entire situation as regards any findings of fact that I may have to make, Mr. Collery, it doesn't at this juncture seem that either or both of those reasons are particularly plausible in persuading you to take the serious course that you have accepted you took and that is why the matter is being pursued by counsel, is it the case, Mr. Collery, and I do ask you to very earnestly address the full position in this regard, is it the case that there could have been some influence or pressure or inducement brought to bear on you as regards this part of your potential evidence?

A. I will answer that question. There has been no pressure, no inducements sorry there was a third thing you mentioned absolutely, other than the facts that I have just outlined for me personally. There has been no

external influence, inference, whatsoever that influenced me to make that decision. I have processed as best I can the two events run very close to each other, the meeting of Mr. Foley and coming back with the statements because as I said earlier, if I had wilfully gone out to not divulge the true owner of A/A40, then when I was in Cayman I would not have put 'D Foley' on that list. So one was phase one and then phase two followed very, very quickly and so the two things in my mind led to me making a decision which, as I said on many occasions now, was incorrect, wrong and I was wrong in doing that and that is the only reason why I did it.

Q. MR. COUGHLAN: If I could just take up your response to the Sole Member there, Mr. Collery, you have offered us an explanation that if you had wilfully gone out to Cayman to not divulge the true owner of A/A40, you would not have put D Foley on that list. Might I suggest to you that it was when you were back here in Ireland and you had the list that you wilfully set about not divulging that to the Tribunal and attempting to put it beyond the reach of the Tribunal, isn't that correct?

A. I don't accept that at all.

Q. So are you telling the Tribunal that when you came back from Cayman, it was your intention to inform the Tribunal that A/A40 was D Foley? Is that what you are telling the Tribunal?

A. I am saying to the Tribunal when I came back from Cayman, I had the list with D Foley on it and that is something I accept.

Q. At that stage are you suggesting you were going to tell the Tribunal who it was?

A. I didn't tell the Tribunal at that time.

Q. I know you didn't. I am asking you when you came back from Cayman are you saying you were going to tell the Tribunal who it was?

A. That was in late July, in fact it might have been the first week in August. We now know that I met Mr. Foley in August of 1998 so

Q. Yes. And

A. And this conversation to which I referred to occurred at that time.

Q. Just listen to the question for a moment, Mr. Collery. Are you saying to the Tribunal that when you came back from Cayman with the list and with the name D Foley on it, that it was your intention to give that information to the Tribunal?

A. I don't know what my intention was at that stage but certainly confusion arose afterwards

Q. Hold on a second

A. Which forced me by my decision I didn't give that information.

Q. You have attempted to suggest that if you were to set about wilfully concealing information from the Tribunal that you

would have not put the name on the list you brought back from Cayman. What I am asking you now is when you came back from Cayman with the list and the name on it, was it your intention to inform the Tribunal about that?

A. I don't know what my intention was in relation to that specifically. I had a list, there and then almost immediately I had a meeting with Mr. Foley.

Q. I just want to get very clear now. You are saying that Mr. Foley informing you that he intended the monies under the control of Mr. Traynor to be in joint names caused you confusion or hesitancy which resulted in you giving a false name to the Tribunal attributable to A/A40, is that right?

A. I think what I said was in the joint names or had in his daughter's name I think it was that he

Q. If it transpires that that conversation or the Tribunal finds that that conversation did not take place like that, in other words, that Mr. Foley did not say that to you, was there any other reason why you wouldn't have brought the names to the attention of the Tribunal?

A. I would not with respect, Sir, I wouldn't (a) I had no way of knowing the reason for that decision by Mr. Foley in that it was

Q. The reason for what decision?

A. Putting the accounts in the name of his daughter or joints names with his daughter.

Q. First of all on paper there was no sign that it was, is that right?

A. Pardon?

Q. There was no indication on paper that it was in joint names, isn't that the first point to be established?

A. But his indication to me he would have advised Mr. Traynor that that was the case.

Q. Just listen for a moment, Mr. Collery. On paper there was no indication it was in joint names or in the name of anyone other than D Foley as far, as you were concerned, on paper?

A. On paper, yes.

Q. So the only thing that could have caused hesitancy would have been if Mr. Foley had said something to you at Dublin Airport?

A. And that's the point I am making.

Q. If it be the case that Mr. Foley gives evidence that he didn't say that to you and if that be correct, I want to be very careful now, perhaps I should take it slowly, are you positive that that conversation took place?

A. I am because and for two reasons; (a) it was the second time that I met Mr. Foley. I was not aware of the and he it wasn't so much he just gave the reason why the transfer took place or his intended transfer should have taken place, it was that he gave me the reason why, that he said way back and I now know from the date he wrote to G & M it must have been '88 that he was about to have some heart surgery and the advice he got and I cannot recall but it may have been from a surgeon, that this was going to be

a very serious operation he was about to undergo and that he should put his affairs in order so that in the event, God forbid, that the operation was not successful, then that these funds, both the domestic ones and otherwise would be in joint names with some person.

Q. Mmmm. Let's be very clear about all of this. One can understand in the context of a domestic bank and an ordinary resident account that there would be a mandate in an account in joint names that both or one or other of the signatories were sufficient to withdraw monies from it, isn't that correct?

A. Yes, that's normal

Q. And that mandate would be there?

A. That is correct.

Q. Nobody in the Ansbacher accounts furnished a mandate to Mr. Traynor?

A. With respect, and I believe and I haven't seen them but I believe in trust and maybe in some individuals who I am not aware of, that there are letters of wishes which have been referred to.

Q. Come on, Mr. Collery. Don't try to cloud the issue. You know what I am taking about when I am talk about a mandate.

A. I do.

Q. And what is it? It's a specific instruction to a bank on how to operate an account, isn't that correct?

A. That's correct.

Q. Specific instructions. These are the signatories.

A. That's correct.

Q. And on the Hamilton Ross account the signatories were yourself, perhaps Ms. Williams, is that correct?

A. I think she may have been, yes.

Q. Perhaps. Perhaps Mr. Traynor?

A. And Mr. Sam Field-Corbett.

Q. And Mr. Sam Field-Corbett. And that's the mandate, isn't that right

A. In normal banking, yes.

Q. to withdraw monies?

A. That is correct.

Q. No mandates were ever furnished to Mr. Traynor, no mandates were ever furnished by isn't that correct?

A. There were no mandates for these accounts, no.

Q. And the system for people to get money out of the accounts was to, in the first instance when Mr. Traynor was alive, to make contact with Mr. Traynor, isn't that correct?

A. That is correct.

Q. And the system after Mr. Traynor's death was for somebody to approach you, isn't that correct?

A. That is correct.

Q. And then you withdrew the money from the account of Hamilton Ross, isn't that correct, on your signature?

A. For the withdrawals for cash here, that's correct.

Q. And you gave that money to whoever was entitled to it, isn't that correct?

A. That is correct.

Q. And in 1995, having been contacted by Mr. Dennis Foley, you withdrew €50,000, isn't that correct?

A. Yes.

Q. From Irish Intercontinental Bank?

A. Yes, that is correct.

Q. And you furnished this €50,000 to Mr. Foley?

A. I did indeed.

Q. You had no reason not to give it to him.

A. As I said, I believe I would have checked with Mr. Furze at that stage because it was a large amount.

Q. Yes.

A. Yes.

Q. But you had no reason not to give this money to this man.

A. I was authorised to do so effectively.

Q. You had no reason not to give it to him. You went over and handed him a very large sum of money.

A. Yes.

Q. And there was no talk at that stage about joint accounts or anything of that nature?

A. There was not, no.

Q. If we then come to the meeting at Dublin Airport, how did discussion about accounts in joint names come up?

A. It was because there were two discussions going on, there was (a) as I said, the closing of the account in the domestic situation, which was in joint names

Q. Let's go back to the start of this. Did you receive a

phone call to set up the meeting?

A. I believe I did.

Q. Tell me about the phone call. What was said. The words.

A. I cannot recall and rephrase word for word.

Q. As close as possible.

A. He requested to have a meeting with me, how soon could it be? As I explained, I said because it had to be outside my office hours .

Q. I want the words now, Mr. Collery. I want to know how it was set up and what was to be discussed.

A. It was, "Could I have a meeting with you?"

Q. Right.

A. "Yes, yeah, you could, but providing it's outside office hours."

Q. Yes.

A. That meant it could be after 6 o'clock in the evening or early in the morning.

Q. Yes.

A. And I seem to recall Mr. Foley saying "Early in the morning would suit me fine because there's an early flight from Farrenfore and I can fly up to Dublin Airport." I then said, "That's excellent because I live on the west side of the city and I can take the M50 across to Dublin Airport and meet you there."

Q. Yes.

A. And then the arrangement was that I would meet him and I said, when I met him at the airport, that I said we would

drive around, have a coffee in Trust House Forte, I think that's the name of the hotel on the right-hand side.

Q. The first airport hotel.

A. On the right-hand side there, yeah.

Q. Very good. So Mr. Foley arrived, is that right?

A. That's correct.

Q. You collected him. You recognised him, you knew him?

A. I did, yes.

Q. You drove around to the hotel?

A. That's correct.

Q. You had your cup of tea or cup of coffee.

A. (Nods).

Q. And how did the conversation go? What was the meeting about in the first instance?

A. I seem to recall that he was talking about getting his affairs in order.

Q. Getting his affairs in order, very good.

A. And that he wished to have some information about an account that he had in Guinness & Mahon and this was the joint deposit account.

Q. Yes?

A. And that he wanted was trying to work out where did the funds on this account go, that he seemed to have, he'd given them to Mr. Traynor to look after them and could I help him? I said no I couldn't, that I didn't have any records relating to the accounts relating to Mr. Traynor and therefore I was unable to help him.

Q. Yes?

A. And then out of that, we seemed to move on to, you know, "You gave me €50,000 out of an account in 1995."

Q. Yes.

A. And I then said that "Yes, I had just come back from Cayman," I had even Mr. Furze's records that this was annotated, his reference D Foley or I seem to recall, I don't specifically know the words he said but that account, "I don't know whether it should be in my daughter's name or in the name of my daughter and myself because" and then he proceeded to give the reason why and he said, "I had a conversation" and indicated that to Mr. Traynor. He then supported that by saying, "Well, I would have done that because here's a letter I would have sent to Guinness & Mahon or that I went to Guinness & Mahon, here's a copy of it and I believe I would have spoken to Mr. Traynor and given him the same instructions" or something similar. Now that is the contents of the conversation we had in that period.

Q. Did he ask you for statements?

A. I seem to yes, he did.

Q. What did he say?

A. He said, "Could" I can't recall exactly what he said but he was trying to get his affairs in order and therefore he would need statements of the account and I said, I probably said I would endeavour to get these as soon as I possibly could for him.

Q. Very good. So can we take it that the meeting was arranged with you because Mr. Foley wanted to get his affairs in order and wanted information from you, is that correct?

A. That's as I believe was the core of the, or what drove the meeting.

Q. And I am interested in how the information got around, when you said that you had come back from Cayman and you saw there a designation of D Foley opposite A/A40 that shouldn't have been a surprise to either of you because you had already given him €50,000 out of A/A40, is that correct?

A. It wasn't a surprise to me but it was a surprise to him because his expectations, I believed, were they were in his daughter's name or in the joint names of him and his daughter.

Q. It wasn't a surprise about the existence of the account. It was a surprise as to how it was being designated, whether it was joint or sole?

A. Correct.

Q. Did this seem to cause some concern? There was no suggestion, I take it, that Mr. Foley was saying that anything had been done wrong in relation to his daughter?

A. None at all.

Q. None, no, and there was no suggestion being made by Mr. Foley there was anything being done wrong in respect of his affairs by you, is that correct?

A. That is correct.

Q. You were a man whom he was trusting because you had already given him a substantial withdrawal from that particular account, isn't that correct?

A. Yes, but, you know, like other people, I am sure his relationships heretofore was with a long friend, Mr. Traynor, certainly they I don't know whether he was friends with Mr. Traynor, I retract that but certainly other people

Q. That he may have known

A. that may have known Mr. Traynor and he would not have known me and

Q. You see, I am really interested, the Tribunal would be interested to know this; there was a request for information to enable him to bring his affairs up to date.

What was the concern about an account being designated D Foley? You had dealt with a meeting was set up to request information. You had dealt with him previously. How did the conversation that the account should be in joint names or in the name of his daughter or words to that effect, how did that come about or what relevance was it?

A. It was the relevance of the fact, as I explained and I will have to go over it again, of the introduction of the fact that the other account, the domestic account was in joint names, that he mentioned about the œ50,000 and could he have a statement.

Q. About the what?

A. About the 50,000 that he had received in 1995.

Q. Yes.

A. And then in relation to that, that I had seen records of I mentioned to him that I had seen records in Mr. Furze's account that his account was in the name of D Foley.

Q. Sure why did you have to say that to him? He knew he had money there and he was looking for information, that's why I am interested, how did that conversation start?

A. I just said I had seen that in the records there.

Q. You wouldn't have been having a meeting if you were weren't aware of the fact he had an account, is that correct?

A. You asked me, that's how I believe the conversation was

Q. I want to know why did a conversation start about the name designated to A/A40 on the account name? Why did that conversation start?

A. I don't recall any specific thing. I said it and that's, you know that then automatically generated his reply.

Q. That it shouldn't be in his own name or words to that effect?

A. Or words to that effect. He went on to explain the circumstances then that he expected that it should be in his daughter's name or in joint names.

Q. He still wanted the statements?

A. But he still wanted the statements, yes.

Q. His concern was only about how it was being described, is that your recollection?

A. That's my recollection.

Q. But he wanted the statements?

A. For the reasons I have stated earlier.

Q. To bring his affairs in order?

A. Correct.

Q. Did you take any steps after that meeting to inform Mr. Benjamin that perhaps the account should be in joint names?

A. No, I did not.

Q. And on your own

A. I may qualify that.

Q. Yes indeed?

A. Because I believe I would have told Mr. Foley at that stage and stated again for future, for all subsequent information he required here, he should be in contact with Mr. Benjamin and my thought process, it was now Mr. Benjamin that had to resolve this issue.

Q. But, Mr. Collery, you had given him œ50,000 in 1995 having checked that

A. I know

Q. I don't understand that. Did you not inform Mr. Benjamin this should be in joint names?

A. No, I did not.

Q. Did you note it down anywhere? Did you note that down anywhere?

A. I did not.

Q. Because it wasn't important, isn't that correct?

A. It was very important.

Q. Or to Mr. Foley?

A. Well I can't answer for Mr. Foley but it certainly was important to me.

Q. Hold on a second now. You were walking around and concealing a document which had "A/A40 D Foley" in your own handwriting.

A. Yes.

Q. How were you going to use that particular document as a defence to the fact that there it should have been in joint names? It could have the opposite effect, is that right?

A. In retrospect now, it could have.

Q. Do you see how difficult it is for all of this to add up?

A. I do, sincerely do that but I also

Q. And conveys the impression that it may not be the truth of the situation, is that correct?

A. And I wish it could be otherwise but I have got to state clearly and distinctly all my actions in this and those are they.

Q. I think you are aware that in order to preserve the confidentiality and to take such steps that the Tribunal considered necessary to protect people's constitutional rights, the Tribunal retains the only copy and disk which relates to the transcript of the proceedings at which you gave evidence from which the public was excluded, isn't that correct?

A. That is correct, Sir.

Q. And again it's something you may wish to look at but can I just put to you the type of answer you gave where you had a

doubt or hesitancy in relation to a particular account holder as an example of what you did in those circumstances. I think in that at Question 103, a name, I won't mention anyone's name, a name is mentioned to you and the query is deceased and then you inform the Tribunal, "I believe he lived in Dublin at one stage and was the founder of a blank company but resided in another country for a considerable number of years." And then you go on to say, "Blank deceased is so and so and I believe he lived in Dublin. Where, I don't know but I believe he lived in Dublin" he did live in Dublin. You went on to say, "You have the designation there Hamilton Ross, he is, I believe, he was Hamilton Ross and I put that there in order to help both of us at a future date, we will have to do more to identify the particular account."

This is you informing the Tribunal where you have a doubt in respect of somebody, you are identifying them to the Tribunal and "I am putting it there to help both of us at the moment but as I do further work, I may have to revisit that one." You remember giving that type of evidence in respect of some of the people you have mentioned to the Tribunal?

A. If that is I believe that to be my statement, then that would be the case.

Q. You didn't, when you informed the Tribunal that A/A40 was John Furze, you didn't enter such a caveat, isn't that correct?

A. I accept that is correct.

Q. Now, I think you have been furnished with a copy of the Memorandum of Mr. Sam Field-Corbett and I will get you a copy of the portion I just wish to refer to.

A. I will just get my file.

Q. Yes indeed. (Document handed to witness.) I think if you do you have Mr. Field-Corbett's Memorandum there?

A. I do, Mr. Coughlan, thank you.

Q. I think if you go to Page 2 and the final paragraph on Page

2. And I think Mr. Field-Corbett informs the Tribunal and will be giving evidence to this effect that "After Mr.

Traynor's death " sorry perhaps I should put it in

context, if you go to the previous paragraph, "I became

aware in the late 1980s or thereabouts that Pdraig Collery

was involved in the Ansbacher accounts. Pdraig Collery at

about that time informed me that he had been operating

these accounts for Des Traynor and that he continued to do

so even after he had left Guinness & Mahon. This was in

fact the context in which the discussion took place. We

knew each other socially and professionally and I was

having a drink with him," that's with you "in a pub

in Dublin at the time when Pdraig had left his job and was

discussing what he would do. He mentioned that one of the

things he was continuing to do was to operate these

accounts for Des Traynor."

Would you agree that that conversation took place and that

Mr. Field-Corbett is accurate in his recollection in respect of that?

A. Yes, I think it's reasonable. Obviously that conversation must have been around '98 because that's the time I left Guinness & Mahon which was after fifteen years with Guinness & Mahon which was a fairly significant career move for me.

Q. Yes. And I think Mr. Field-Corbett informed the Tribunal in that Memorandum that he attended a dinner at which John Furze, you and your wife and Joan Williams were also present. Would that be correct?

A. I don't recollect Joan Williams ever being at one of those dinners but certainly...

Q. You and Mr. Field-Corbett and John Furze?

A. Yes and our respective wives were at that.

Q. This is what I really want to come onto is that, "Mr. Field-Corbett has informed the Tribunal that after Des Traynor's death, John Furze assumed control of the Ansbacher accounts. Pdraig Collery told me that he was continuing his work on the accounts and that he did not have an office space in which to hold the files or filing cabinets and an address to which he would have 24 hour access."

Did you inform Mr. Field-Corbett of that?

A. I did. As I said, as I previously outlined to the McCracken Tribunal, I may have covered here in whatever previous conversations, that at Mr. Traynor's funeral Mr.

Furze approached me and said you know that obviously his files were in 42 Fitzwilliam Square and he was concerned that they were there and that obviously this was quite sudden and there were no arrangements made as to what would happen in that regard and would I continue giving the service to his clients that I had previously given to Mr. Traynor.

Q. Mmmm...

A. I explained the difficulties that so doing would impose on me. However, because our relationship, because our association rather went back to the late seventies, I said I would in the short period because even at that stage there were indications that he was going to be leaving Ansbacher. Now, as it transpired, because of Mr. Traynor's death, he didn't leave for a longer period than was planned at that particular time.

I had no office space and yes, I was and I have always been personally friendly with Mr. Sam Field-Corbett and I knew that he had offices and asked him, you know, would he have a room to spare in the short-term where I could operate from and do the work for Mr. Furze that I had previously done for Mr. Traynor and he said, and again I know it's been recorded previously, that the offices were extremely small, that providing it was only a cabinet or two, yes, he could accommodate me there in the short-term and that he did.

Q. And he goes on to inform the Tribunal that "you needed

storage space for your files, a desk, 24 hour access to the premises, a postbox and a bank signatory," is that correct?

A. That's correct.

Q. And he also informed the Tribunal that you told him he would be looked after but that he did not agree any payment fee with you or with his firm, is that correct?

A. That is correct.

Q. Now, isn't it correct to say and that's what I want to deal with now at this stage for the moment, isn't it correct to say that you took over the Irish operation after Mr.

Traynor's death?

A. Absolutely not I found

Q. Who else if you didn't, who did?

A. Well I accepted I was requested by Mr. Mr. Furze to provide a service to him and I did so. I could have said no at that stage.

Q. You could have but you didn't.

A. And I didn't.

Q. You took over the Irish operation, isn't that correct?

A. I assisted Mr. Furze in providing the service.

Q. Mr. Furze was not here in Ireland. You took over the Irish operation, isn't that correct?

A. Well, with respect, and I think the evidence will show later that in 1995 all the Ansbacher funds were indeed taken back to Cayman so...

Q. In 1997 the Ansbacher split was taking place, isn't that

right?

A. That is indeed correct.

Q. But up to then you went in there, you did you remove the filing cabinets from 42 Fitzwilliam Square?

A. I assisted in doing so.

Q. And who else?

A. Mr. Furze and I think just the two of us.

Q. Can I take it how did you do it?

A. By car. It took a number of

Q. Did you move the cabinets or the contents?

A. Both. Because I didn't have any cabinets, I obviously took the files out of them.

Q. How was that done, with a hand trolley?

A. Metal cabinets, you can take the files, you can lift the trays out and then now you have, I think it was four high was in those so you had four trays and now the cabinet is an empty shell so you just put it in the back of a car and take it down to the other office and reassemble it.

Q. How many trips?

A. Gosh, I can't recall, it was numerous trips.

Q. There were three cabinets?

A. Three or four.

Q. Or four?

A. Three or four.

Q. And you and you had made the arrangement with Mr. Field-Corbett, is that correct, to get the space?

A. To get the space, yes, that is correct.

Q. Where you would have 24 hour access, isn't that right?

A. (Nods).

Q. And you wanted a bank signatory. You set all this up?

A. When Mr. Furze asked me to do the

Q. I just want you set it up with Mr. Field-Corbett. You did, isn't that correct?

A. I asked Mr. Field-Corbett on behalf of Mr. Furze would he be a bank signatory?

Q. Listen to the question. Listen to the question. You set up the operation in Mr. Field-Corbett's office, isn't that correct?

A. And on Mr. Furze' behalf, that's correct.

Q. Did you set it up?

A. Yes, I did.

Q. You were being very well remunerated in respect of it, weren't you?

A. At that time, no, I wasn't.

Q. Subsequently?

A. Subsequently I was, yes.

Q. Very well remunerated.

A. That is correct.

Q. Even better than you had been when you were carrying out the work for Mr. Traynor, isn't that correct?

A. Much better, yes.

Q. So let's, if we can, avoid using the expression doing a favour for somebody. This was work you were carrying out for substantial remuneration, isn't that correct?

A. Yes, because it was going to be short-term and it was a at great inconvenience to me.

Q. It wasn't short-term, was it?

A. Well circumstances two years later the man died so circumstances dictated otherwise. In fact not quite two years.

Q. But sure two years isn't short-term. You were running the Dublin operation while Mr. Furze was alive for two years.

A. As I explained, he was planning to move out of Ansbacher Cayman to set up his own company.

Q. Yes.

A. In '95, all the Ansbacher business had moved back as per the arrangements then and that was going to happen so that part of the

Q. Because Ansbacher

A. the information.

Q. Because Ansbacher were unhappy with the operation in Dublin, is that correct?

A. That is correct.

Q. And they were trying to

A. take back control.

Q. Clean it up.

A. Well, take the control of what was rightly theirs.

Q. And Mr. Furze was effectively being ousted out of Ansbacher, is that correct?

A. Well I think he had, as I said previously, he had around '84/'85, made arrangements, the bank had been taken over

at that time and I don't know precisely the exact date of the it was the First Bank of South Africa had taken control of the whole group at that stage and obviously things were changing, the management structure of the bank there was changing and as part of that, Mr. Furze was leaving the bank.

Q. Would it be fair to say it was a parting of the ways which you both desired?

A. I think it would be very fair to say that, yes.

Q. And while doing that, Mr. Furze moved out of Ansbacher into Hamilton Ross monies which he had control over, is that correct?

A. No, the movement into Hamilton Ross had happened in '92.

Q. Sorry, I beg your pardon, you are absolutely right, whilst Mr. Traynor was alive but he effectively moved Hamilton Ross out of Ansbacher?

A. Yes.

Q. And took control of it himself?

A. In preparation for him moving to his new company which is around sometime in '96 I think.

Q. And you continued to run the Dublin end of things for him?

A. For Hamilton Ross, yes I did.

Q. And you dealt with clients here?

A. Yes I did.

Q. And they dealt with you here?

A. They did indeed.

Q. Directly?

A. Directly.

Q. Just like they had dealt with Mr. Traynor directly whilst he was alive, is that correct?

A. Yes.

Q. And you had their files?

A. Most of the files.

Q. And you kept the statements up to date?

A. Absolutely, as we know from '92 right up to '97.

Q. And in fact you allowed the balances on the Kentford account which had been used by Mr. Traynor to obtain drawings to go to zero, isn't that correct?

A. Well from recollection I think it was 2 or œ3,000 that had been

Q. As close as possible

A. bottomed out.

Q. Yes. And through an Isle of Man company called Darsley Nominees Limited, isn't that correct?

A. That's correct.

Q. You opened a bank account in the Bank of Ireland in Camden Street?

A. That's correct.

Q. To enable you to use that to facilitate clients, isn't that correct?

A. To facilitate clients of Mr. Furze, yes.

Q. Clients of Hamilton Ross.

A. Clients of Hamilton Ross. Well Hamilton Ross is Mr. Furze but

Q. Yes. Hamilton Ross was Mr. Traynor, wasn't it? Wasn't it originally, from 1992 on when the money was moving out, isn't that right?

A. Well it was operated by him solely, yes.

Q. And tell me about the Isle of Man company. Did you it was a shelf company I take it.

A. It was a shelf company.

Q. Did you make the arrangements about that?

A. I did make the arrangements, yes.

Q. And did you arrange that the account of Darsley Nominees opened an appropriate mandate?

A. Yes, I may have sought the assistance of Mr. Sam Field-Corbett but it was I who took the responsibility.

Q. Mr. Sam Field-Corbett was not you were the one doing this work, you wanted a bank signatory, you wanted Mr. Field-Corbett or his office to be signatory.

A. That's right.

Q. Why was that?

A. Because I was not available all of the time, you know, I frequently travelled, and some people needed instant access

Q. Yes.

A. to get cash and whatever and so in order to facilitate those people, rather than me receiving the phone call which obviously I couldn't in my place of work, arrangement was set up whereby he agreed to take calls on my behalf and either leave a note for me and if he knew I wasn't around

the country at the time, he would process the request.

Q. And again it was you made the arrangement to get the bank signatory.

A. It was indeed.

Q. Now, from those facts, it seems clear that you were the person running the Dublin operation just as Mr. Traynor had done before, isn't that correct?

A. From '94 onwards, yes I did that for Mr. Furze.

Q. No, no, no, don't keep saying I did that for Mr. Furze. You ran the Dublin operation, didn't you?

A. Yes I did.

Q. In fact now you know that in the report of the McCracken Tribunal and I will hand you a copy (Document handed to witness.) If you go to page 102 of the report, and it's a copy statement of Mr. Charles Haughey which was furnished to the Tribunal dated the 15th July of 1997, do you see that, paragraph 6 of that at the top of page 102?

A. Yes I do.

Q. And in that, Mr. Haughey stated that "Desmond Traynor died in May 1994. At the funeral" - I take it that's Mr. Traynor's funeral - "I was approached by Mr. Pdraig Collery whom I did not know and who stated he had taken over from Desmond Traynor. I had never met Pdraig Collery before and I had no knowledge of his business or profession, I never met with Mr. Collery other than this one brief meeting. After Desmond Traynor's death, all invoices continued to be sent to Mr. Jack Stakelum and the

arrangements with Mr. Stakelum continued."

A. Correct.

Q. Now, do you agree with the contents of that, that at the funeral you approached Mr. Haughey?

A. As I said at the McCracken Tribunal, I do not agree that I approached Mr. Haughey. I certainly happened to be and we crossed paths and I introduced myself but I do not

Q. To him?

A. To him, yes.

Q. Very good. Well there's little difference between approaching and introducing yourself perhaps, is there?

A. I think you make an effort to approach somebody. We happened to be at a particular point where we met.

Q. Isn't the key point there that on that occasion Mr. Haughey is asserting that you told him you were taking over from Desmond Traynor?

A. Yes, but I dispute that.

Q. You don't agree with that?

A. I do not agree with that.

CHAIRMAN: This was, in any event, Mr. Collery, going to be a very different structure. Instead of Mr. Traynor who was in CRH and was constantly present in Dublin, the other person connected with the ongoing running of the bureau accounts would be Mr. Furze who was in the Caymans and may have come to Dublin at most once a year.

A. That is indeed correct, Sir.

CHAIRMAN: And who would not have known of ongoing developments in the accounts unless and until you sent him copies?

A. That is indeed correct, Sir. I would also like to add in support of my dispute of that, you know, is that from that day, I have never had any direct or indirect well I had indirect through Mr. Stakelum, but I had no direct contact with Mr. Haughey and all the contact has been through, requests for funds through Mr. Stakelum.

Q. MR. COUGHLAN: Yes. But the content of the statement seems to be correct to this extent, you had taken over from Mr. Traynor, hadn't you?

A. There is no doubt I provided the service which I thought was going to be a very quick rundown of the situation. In part it happened with the movement to Ansbacher funds, circumstances dictated otherwise, and the movement of Hamilton Ross funds.

CHAIRMAN: I think we will leave it there. It's just 4 o'clock. 10:30 in the morning.

THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,  
WEDNESDAY, 2ND FEBRUARY 2000 AT 10:30AM.