

THE TRIBUNAL RESUMED ON THE 24TH OF APRIL, 2009, AS

FOLLOWS:

CONTINUATION OF EXAMINATION OF CHRISTOPHER VAUGHAN BY

MR. HEALY AS FOLLOWS:

MR. NATHAN: Before we start, sir, there is one matter

which I just my papers got left behind in the hotel by

mistake, they weren't in the taxi. There will come a

moment when there will be a sort of cafuffling with a box

of papers being brought in. I am quite happy to proceed

without it, but I don't want you, sir, to think that

somehow there is something happening.

CHAIRMAN: I understand, Mr. Nathan.

Q. MR. HEALY: Thank you, Mr. Vaughan.

Now, one of the things I was canvassing with you yesterday

was your knowledge of the negotiations that Mr. O'Connor

was conducting, or Mr. O'Connor was involved in, and

appeared to have a pivotal role, from the letter that

Woodcock's sent you on, I think it was the 28th March, and

I was, I think, canvassing whether there was a connection

between those negotiations. And I think you have said it

in your statement, there was a connection between those

negotiations and the explanation you got, or the withdrawal

rather, of the complaint against you by Kevin Phelan?

A. Yeah.

Q. Now, I think you are familiar with the other parts of the

transcript, and you will be aware that as that year, 2002,

dragged on, negotiations involving Kevin Phelan continued

in relation to a number of other matters; isn't that right?

A. I have read the transcript, yes well, it's not so much transcript, it's more documents, isn't it?

Q. Well, you may have read it in both places, but it was certainly mentioned in evidence, and it is undoubtedly mentioned in documents. And what I want to canvass with you is your knowledge or involvement, if any, of those continuing negotiations?

A. None whatsoever.

Q. Well, I don't want to commit you to that. I want to refer you to a document

A. Right.

Q. that may relate to it. If you look at supplemental the supplemental book, Tab 28?

A. I may have the wrong book here. This isn't 81A, is it?

Don't worry, if Mr. Nathan doesn't have a copy

MR. NATHAN: Before My Friend goes on, my client indicated there was one matter that he wanted to correct from yesterday.

A. I haven't actually found it, I have been looking and I can't see it, so... I think it may well come out.

MR. NATHAN: Perhaps we can do it

CHAIRMAN: Well, perhaps after we have recessed, I think Mr. Nathan; obviously we are not going to impose a three-hour continuous sitting. I imagine sometime, perhaps a quarter past twelve, might be an appropriate time.

MR. HEALY: Well, I think maybe half eleven and then go on

till a quarter past one.

CHAIRMAN: All right.

Q. MR. HEALY: Do you have that document, Mr. Vaughan?

A. I have in front of me a letter of the 11th June, 2002, signed by Denis O'Brien Senior.

Q. It's a letter from Mr. O'Brien Senior by fax to Mr. Owen O'Connell of William Fry Solicitors, who were then the solicitors both for Mr. Denis O'Brien and for Westferry.

At this time, in fact, Mr. Denis O'Brien Senior was handling outstanding Doncaster matters, including those concerning dealings with Mr. Kevin Phelan. And he writes:

-

"Dear Owen,

"Thank you for your suggested draft for KP. As you will see from the enclosed, I have removed your reference and Fry's name and added the last paragraph in relation to Woodcock & Son.

"I have spoken with Christopher Vaughan to make sure there are no loose ends. As a result, he sent me the enclosed copy letter and I give it to you in case it may be of any use in the future.

"John Ryall will be immediately respond to your request regarding confirmation from Walbrook.

"I will keep you informed as matters progress with KP."

And then the next document is the document that he encloses on the basis that he had received it from you, and you recognise that document?

A. I do, yes. It's the letter of the 19th April to me.

Q. Can you remember the conversation with Mr. O'Brien Senior?

A. I can't remember it, no.

Q. Okay. Of course you can't. But he says that he spoke with you to make sure there were no loose ends, and I would suggest that he was drawing to your attention the fact that he was trying to settle something with Christopher Vaughan and he wanted to know whether there was anything at your end that required being brought into the picture, as it were

CHAIRMAN: My understanding is, I think it was Kevin Phelan?

MR. HEALY: Yes, oh sorry, it was Kevin Phelan, did I say something else? Sorry.

A. I don't think that's right because this letter I see is dated the 11th June, and I think when I saw the various documents that were served on me by the Tribunal, I think they are all dated July time. I had no knowledge of any of these negotiations at all, and I cannot remember the telephone conversation, but I suspect it was something that, to the effect that a settlement was being reached; "Have you got are there any loose ends or is there anything you want to sort out?" And I would have said, "No, here is my letter of the 19th April. I have no problems. It has been dealt with earlier between by Woodcock's."

Q. Can I just ask you about one other document. It's a

document at Book 82, Tab 53. I can give you a copy of it so you won't have to poke around your book.

(Document handed to witness.)

And you will see that that is a fax cover sheet from Brophy Butler Thornton, Mr. Denis O'Connor's company, on the 31st May, 2002, to Mr. Owen O'Sullivan of William Fry Solicitors. And it encloses a page of your headed notepaper with what looks like part of a letter. What's rather curious about this is that here you have Mr. O'Connor, who is an accountant and not acting, according to Westferry, for them, or Mr. O'Brien, for him, sending information from one Westferry solicitor to another, do you understand me?

A. Well, I saw this letter amongst the bundle that was served on me and I had certain problems with it because it's got it's got a heading which is my notepaper, but it's quite clearly not the first page of the letter because it doesn't say "Dear" whoever it's addressed to. I then wondered whether, in fact, it was just a note that had been typed out, because all it does, it gives addresses and contact details, doesn't it?

Q. Yes, that's all it does.

A. So, I then wondered whether this note had been prepared by me because somebody wanted some information as to contacts, how to get in touch with people, which is what it is, isn't it?

Q. It describes Craig Tallents, gives Craig Tallents' address?

A. That's right, yeah.

Q. It says that you were not involved in any way in respect of the share transfers for Westferry. "Looking at my files, I see that the people with whom I had contact were Peter Vanderpump and Stephen J Wood of Walbrook Trustees." Then you refer to the current litigation, and you say that Ruth Collard of Peter Carter-Ruck & Partners is involved in that. You say: "I have no knowledge of the current status of litigation. That is something you would have to discuss with Aidan Phelan. If I can be of any further assistance, please let me know."

It does finish like a letter, "yours sincerely"?

A. It does.

Q. Whereas if you were sending somebody a simple memo, you might put it on your notepaper. You, I think, had a meeting with Mr. O'Connor, I think, on the day before this?

A. The day he

Q. The day before this letter was sent?

A. Oh, did I? Right.

Q. If you look at Book 81, Tab 24, there is

A. Yeah.

Q. You are familiar with this, and I am not going to ask you to look at it in any detail.

A. It might be helpful just to explain how it got into the hands of the Tribunal. This was a handwritten note that I prepared, these notes here, page 401, etc..

Q. Yes, I am not asking you to describe it, because I think I

know what it is, and I think I can speed it up and agree with you that you prepared these for the London meeting?

A. I did, yes. Thank you very much.

Q. And they came to the Tribunal through DOB7, the litigation instituted by Mr. O'Brien.

A. I think I may have sent them to you.

Q. You may have done that as well.

A. You asked what they were and I said "I'll send you a copy."

Q. Fair enough. Well, in any case, I think you may have sent them to us subsequently, certainly they came to the Tribunal first in DOB7, because I think the Tribunal raised queries with you concerning them, and you may then have sent them to the Tribunal?

A. I think you saw me looking at them in London and I said "I'll do you a photocopy."

Q. In any case, you'll see that on the

A. I think it's page 403.

Q. If you go through the dates I think you'll come to the 30th May.

A. It's the one number 403 at the bottom?

Q. Yes. When you come to the 30th May, you see "Met Denis O'Connor at"

A. It says "Chez" as in "Guivar".

Q. All right.

A. As in

Q. Is that some restaurant?

A. Yes, it's closed down now.

Q. So, I suppose it's reasonable to assume there is some connection between that and Mr. O'Connor, the next day, sending a fax to Mr. Owen O'Sullivan of William Fry?

A. Mmm.

Q. But did he discuss with you what he was involved in at that stage?

A. This meeting took place, and it's recorded in a couple of places, that he spoke to me on the telephone, and I think he wanted I said yesterday that he was trying to gather information about his client, and he kept on wanting more and more background information, and he said that he was going to be in London on the 30th May. I can't remember the meeting was set up, but it would have been about that time, and I remember saying to him, "Well, I am in London that day with my wife, we could meet up." And we did meet up in this restaurant. I think it was the first time I had really met him I had met him at Birmingham Airport and at Manchester Airport, but I met him and we just had a social talk. And I think you are probably right in supposing that the information I then provided in this letter was something he asked for. It was a meeting in this restaurant. I certainly didn't take any files with me. And he probably asked, you know, for the contact details of certain parties, which I then sent through to him.

Q. Yes, but this was what I would call Westferry information as opposed to Michael Lowry information?

A. I got the impression when I was talking to Denis O'Connor, because I said I met him a couple of times before, he was trying to find is the greater picture of what his client had got involved in.

Q. I appreciate that, but let's look at this let's take this firstly from the point of view that at this particular moment I think your client was Westferry; isn't that right?

I don't want you to fear, or to form the impression that I am about to suggest that you were improperly disclosing your client's information. Evidence has been given that at this time Mr. O'Connor was dealing with a lot of people, I think you, yourself, alluded to a comment he made to you that he had to run with everyone; isn't that right?

A. Possibly.

Q. We'll come to that. And there were issues raised by a number of people, including Ruth Collard solicitor, Craig Tallents, Mr. John Ryall, concerning who he was representing?

A. I read that, yes, yeah.

Q. So, whatever he said to you on the occasion of your meeting, you felt able to give him Westferry information, not critical information, but nevertheless Westferry information; isn't that right?

A. I was giving him information that could help him. I mean, I got the impression from him, if we go back to the Regency Hotel meeting, that here was a man who had no knowledge of what his client had been involved in, and needed to piece

together a greater picture. It may be that these particular details - as I look at it again, it is just pure information about people who were involved - he felt that he could talk to them and gather more information. So I have passed the information on to him. I don't think I regarded, you know, any of this as sort of specific to a client or anything like that.

Q. But it had nothing to do with Michael Lowry?

A. Well, I don't know, because

Q. I mean, your evidence has been that you had no hand, act or part with Michael Lowry concerning Doncaster after the 25th September of 1998?

A. That's right.

Q. Here you are in this document provided to Mr. O'Connor on the 31st May, 2002, providing information concerning Westferry, not, I may add, terribly sensitive information, but, nevertheless, indicating who the ownership of the company were, who the executives of that, of the trust company were, who the executives of that trust company were, who the handling partner in the litigation was, the address of the accountant and so forth. For you to give even that information, which is relatively anodyne but still confidential, can only have been because you were told it was needed for some purpose other than merely to inform his client about something?

A. I think we need to go back to one of the letters we saw yesterday, and that was a letter from Woodcock's, the one

that says "there is no need to acknowledge this letter" on the bottom line. That gave the clear impression that Denis O'Connor was acting in negotiating a whole series of settlements or something. And I'll emphasise again, it was something I had no knowledge of at all. So, I knew this man, and I think the word I used twice yesterday was sort of shuttle diplomacy; he was trying to get parties together, and he wanted this information. I gave it to him. I didn't specifically attribute it to the client, just general information.

Q. All right. But you wouldn't have given that, for instance, to a newspaper reporter or anyone else?

A. Yeah, but he is a professional chartered accountant, he is not a newspaper reporter.

Q. I know, but he wasn't anything to do with Westferry officially, as far as you were concerned. He was simply involved in this bigger picture that you were aware of through Woodcock's letter?

A. Yes.

Q. All right. Did he mention anything to you of the details of some of what we'll call the shuttle diplomacy he was engaged in?

A. I don't think so, no.

Q. He didn't tell you that around that time a difficulty had arisen in documentation furnished to William Fry's containing a reference to Michael Lowry in the form of, or potentially a reference to Michael Lowry in the form of his

initials ML in connection with Doncaster in August of 1999?

A. I don't remember him talking about that at all.

Q. Now, I just want to mention one or two matters in Kate McMillan's transcript of your second meeting with her.

A. When Stephen Nathan stood up at the beginning, he mentioned there is a point I wanted to raise. I couldn't find it in the transcript, so I may have imagined it, but I think it was towards the end, I think you asked me who Denis O'Connor was acting for, and I think what I understood you to say was who was Denis O'Connor's client and I said Michael Lowry.

Q. Yes.

A. But I thought about this last night, and in fact following on the questioning this morning, he seemed to have a wider band of people who were instructing him. So, my response yesterday was he is Michael Lowry's accountant. I think that may have been wrong, because he seems to have been acting for a wider raft of people when he was doing the negotiations. I may not have said it, because I couldn't find it in the transcript, but I just had that impression.

Q. I want to refer to the Kate McMillan notes, the ones that I gave you separately so that you could, you know...

I'll get the tab in a moment.

now, these are in the supplemental book, but I gave you a separate loose copy of them.

A. I have got them here. We are talking about the ones that in her manuscript it says "Blackmail 1", is that the one?

Q. I think so. If you go to Tab 31, and then I think it's easier to start from the back, you will find the transcript, it starts four pages from the back of that divider. I think we have already very briefly touched on the fact that you had two conversations with Kate McMillan around this time in 2002. I was saying that we touched on these before and they concerned two telephone conversations you had with Kate McMillan

A. Correct.

Q. in October 2002. And you are familiar with them?

A. Yeah.

Q. If you go to the second-last page, it starts at:

"KP is a man who can talk about twenty different subjects in twenty seconds - hops from one to the other, always changing his tack. Hard to keep up with him.

talked to all parties

negotiated amended."

On to a new page:

"Points of contact with Reg Ashworth."

and then I think, just to be clear about this, the next

line is "He is a total crook."

In her evidence in London, Ms. McMillan made it clear that she was referring to she believed you were referring to Mr. Phelan at that stage, and not Mr. Reg Ashworth.

"Late" - this is referring to your meeting with Mr. Lowry -

"On the 23rd/24th September, 1998" - I don't want to talk about that for a moment, I am just putting it in context.

"We met at PM's house. Talked in office to Leicester."

Then "Denis O'Connor" - this is a reference, I think, to the fact that you had had contact shortly after the visit you had received from Mark Weaver from Denis O'Connor. I think in your note that you prepared of Mr. Weaver's visit you said that Denis O'Connor contacted you on the phone shortly after the Weaver visit. Do you remember that?

A. I do, yeah.

Q. "He concerned re ML. Gave him the paperwork I gave you."

You had earlier, in your earlier conversation, arranged to give Ms. McMillan your file note of your conversation with Mr. Weaver, and the copy you had made of the copy of the original of your letter to Mr. Lowry of the 25th September, 1998. Do you remember that?

A. Probably, yeah.

Q. I can take you to the various parts of it, if you like, but I think I am right in that, I am sure I'll be corrected if I am wrong.

Then you go on: "I was genuinely surprised when he said in presence of Paul May, KP. Surprised when he said he had been discussing Tribunal with Kevin Phelan. Have to run with everyone."

That's the remark I alluded to a moment ago.

"KP has raised huge difficulties he was with DO" - that's Mr. Denis O'Connor - "and ML" - Mr. Michael Lowry - "made me cautious of nth" - nothing I think it was confirmed in evidence - "you can grab hold of. I think KP

orchestrates all of this."

That's the point I want to come to. Do you remember saying that to Ms. McMillan or do you remember thinking it, because it seems to be consistent with things, with remarks you have made in file notes; isn't that right?

A. She has obviously made a note of it. I have a little difficulty with these notes. I mean, they are here now, but this was a private telephone conversation between two solicitors. In the soft of realms of privilege, this is at the top of the tree. This is Kate McMillan, a solicitor, talking to me, a solicitor, and taking notes about a serious criminal offence of blackmail for me to prepare a statement. And I do think that this document should never be in the public domain, it's a privileged document.

Q. I don't think there is any question of privilege from your point of view?

A. I am just expressing my concern that this document appears, because it clearly is a privileged document and should never be here.

Q. Well, I don't think

A. I am expressing a view.

Q. You are expressing your view on that, yes, but you weren't seeking any advice from Ms. McMillan. You weren't her client. Can we just clarify that, you weren't her client, you weren't Ms. McMillan's client?

A. I wasn't Ms. McMillan's client.

Q. You were assisting her?

A. But nobody ever asked me whether they minded this notes to be put into the public domain.

Q. I appreciate that, certainly nobody may have sought your permission.

A. I am making a point, it's here.

Q. By that, do you mean that you said things then, and I am not suggesting that what you said was untrue, but you said things that you wouldn't like to see repeated in public?

A. I think in a private conversation between two solicitors, where one solicitor is asking for background information about something, you may use words and expressions, you may use nicknames of people, you may say things that you wouldn't then put into a statement at a later date. This is a and I am sure you would have exactly the same experience yourself in your professional capacity. But anyway...

Q. Let's deal with the content and then you can explain perhaps

A. I am just trying to make a point about it. We are looking at I think "KP orchestrates all of this."

Q. All right, let's take that sentence. "I think KP orchestrates all of this." Can I say that my view of that line is, that is resonates with similar remarks by you in your own formal file notes where you say "I think, on balance, KP is behind all of this." Or you say in one note that you think Mark Weaver was put up to coming to you by KP?

A. I don't think it's I don't think you can look at that line by itself, because if you look in the left-hand margin she has put a bullet point or a hyphen. I think you have to read all three lines.

Q. Of course.

A. We are talking on the telephone about things that have happened, and I have said yeah, I think he orchestrates all this. I have been with him on occasions and he said different things to different people.

Q. He causes difficulties for people?

A. Yeah, it's a negotiating tactic for him.

Q. Well, let's be clear about this; you are not suggesting that it's an appropriate negotiating tactic to tell lies to people?

A. No, no.

Q. Nor are you suggesting, I take it, that it's an appropriate negotiating tactic to suggest that things happened that didn't happen?

A. Well, this is the next line, isn't it? "I have been with him on several occasions, he has no hesitation in saying different things to different people," and this is what I am pointing out.

Q. Yes. "I think he has been paid off by Michael Lowry D O" - Denis O'Connor - "I think KP is behind it all."

Now, I have my idea of what it meant by "I think KP is behind it all." Do you want to say what you think you meant?

A. It is a long time ago, as I said. She has written a brief note as we discussed yesterday of her notes. It's obviously not a complete record of every word we said in the conversation, and the typewritten version here isn't the same as what she has written in hand, because if you look at the very first word of her handwritten note it says "Blackmail 1" which doesn't appear in the typewritten version.

This was a general chat with her. What she has written down is what she has written down. I have had no opportunity of checking with her as to what she wrote down was correct.

Q. She was making inquiries of you in connection with a proposed blackmail complaint arising out of what Mr. O'Brien and his company, Westferry, believed to be the improper use of the letter of the 25th September of 1998?

A. Correct, yeah, I understand that.

Q. And I think that when you read the words "I think KP is behind it all," I take that to mean that it was your view, perhaps not the most considered view, but your view on the telephone that Kevin Phelan was behind all of this improper use of the letter of the 25th September of 1998?

A. Yeah.

Q. But it wasn't the letter wasn't a fantasy, the letter is a real letter, whatever about the improper use of it?

A. Oh, yes, true, yes.

Q. When you say, "I think he has been paid off by Michael

Lowry/Denis O'Connor," what are you referring to?

A. I think by this time suddenly out of the blue we have when is this? This is October 2002, isn't it? We have to go back to the letter of the 30th March, I think it is, from Woodcock's to me where they say "Denis O'Connor is negotiating a settlement," and suddenly I get a letter withdrawing complaints. The inference I draw from that is that Denis O'Connor has negotiated a settlement.

Q. That money has been paid?

A. Well, it's an expression I have used, I have no idea. It's not until recently, when I have seen the documentation, but at that time, just an expression, he's been paid off, you know...

Q. I think you have seen those documents from years ago, haven't you, the Kate McMillan documents?

A. I had seen I don't think I had seen her notebooks until about March, the handwritten versions. I may be wrong, but I don't think I had seen them.

Q. I mean, to say somebody has been paid off suggests they had been paid to go away or to shut up or something like that; isn't that right?

A. Well, I think it just follows on from the letter from Woodcock's, you know, somebody is negotiating a settlement, settlement means money.

Q. But in this case, the settlement I just want to go back to the timing of some of the things that happened at that period that you refer to in March/April of 2002. And

again, just to remind you, you were receiving correspondence from Mr. Davis. Eventually you responded to him on the 16th April, 2002, saying you'd have to take your client's instructions. Sometime shortly before that you had received the letter from Woodcock & Sons saying the negotiations were being conducted. Do you want me to take you through the documents so you get the dates in your head?

A. Can you just remind me where it is?

Q. Yes, if you go to 81C, Tab 8?

A. 81C?

Q. Yeah, the slim volume.

A. I don't think I have got the slim volume. Can you just refer me to the particular tab number?

Q. Of course, yes.

CHAIRMAN: We have got it up on the screen, Mr. Vaughan. I must say, I find it easier at times to use the television screen.

A. I tend to like to see the thing in a whole letter.

Q. MR. HEALY: Of course. If you go to Tab 7 I beg your pardon, I am sorry, if you go to Tab 5, you see Mr. Davis writes to you on the 21st March. Then you write back on the 21st March this is Tab 6, same day in fact.

Mr. Davis writes to you on the same day you write back to him by fax saying you have no immediate comment to make. The next tab he writes to you again on the 25th March.

Then, on the 26th March, you have a letter from Woodcock's

telling you that negotiations are taking place, and referring to the earlier letter of the 21st March, 2002, that we discussed yesterday and of which we have only one page.

A. Yeah.

MR. NATHAN: I wonder if I could just interrupt you to say that we understand from Messrs. Woodcock's that they say that the that this letter has been sent to the Tribunal.

CHAIRMAN: The initial page you mean, Mr. Nathan?

MR. NATHAN: I have no idea, sir. We received an e-mail yesterday from Woodcock's saying "We understand this letter has been sent to the Tribunal, or the correspondence has been sent to the Tribunal. This matter is closed," or words to that effect, and that's all, so I am afraid

MR. HEALY: I am much obliged to Mr. Nathan for that

MR. NATHAN: Our attempts are at an end.

MR. HEALY: for that helpful information. The response we received from Woodcock & Sons sometime, considerable time ago was that they wouldn't give the document, that it was confidential. But we can produce the letter, and I am sure that we can get the letter that Mr. Nathan got as well. If they had given it to the Tribunal, it seems rather odd they wouldn't make a copy available now.

Q. But in any case, you understand, Mr. Vaughan, where we are at this stage in the timescale?

A. Yeah, we are in April 2002.

Q. Yeah. And you received the letter saying that there are

discussions taking place?

A. Yes, which is March 2002.

Q. Yes. Then, on the 15th April, Mr. Davis writes again and, as we know, on that day he sends you a further letter dated the 12th July, because he was trying to send it by 12th April, he wanted to make sure you were standing by a fax to receive it. You reply to him on the 15th April, saying that you are actively seeking instructions. On the, I think on the 18th April, if you go to Tab 14, on the 18th April you feel that you can write to Kevin Phelan asking him about this. On the 19th April, which is a document contained in Tab 13, you receive a withdrawal of complaints from Woodcock's. And then if you go to the last document in Tab 14, on the 23rd April Mr. Kevin Phelan writes to you?

A. Yeah, we looked at these yesterday.

Q. Yes, I am just putting I am just orientating you where the dates are concerned. Now, evidence was given by both Mr. O'Connor, and I can refer you to it, but I certainly don't want to delay you on it, and Mr. Lowry, that they were engaged in negotiations at this stage, negotiations which they described as pertaining to a company called Vineacre and a transaction in Wigan, and a number of other matters, including complaints against you, complaints against other professionals. I think the way Mr. Lowry put it, and I can refer you to it, if you like; there were a lot of people he said trying to get off the hook with Kevin

Phelan around this time. He said that he wanted to be finished with Kevin Phelan, and he paid him a lot of money connected with his Vineacre transaction. In evidence he couldn't remember the precise dates, but he said that it was around this time in 2002, but he said that his solicitors would produce he indicated that the money had been paid. He didn't know the precise amounts, the precise days in 2002, but his solicitors eventually wrote in, after he had given evidence, with the information concerning those payments, and I just want to ask you about the dates of the payments. You will see them in you will see them referred to in Tab 21.

do you see that letter of the 4th May, 2007, from Messrs. Kelly Noone Solicitors to Mr. Stuart Brady of the Tribunal, do you see that?

A. Yeah, I am looking at that now.

Q. Mr. Kelly says:

"In relation to your letter of the 22nd March in relation to fees paid to Mr. Kevin Phelan, I am instructed that the only payments made were in relation to the Vineacre project. Mr. Kevin Phelan had sourced and also managed the project. In early 2002, Mr. Lowry and Mr. Liam Carroll, who was the other party involved in the project, met with Mr. Kevin Phelan. A payment of $\pounds 5,000$ sterling was paid on account and arising out of their meeting an all-in figure of $\pounds 65,000$ was agreed. Payment was made as to $\pounds 5,000$ on the 12th March, 2002; $\pounds 3,247$ on the 28th March, 2002;

together with a further sum of $\text{€}50,000$ sterling; and a final balancing payment of $\text{€}6,533.88$ on the 22nd April, 2002. The foregoing was in respect of acquisition fees, project management fees and agreed expenses. The foregoing were the only payments made to Kevin Phelan for projects in respect of which Mr. Lowry had an involvement.

"Mr. Lowry does not have any documentation relating to any of the foregoing negotiations or agreement."

Now, in a subsequent letter, which in fact is not in this because it's not absolutely clear from this document when the sum of $\text{€}50,000$ of paid oh, sorry, it's in the supplemental book, but it's not in this book, the slim volume. But in fact, the sum of $\text{€}50,000$, the major part of that sum was paid on the 22nd April, and that was confirmed by Mr. Kelly by letter of the 1st June, 2007, to Mr. Brady. And that's contained in Tab 27 of the supplemental book.

A. Do I need to look at that?

Q. I don't think you need to look at it, it's just the amounts of money. It's the dates that I think may be of interest.

If the sum of the major part of that payment, the $\text{€}50,000$, was paid on that day, the 22nd April, 2002, you will see that it was paid just one day before Mr. Phelan provided the explanatory letter, did you see that, that we mentioned a moment ago?

A. Mm-hmm.

Q. Do you understand that timing?

A. I could see sorry? I can see the dates on it, yes.

Q. So, you see it would appear that money was being paid to Mr. Phelan from time to time around this time, amounting in all to $\frac{1}{2}$ 65,000, during the period that some of these negotiations were taking place. The final balancing payment is paid one day before Mr. Phelan provides an explanation for letters that were apparently causing some difficulty; isn't that right?

A. Those are the dates, yes.

Q. Now, you have given evidence you were not aware of the details of these negotiations, other than that they were happening?

A. The letter from Woodcock's, the 30th March, is the only indication I have that these negotiations were going on.

Q. But I think you agreed with me that you must have contacted your clients about these complaints you were receiving from Woodcock's. Mr. O'Connor certainly was of the opinion that he was dealing with you in relation to, according to the evidence, although I don't think you are entirely in agreement with that?

A. I think we looked at his statement or transcript yesterday.

I think we all had slight difficulties in understanding what he was saying, but I repeat what I have said a couple of times, that he wasn't shuttling backwards and forwards and trying to negotiate anything; he just wasn't on the scene so far as I was concerned. But I just kept on looking at him as a man who was trying to find out information about what his client was doing and,

interestingly enough, I hadn't realised - this letter may have been served on me, but I hadn't appreciated it, the letter from Kelly Noone of the 4th May - that this money had been paid though

Q. No, no, of course you didn't know.

A. I didn't know that. But

Q. What I am wondering about sorry, I don't want to cut across you, sorry.

A. The sort of thread of this questioning started off with Kate McMillan's notebook, and I think we got to a point in that where I have said he seems to have been paid off, and he was.

Q. Yes, but you must have believed that from some other information that had been conveyed to you, because you weren't aware of these payments. Somebody must have said

A. No, I wasn't aware. But it may be, I am perhaps

Q. You see, around the time

A. I may have just I am just trying to think what we did.

We know that I met Denis O'Connor on the 30th May because then I send him this factual information about people's addresses and details. He may have mentioned that Michael Lowry has resolved his differences or something, I can't remember. It would be wrong of me to say that definitely happened, but it seems a reasonable inference from it.

Q. Well, judging from the correspondence I have just opened, money was paid. You were not aware of those precise

payments?

A. No.

Q. But you were aware of enough to enable you to say to Kate McMillan "I think Michael Lowry/Denis O'Connor have paid him off, paid off Kevin Phelan." And what I am just wondering is, going back to when you wrote to Kevin Phelan on the 18th April, 2002, that's the documents contained in Tab 14 of this book, 81C, how did you what I was trying to query with you yesterday was how you felt you could write that letter to Kevin Phelan directly, and I am wondering did you have any contact with Mr. O'Connor or your other clients he wasn't your client or other clients I am getting confused Mr. O'Connor or Mr. Lowry or Mr. Phelan which led you to believe that if you wrote a letter to Kevin Phelan you would now get a response?

A. I don't think so, no. Because the letter was written immediately after I received John Davis's letter. As I explained yesterday, I felt I could write to Kevin Phelan, and as I think I also said yesterday, we had obviously had our differences. But I think if you look at the correspondence that I had with him during the whole period of time when we had fallen out, it's always on a "Dear Kevin" basis. There was no point in falling out with him over that. And I knew what sort of character he was. And if you look again at the Woodcock's letter, I haven't got it in front of me, but it says at the bottom something like

"I am sure we can resolve this on an amicable basis." I read that and I thought the matter is being sorted out.

John Davis has now got something that's far is probably more important than I had looked at before. To me it was just a couple of letters. Kevin Phelan is the person to ask. I sent him a letter.

Q. You were the author of these letters, both the ones the Tribunal was raising with you and the ones that Mr. Phelan himself was raising with you?

A. The 5th September and 12th June?

Q. Yes. You were the author of those?

A. Oh, yeah, I wrote them.

Q. You have given an explanation here, you know quite an involved one, why didn't you give the explanation? Why did you have to ask the addressee of the letters for the explanation? Bearing in mind the solicitors had earlier accused you of something in relation to them?

A. This is a long time ago, right at the very beginning of these letters, and I must say that at this stage these two letters were just of little significance to me at that time. I had not, in any way, appreciated the amount of explanation that might be sought over these letters. They were two simple letters written to Kevin Phelan about straightforward facts, and I asked the simple way of dealing with it, well I'll ask Kevin, which is what I have said and which is what I did.

Q. I suppose you couldn't have asked Woodcock's after all?

A. Well, Kevin and I worked together for quite a long time and I had no hesitation in just writing to him, "Dear Kevin".

Q. Do you understand my question? You couldn't have asked Woodcock's to provide an explanation, because having regard to what they said in their earlier letters, how could they have uttered a letter to you along the lines of Mr. Kevin Phelan's explanation of the 23rd April, 2002?

A. This follows on a little bit from what you said yesterday. It never occurred to me just to write to Woodcock's.

Q. Because they wouldn't have done?

A. I think the Woodcock's correspondence had probably come to an end because it says, in their last letter, "do not acknowledge this." And, of course, their letter of withdrawal had not been received by me by the date I wrote to Kevin Phelan. It's the following day, and I don't think there is any particular significance there. It was a simple thing to drop him a line, you know; "Can you help, Kevin? You know, we have got these letters."

Q. The fact is that it is rather coincidental that he got the money and you got the letter explaining it?

A. I didn't know he had got the money.

Q. I know you didn't, but you subsequently did believe that he had been paid off?

A. Obviously somebody had made a comment to me, because I mean, the Kate McMillan, my comment is in October, isn't it? I am talking to her

Q. Yes, of course.

A. So a lot of water has gone under the bridge by then. We are seven months later, aren't we?

Q. You see, looking at the timing of the letters, it does appear on one view, I would suggest to you, that there is a degree of choreography in the way you were able to write to Kevin Phelan asking for an explanation without alluding to his previous correspondence, and he is able to respond to you without alluding to his solicitor's previous correspondence, as if the only two letters concerning the entire matter between you were yours of the 18th April and his of the 23rd?

A. Well, those letters are dealing with two letters only. You know, I repeat myself: He was the obvious person to write to, "Can you help me, Kevin?" He writes back, Yes, I can."

MR. NATHAN: I am just a little troubled, because Mr. Vaughan has said that he was not party to whatever was going on involving his negotiations. It has been suggested that there was a degree of choreography, but no question actually was put by My Friend, he simply said there is an inference of a degree of choreography. Now, if My Learned Friend is going to suggest there was choreography going on by somebody, it seems to me that he ought to be putting a question identifying the choreography; he is suggesting that Mr. Vaughan was party to the choreography, then he ought to be putting that, but he is not putting it. And we have had this before

MR. HEALY: I think I have put it to him, but I will put it

again.

MR. NATHAN: I'd be very grateful, because it seems to me that it's not clear. Certainly from his answer,

Mr. Vaughan did not understand that it was being suggested that that is what the suggestion is, that he was party to a deliberate choreography in respect of these two letters.

MR. HEALY: No, no, that's not what I was saying.

Q. What I was saying to you, Mr. Vaughan

MR. NATHAN: Because the point is that if Mr. Vaughan is not party to it, he is being asked to comment about something about which he says he doesn't know. It's therefore not an appropriate question.

Q. MR. HEALY: Mr. Vaughan, I am suggesting to you that if you take the dates of the letters and the payment, as I have outlined them to you a moment ago, that it would appear that there is a degree of choreography about them. You can agree or disagree with me about that, that's an impression I am putting to you and then I'll have a question for you?

A. I simply can't comment because I wasn't aware of one element of the choreography, to put it in your word. I was talking to Kevin Phelan or writing to Kevin Phelan. I had no knowledge of these payments that have been made, and obviously the Tribunal didn't until the 4th May, 2007.

CHAIRMAN: I suppose it is the case, Mr. Vaughan, there is an extraordinary contrast in the demeanour and conduct of both Kevin Phelan and Woodcock's over a six-week or so period; they are venomous bulldogs snapping at your heels,

and six weeks later it's all entente cordial.

A. As I think I explained yesterday; I mean if you didn't know the background to the matters from Woodcock's you would be considerably concerned about the allegations, but I knew Kevin Phelan, I knew his method of working. I was not concerned about the allegations, and then, of course, the letter of the 30th March, Denis O'Connor is carrying out this negotiating process, don't bother to reply to this letter. I thought that was the end of it. So why should I go back to Woodcock's when they have said don't bother to reply to our correspondence? And it was logical when John Davis suddenly perhaps I was alerted then, that these two letters had more significance to the Tribunal than I had previously attributed to them. And he was the logical person to get in touch with. The dates all do fit together, but that's one of those things. It was I had no knowledge at all of these payments, and obviously the Tribunal didn't till recently. I was not in this loop in the slightest, not in the slightest. It's fair to say, as Mr. Healy has pointed out in my handwritten notes, I did have supper with Denis O'Connor and my wife one evening. It may be he mentioned something about a payment, I don't know. But it was it wasn't a meeting with papers and a business meeting or anything like that. But it would seem, and I think Mr. Healy is probably right to put two and two together and say the next day you gave him this information about people, let him carry on his discussions seeking out

people he can talk to.

Q. MR. HEALY: I want to just be clear about one thing. I am not suggesting here that you were in the loop in the sense that you were you had choreographed any of this. I am suggesting to you, does it not appear choreographed?

A. I don't think I can't comment on that.

Q. I appreciate that. You don't have to comment on it.

A. I am not the choreographer, I am not even in the audience watching the play, am I? I just had no contact with this.

MR. NATHAN: I don't see how, sir, you are going to be assisted in reaching some findings of fact by the impression of a witness who knows not the facts. It seems to me that what he may think about an appearance of things is really of complete irrelevance to what you my find.

Q. MR. HEALY: If I could just get on to the next question. I am indicating to Mr. Vaughan the impression, you don't have to agree with me, I am suggesting to you that this is a reasonable impression one could have from this, but I want to ask you a question about it in that context so you will understand where I am coming from.

Then you you were aware that there were negotiations taking place?

A. Woodcock's told me.

Q. You were aware that those negotiations concerned the matters that Kevin Phelan's solicitors had raised in their correspondence with you?

A. That's what it all I know is what's in the letter.

Q. You were aware that those negotiations concerned insinuations in the Woodcock's correspondence which were similar to the implications that the Tribunal's letter carried for you concerning the two sets of letters; isn't that right?

A. Well, the Woodcock's letter actually goes further than that.

Q. It does?

A. The fragmented letter, if I can put it like that, has other letters.

Q. I appreciate that.

A. But nobody has told me what the differences are.

Q. I don't know, because I don't have them, but it's the same we agreed yesterday it was the same implication was raised by both letters. Duplicate letters had been prepared and an incorrect set of letters had been furnished to the Inquiry; isn't that right? It was the same set of implications arising both in the Tribunal's correspondence and in the Woodcock's correspondence, although the Woodcock's correspondence may have raised other matters as well?

A. Mmm.

Q. You received a letter from Woodcock's telling you that these matters were under negotiation?

A. Correct.

Q. Mr. Davis was continuing with his queries; isn't that right? You believed, on the 18th April, you believed that

you could write to Kevin Phelan about it, not to his solicitors with whom you had been in contact, to Kevin Phelan about it on that date, isn't that right, for whatever reason, isn't that right?

A. I wrote to Kevin Phelan, yes.

Q. And you got a response from him on the 23rd April, which contained what I suggest you knew to be a lie

A. Well, that's totally wrong.

Q. I am going to take it up with you now.

A. Right, okay.

Q. And we mentioned this yesterday. His letter says:

"Dear Christopher,

"I acknowledge receipt of your letter dated 18th April, 2002. I have examined my files, as requested by you, and confirm the only letters I have on file are July A and September A."

And you go to the last paragraph: "I have no idea where the documents July B and September B have come from."

Now, I want to suggest to you that there is that letter is wholly inconsistent with the fragment letter, we call it, of the 21st March from Woodcock's?

A. I don't know if it's inconsistent. He has written to me because he has got no idea where they have come from. He has obviously received these letters at some stage, because I faxed them through to him. So what he was saying is, I don't know where they have come from.

Q. Mr. Vaughan, you know that in his letter of the 21st March,

2002, you referred to one of those letters, and the insinuation of that letter was that he had another copy of it or that the wrong copy had been sent to the Tribunal?

A. But he didn't send it. He didn't say where it was. I find this letter of the 21st, which despite the best efforts of a lot of people, the top

Q. I suggest to you, Mr. Vaughan, that if you had sent the Tribunal the letter of the 23rd April, 2002, and the fragment letter of the 21st March, 2002, you couldn't have satisfied the Tribunal, and you would have known you couldn't have satisfied them by sending on Kevin Phelan's response, because the two responses would have been contradictory?

A. I think you are trying to draw a lot of threads together at a much later date to try and prove something that certainly was not in my mind at that stage.

Q. I am drawing two things together that are a month apart: The 21st March, 2002, and the 23rd April, 2002.

A. As I have said repeatedly, these two letters were at that stage of little significance to me. I had more or less discounted the allegations from Woodcock's because they were, as I repeat again, part of the sort of general Kevin Phelan tactic: Make some threats, stir them all up. And I haven't been particularly concerned about that. I think when John Davis wrote to me in April, I did attribute a little bit more significance to these letters, but not the amount we are looking at today, by any stretch of the

imagination, and it seemed the logical thing, as I have said I think at least now five times, I wrote to Kevin Phelan.

Q. And you gave the Tribunal his response, but you did not give the Tribunal the other documents that you had received from Woodcock's concerning the same matter?

A. No.

Q. And I suggest to you that you couldn't do that because it would have been obvious that Mr. Phelan's letter was contained an untruth?

A. I don't follow that in the slightest.

Q. I have been over it before, I am not going to go over it again.

MR. NATHAN: I think perhaps My Learned Friend ought to identify precisely what he is saying is the untruth, because at the moment he has repeatedly said it contains an untruth. But I think this witness has got ought to have it firmly identified to him.

MR. HEALY: I think it's absolutely clear what the untruth is, and I'll put it again for the umpteenth time.

Q. Now, I am going to ask you to look at the letter. If necessary we'll read it out.

MR. NATHAN: Just what is the untruth?

A. Which tab is it again? Just to make sure we are all on the same wavelength.

MR. HEALY: Tab 3.

MR. NATHAN: It's in Tab 14, last letter, Mr. Kevin

Phelan's letter of the 27th April, 2002. So far as my recollection is, I have been taking notes, and my solicitor confirms it, thus far the untruth has not been put. These words are not true, that is what needs, with respect, sir, to be put to this witness before we go any further.

CHAIRMAN: Let's finalise it then.

Q. MR. HEALY: I want you to look at Tab 3. I'd like to deal with this the way I want to deal with it now, please, without any further interruption during examination of this witness now on an important matter. I want you to read carefully what Mr. Phelan, or what Messrs. Woodcock's, Mr. McCann says in the fragment of the letter of the 21st March, 2002.

"The final issue that we wish to raise is one that has become apparent whilst we, together with our client, have reviewed documentation that is available to him in relation to the preparation of papers for counsel to enable counsel to advise and, thereafter, settle particulars of claim in relation to the issue of court proceedings concerning the various property transactions that were referred to in our correspondence.

"We are instructed by our client that he has been handed a substantial amount of documentation by Denis O'Connor, accountant to Michael Lowry. We are further instructed that this documentation has been obtained through the Moriarty Tribunal which, as you are aware, is proceeding in Ireland.

"Included within the documentation that has been recovered by our client is correspondence from you to our client, being in part file copies and in others a copy of correspondence that was sent to our client. The correspondence received differs to the originals in our client's possession. Sample letters are dated as follows:

"1. 27th August, 1999.

2. 9th September, 1999.

7. 12th November, 1999.

4. 1st December, 1999.

5. 12th July, 2000."

Now, the fragment of this document that the Tribunal found on your Tribunal file did not contain those five letters, or any of them. The Tribunal examined the Cheadle file and found that there were five letters on the file corresponding with those dates, and they have been put at the back of that letter.

A. Good.

Q. Now, what Mr. Vaughan's (SIC) solicitors are saying is the correspondence

A. Sorry, whose solicitors?

Q. Mr. Phelan's solicitors, sorry. "The alterations to the correspondence are clear..."

A. Can I stop you there?

Q. Please do.

A. Why are they clear? I have not a clue.

Q. He is saying that he sent you a set of letters I am just

going to go on with the letter for the moment.

"At this stage our client is not in any way attempting to insinuate that in fact you were perfectly responsible for the alterations to the correspondence. Our client is simply unaware of who has altered this correspondence. On the basis, however, it does appear that altered documentation has been submitted to the Moriarty Tribunal, there are serious implications.

"Please confirm, therefore, if it is that you are in any way aware of the alterations that have been made to the correspondence in this matter. You will see that both the original and the amended version are included."

"We look forward to hearing from you on all issues at your earliest opportunity"

Now, what that letter suggests is that you were furnished with five sample letters from correspondence by Messrs. Woodcock's, both the originals and the amended versions thereof. And I suggested to you yesterday, I thought you had agreed, but maybe I am wrong, that in respect of the letter of the 12th July, 2000, that must have meant the long form and the short form of the originals of that letter? Would you agree with that?

A. Well, I haven't got the original letter here as to whether they sent the long and short form. The 12th July is the only letter that we have been talking about that we have clear different versions of the same letter, and you have added to the letter, the ones off my Cheadle file. Why

they weren't with the paperwork that was submitted to you by William Fry, I don't know. But the short form letter is the one that's on the Cheadle file. I can't say what the other letter sent with Woodcock's letter is, I don't know, because I can't see it.

Q. I only want to deal with one letter, the 12th July, for the moment.

A. That's what we are looking at.

Q. Yes. Doesn't it seem reasonable to assume that you were furnished with this letter, a copy of the long form and the short form of the letter of the 12th July?

A. I think we are going to some serious issue here. I think reasonable assumptions are too weak, I think we need positives. So I can't positively say whether the long and short form letters were submitted with that letter from Woodcock's.

CHAIRMAN: With respect, Mr. Vaughan, is it not clear as a pikestaff that there is an innuendo of possible knavery in Woodcock's letter, whereas Kevin Phelan's letter suggested some form of doddering inadvertence of getting names mixed up? There is surely a difference?

A. It is likely that that letter contained the long and short form letters.

Q. MR. HEALY: Now, if we go to Tab 14, and to the last letter in Tab 14, which is Mr. Phelan's letter that was sent to the Tribunal under cover of your letter. Mr. Phelan says: "I have examined my files, as requested by you, and confirm

that the only letters I have on file are 'July A' and

'September A.'

"I have no idea where the documents marked 'July B' and

'September B' have come from."

And I suggest to you, that is inconsistent with what was

stated in the letter, the fragment letter of the 28th

March?

A. Well, I read that, that he didn't know where the two

letters that I had sent to him by my letter of the previous

date had come from.

Q. I want to suggest to you that anyone, any reasonable person

reading both letters would know that the person who said

what he said in one letter couldn't have said what he said

in the other, or at least without a very, very long

explanation?

A. I can't speak for Kevin Phelan. He wrote to me and he said

he didn't know where the two letters that I had sent to him

had come from.

Q. And I want to make one further suggestion: That you must

have known, or if you didn't, if you had looked at the

matter, you must have known that these two letters were

wholly inconsistent with one another and that the second

letter was a lie?

A. I think in April 2002 I had concluded, not unreasonably,

because of the last sentence of Woodcock's letter of the

30th March, that they didn't want a response, that that was

the end of that. I am sure when Kevin Phelan's letter

arrived, and I think if you look at the dates, I then send it straight on to Mr. Davis and say "Here you are, this is what the recipient says," full stop. I didn't go back and forensically examine Kevin Phelan's letter against all other correspondence. It was the furthest thing from my mind. I mean, it is so different here, seven years later, trying to look at all the possibilities. That wasn't even considered by me at this stage, I had other things to do. I mean, I would have had a lot of other matters that I was dealing with, and I am sorry if you look at it like this, but a query from John Davis, let's try and sort out this matter, let's try and help the Tribunal. Write to Kevin Phelan. Here is a response, here you are Mr. Davis. I wouldn't have gone back on lots of letters and compared them. No point.

Q. I wonder you see, I suggest that if you had, and I don't think you'd need to examine them forensically, but if you had carefully looked at Mr. Phelan's letter of the 23rd April and looked at the fragment, the letter of which we now only have a fragment, of the 21st March, you would have seen that? But maybe you didn't look at them. And I am suggesting that is it possible that you didn't look at them because you were told if you write to Kevin Phelan about those two letters, he'll give you a response and that will be the end of it?

A. It was my decision to write to Kevin Phelan. It wasn't choreographed or orchestrated or anything else.

CHAIRMAN: I think there had been some mention of a mid-morning break. Perhaps, Mr. Vaughan, we might take 15 minutes now.

A. Thank you.

THE TRIBUNAL ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

MR. HEALY: Just on a matter that was raised by Mr. Nathan this morning, and that I said I'd come back to. This is the question of Woodcock's. The Tribunal wrote to Messrs. Woodcock's on the 30th September, 2004, shortly after obtaining the DOB7 exhibit in the proceedings instituted by Mr. O'Brien, the exhibit which contained Mr. Vaughan's Tribunal file and which contained the one page of the letter of the 21st March, 2002, from Woodcock's to Mr. Christopher Vaughan. I don't think I need to read the Tribunal's letter of the 30th September. By reply, on that day, the 30th by reply dated that day, the 30th September I'll put it on the overhead projector, it's not a terribly extensive letter.

On that day, as you can see, the 30th September, Messrs. Woodcock's wrote to Mr. Heneghan, then the Solicitor to the Tribunal saying:

"Thank you for your fax of the 30th September.

"I have considered your request" - this is a request for the first page of that document, and indeed, I think if I am right, other related documentation, but that's not of huge significance having regard to what was stated.

Mr. McCann writes back saying: "As a solicitor of the

Supreme Court of England and Wales, I have a duty of confidentiality to my client. The duty of confidentiality is set out in Chapter 16 of the Guide to the Professional Conduct of Solicitors. Paragraph 16.01 identifies the general duty of confidentiality. In short, I am under a duty to keep confidential the affairs of my client. If it is therefore that I disclose my client's confidences which is unauthorised by my client or by the law, this could lead to disciplinary proceedings being commenced against me, and further would render myself liable in certain circumstances to a civil action by my client arising out of the misuse of confidential information.

"I have spoken to my client in this matter, and I am not authorised by my client to disclose any information to you.

"In the circumstances I cannot assist."

And I note that now Woodcock's assert that they have sent on the document to the Tribunal, but

MR. NATHAN: Can I all I would say is that the e-mail that was sent to my instructing solicitors by Woodcock's yesterday, and a copy of which was then forwarded both to me and my instructing solicitor, perhaps I could just read what it says into the transcript.

Let me just explain as part of the background, the correspondence between my instructing solicitors and Messrs. Woodcock's relied on the selfsame paragraph of the Solicitors' Code of Professional Conduct, identifying the fact that there was no confidence, the letter itself having

actually already been sent out to Mr. Vaughan, and therefore there couldn't possibly be any question of confidentiality. All one was looking for was a copy of that, which had already been published, and that it was a breach of professional good conduct to decline to provide that when the solicitors themselves asking for it, or for a copy of it had offered to pay the reasonable costs involved in providing that copy, the photocopying, the postage stamp and so forth.

Mr. McCann, who is a partner at Woodcock's, sent an e-mail which was forwarded to me just before six o'clock last night saying these words: "I have now been able to speak to my client. I understand that he has spoken to his Irish lawyer and the documents have been sent direct to the Tribunal. There is no point debating this matter further.

I consider the matter closed."

And it is signed "Mr. DM McCann, Woodcock's."

So one anticipates with eager enthusiasm the arrival of the mysterious document. But we shall see. No doubt the Tribunal has better experience of Mr. Phelan than anyone else.

CHAIRMAN: Slightly limited tenterhooks, I think.

Q. MR. HEALY: Just one or two final matters on those letters

I omitted to mention to you, Mr. Vaughan.

Firstly, I want to mention something that I haven't mentioned but I have been requested by your counsel to mention it. It refers to a document in the books at Tab 23

of Book 81. And it's a letter from Mr. Phelan to the Tribunal of the 4th October, 2004, in which the Tribunal raised with Mr. Phelan a number of matters concerning, inter alia, the long form/short form letters and the Woodcock's letter. And I'll just read out the letter just so you'll have an opportunity of responding to it.

It's:-

"Dear Mr. Heneghan,

"I refer to your letter dated September 17th, 2004, which had attached a file of documents. I also refer to your letter dated September 27th, 2004."

If necessary we can refer to those.

"I reject Mr. Vaughan's statement, and I have corresponded with him directly regarding the matter. As indicated in my letter to Mr. Vaughan, I regard his statement as grossly inaccurate and a clear attempt by him to undermine my credibility. Mr. Vaughan's statement is vindictive, arrogant and represents an individual who is out of control and merely endeavouring to damage my character and is not representing the factual position. As his statement is in draft form, I have no idea whether the document has been forwarded to the police. However, if it has, then Mr. Vaughan has misled the police, an issue I will take up with them directly."

I think that's a reference to a draft police statement on Ms. Kate McMillan's file.

"In respect of the other letters attached to your

correspondence, one of which is a single page from a letter, I am unable to comment on an incomplete document.

However, in respect of the letter dated April 23rd, 2004, this letter" I think that should read April 23rd, 2002

"This letter was immediately withdrawn at the time from Mr. Vaughan, as it was drafted by another party and did not represent the facts. It does not surprise me that

Mr. Vaughan chose to ignore my written request to destroy the letter.

"My principal place of business is in England and Northern Ireland.

"Yours sincerely
Kevin Phelan"

The Tribunal did write to you about that letter, but as far as I am aware

A. Did or didn't?

Q. Did, I think. I am fairly certain the Tribunal wrote to you about that. But

A. Right. I mean, I don't recall it, but I have read the letter now.

Q. I am just offering you an opportunity to comment on it.

A. It's the last paragraph really that relates to what we have just been talking about before the break.

Q. Yes.

A. I am absolutely positive that I never had any sort of communication withdrawing the letter of the 23rd April. I mean, it's interesting. So far as I can see, the letter of

the 4th October doesn't exhibit to it a copy of the letter of withdrawal or anything else

Q. I can tell you the Tribunal took that matter up with Mr. Phelan, but didn't get assistance.

A. I am absolutely positive that that was never withdrawn, because that would have been a very significant letter if that had happened.

Q. You received no letter from him anyway

A. No.

Q. withdrawing it?

A. No.

Q. He did raise all these matters again in 2006, didn't he?

A. It's really to do with Glebe Trust yeah, quite right, it is alluded to in the letter to Michael Dawe, the Scott Fowler compliance partner, but it was ignored by us, frankly.

Q. Just a final matter on those letters. If you go, for a moment, to Book 81A, Tab 11. It's your letter of the 7th October, a letter we have already mentioned, in which you may recall you were replying to a number of letters from the Tribunal.

A. Sorry, this is 81A?

Q. 81A, Tab 11.

A. I have got Tab 11, yes.

Q. And

A. It's a letter to Duncan Needham?

Q. Yeah, that may be the first letter. If you go to the last

bundle of documents in that.

A. Okay.

Q. They are bundled in mine, I hope they are bundled together in yours, commencing with your letter of the 7th October, 2004, to Mr. Michael Heneghan.

A. 7th October, 2004. Sorry, Heneghan, is it?

Q. Mr. Heneghan. Have you got it?

A. Yes, I thought it was Heneghan.

Q. We mentioned this letter already. You may recall that it contains a composite response from you to a number of letters you received from the Tribunal about this time, which was shortly after the Tribunal had obtained the exhibits contained in the DOB7 exhibit in the High Court proceedings.

A. Yeah.

Q. And if I ask you to go to paragraph 7 of that letter, it's on the second page. And you are referring to, or responding to a Tribunal request, which I can open to you in a moment, but I think it should be clear from your response what the request was. It related to the letter of the 21st March, 2002, of which the Tribunal had one page, the letter we have been discussing a moment ago in context of the Woodcock's correspondence.

And you say: "I have had correspondence with Woodcock & Sons, which related to Kevin Phelan. This correspondence is privileged."

Now, you may have an opinion on that, but you go on: "I

can say, however, that it does not relate to the matters covered by your inquiry."

I suggest to you that that's not accurate?

A. Well, that was my view at that time when I wrote that letter.

Q. But could there be any doubt if you read the Woodcock's correspondence at that time, which you must have done to decide that it was privileged, that could there be any doubt but that it related to matters being canvassed by the inquiry at the selfsame time that the correspondence was generated?

A. Well, the correspondence that I think I was referring to there is the allegations that Woodcock's & Sons, on behalf of their client Kevin Phelan, was making against me, and those allegations were subsequently withdrawn. So, I felt that that was a self-contained group of correspondence which was of no relevance to the Tribunal. That was my view then, is a privileged set of correspondence between me as solicitor for myself, I suppose, and Mr. McCann as solicitor for Kevin Phelan. I keep repeating this:

Allegation made, allegation withdrawn, matter closed.

Q. You did think, I suppose, that it was relevant enough to put the fragment letter on your Tribunal file; that that was relevant to the Tribunal's inquiries?

A. When you say "I put the fragment letter on my Tribunal file," I think I don't know whether that letter was sent by me to the Tribunal or whether it was in my files which

went eventually to William Fry, which got sent to the Tribunal, I just don't know.

Q. According to Messrs. William Fry, and according to the affidavit in which it was exhibited, it was your file sent by you to Messrs. William Fry, solicitors for Mr. O'Brien, and then exhibited by him. It wasn't sent to the Tribunal just bear with me for a minute it wasn't sent to the Tribunal initially, it was part of an exhibit in proceedings

A. Right.

Q. against the Tribunal.

A. Well, that helps, because what happened was that I was asked to send all my files to Morton Thornton in respect of the mediation proceedings, and then thereafter they were sent to William Fry in respect of them wanting to look at them. And they then

Q. I think you may be confused. I don't want to cut cross you, but I think that the file I am talking about was your file sent by you directly, and I'll refresh your memory

A. I think you are right.

Q. to Messrs. William Fry, because you were asked about it, I think, and you mentioned you had problem faxing it all over to them and you had to use a courier?

A. You are absolutely right, yes, I used that file as noted. Yes, I mean I sent them, as requested, the total file.

Q. And I am suggesting to you that well, we'll perhaps deal with it on two fronts: I appreciate you are not a

litigation lawyer, but as your counsel has pointed out a moment ago, and you may have the same view as Mr. McCann of Woodcock's, but correspondence between you and Woodcock's is not privileged?

A. Well, I hear what's being said now. Interestingly, the Woodcock's letter, of course, as Stephen Nathan has pointed out, he looked at it in a different way, hence the e-mail.

Of course, I was raising a similar point with the Law Society using the same paragraph, is it paragraph 16, which is in my notes of yesterday, where Mr. O'Malley from the Law Society gave me a reply. But perhaps I am wrong on the question of privilege, but

Q. I am not going to argue that with you.

A. Right.

Q. But you didn't get any advice on that question at that time?

A. Which particular question? Paragraph 7?

Q. The question of privilege?

A. It was my gut reaction that this was privileged.

Q. That's all. I just want to clarify that.

A. I stand to be corrected if I am

Q. But it's the next sentence. You can say that it does not relate to the matters covered by your inquiry. I want to suggest to you that having gone over the documentation with you over the last day, nothing could be clearer but that it related to the matters being canvassed at this inquiry?

A. Well, sitting here today I can see that, but at the time I

wrote that letter I certainly, in my own mind, felt that the correspondence with Woodcock's, which I related as complaint and withdrawal, was nothing to do with this inquiry. I couldn't see I thought it was a complaint by Kevin Phelan against me arising out of my professional work as a solicitor. I couldn't see it had anything to do with the Tribunal.

Q. I don't want to labour this point or go over it again, but I have to suggest to you that anyone looking at the correspondence, lawyer or not, would see that Kevin Phelan, through his solicitors, was raising matters with you that the Tribunal was also raising with you at that time?

A. Well, I disagree.

Q. Now, I should say that ultimately- and you may be familiar with this, and I don't want to weary you by going through the documents - the Tribunal did pursue trying to get that document, the rest of that two-page letter, and ultimately the Tribunal was informed by your solicitors sometime recently, and I can see perhaps now where the confusion arose, that you had is it Mr. Duncan Needham informed the Tribunal that he couldn't find the documents and he believed they had all been sent to Messrs. William Fry & Sons. The Tribunal checked the matter with Messrs. William Fry and they said no, they hadn't got it, all they had got was the one page. Now, just so we clarify that. When you received the Woodcock's letters, would you have put them all on your Tribunal file at the time you received

them?

A. I would have thought that I had done, because there must be 14 pages, are there not? There is a two-page letter and six letters plus six letters, which is 14 pages, isn't it?

Q. Yes. Plus all the other letters. You know, the two-paged letter plus a minimum of six pages?

A. Yeah.

Q. A minimum of 12 pages?

A. Yeah.

Q. Plus the first letter in January?

A. Right, yes

Q. And the holding letter telling you there were negotiations.

A. Yeah...

Q. That's quite a bulky amount of material?

A. It is. I would have thought it would have all gone on the file. I don't want to sort of raise even more sort of issues, but looking very carefully at the letter, the second page only of the letter we have got, it would appear to me to be a fax, because it's got that sort of slight fudgy edge, fuzzy edge to the print, and I just wonder whether in fact the letters were there. I don't know. But I all I have got was sent to William Fry.

Q. Well, when you decided in response to the Tribunal's inquiry that they were privileged, did you look at all the material at that time?

A. No, I think I dictated this letter in a sort of gut reaction. As I have said two or three times already, I

regarded it as a closed issue. Paragraph 10 actually refers to the restaurant in London which I have suddenly discovered.

Q. Mr. Vaughan, I'd like to look now, as I said earlier I would do, I'd like to go back to look in more detail at the letter of the 25th September, 1998. And

A. Which particular book are you looking at?

Q. I am sorry, you are quite right, because there are several copies of that letter.

A. I assume that you may want to carry on from it

Q. Yes, we'll be spending sometime on the letter, so I'll give you the book. The best book is Book 81.

A. I have Book 81. If you just give me a tab number?

Q. Yes. If you look at Tab 3.

A. I am with you. I am on Tab 3.

Q. Tab 3 is the office copy. We'll look at that for the moment because it's the easiest copy to read, although we may refer to the photocopy of the original that you ultimately obtained.

Now, we have been over we have referred to aspects of this letter before, and just before dealing with what you say about it in your statement. Can I just remind you of something you said in a letter to the Tribunal, which I think you will remember, and which you also said in a letter to Mr. Ryall in 2004. I am not going to open the letters because if you don't remember it, I'll come to it, but I think you may remember it.

You said that one of the problems you had in considering whether to give evidence or one of the problems you had in looking at the matters the Tribunal was raising with you was that what you said or did at any time depended on or was based upon the events as you saw them at that time, and that you learned things subsequently about those events that gave you a different view of them. Do you remember saying that?

A. I do, yes.

Q. Now, I think from your statement it's clear that in 1998, and indeed right up until 2001, you had no idea that Mr. Denis O'Brien had anything to do with Doncaster?

A. No.

Q. As far as you were concerned, you had never heard of him?

A. [SHAKES HEAD].

Q. You have quite properly pointed out that his name appears somewhere in a document, but even that didn't ring a bell with you in any way?

A. It's in the facility letter from Anglo Irish Bank to Theodore Goddard, yes.

Q. Now, can I ask you to go to paragraph 9 of your statement, where you say

A. Can I just ask my solicitor

MR. O'CALLAGHAN: Sorry to interrupt, Mr. Chairman. I just note on the transcript that it simply records Mr. Vaughan's answer as being "shakes head" when he was asked whether or not he knew Mr. Denis O'Brien at that time. Can I just

clarify.

CHAIRMAN: Well, I certainly understood it as an affirmative, Mr. O'Callaghan, and I ask that the record record that.

A. Do you want me to say it?

Q. MR. HEALY: Yes, I think

A. Sorry, it's in my bag

Q. That's fine, sorry, but your answer is in the negative not the affirmative as to whether you knew about Mr. O'Brien?

A. I didn't know about Mr. Denis O'Brien at that stage.

CHAIRMAN: Yes, I had simply noted it as that you assented to Mr. Healy's question that between 1998 and 2001 you had no notion that Mr. O'Brien was involved in the Doncaster matter.

A. Correct. Thank you, sir.

Q. MR. HEALY: I was referring you to paragraph 9 of your

A. 9 or 19?

Q. Paragraph 9. You say: "In the period between exchange of contracts, 8th May, 1998, and completion on Tuesday, 18th August, 1998" this is referring to Doncaster

A. Correct, yeah.

Q. "...I became aware of the involvement of Mr. Aidan Phelan in the transaction as the person who was arranging the finance and who I then appreciated had a substantial interest in the transaction. I did not meet Aidan Phelan until sometime in October/November 1998. The meeting took place in the director's room at the DRFC ground."

You go on in paragraph 10: "Shortly after the completion of the purchase of DRFC, the playing element of DRFC was sold to a company called Patienceform Limited by Mr. John Ryan. As regards that part of the transaction I dealt with Andrew Smithson of Hill Dickinson of Chester, who acted for John Ryan in Patienceform. Both Aidan Phelan and Kevin Phelan instructed me throughout the sale of the playing element. As a result, Westferry was left with the ground and car-park only. Currently Westferry holds the ground lease only. The car-park lease having expired."

At paragraph 11: "At no time throughout the whole of the process of the acquisition of DRFC was I aware of the existence of or involvement of either Denis O'Brien Senior or Denis O'Brien Junior."

And then you go on to say, in fact as I mentioned a moment ago: "Although the name of Denis O'Brien is referred to in the Anglo-Irish Bank facility letter, Tab 23, Book 82, I do not believe that I ever saw that particular letter, and even if I did, the name would have meant nothing to me at the time in any event."

At paragraph 12 you say: "It was not until the meeting of the 15th March, 2001, when I met Michael Lowry, Aidan Phelan and Helen Malone and Kevin Phelan briefly in Aidan Phelan's offices in Clanwilliam Terrace in Dublin that I became aware of the involvement of the O'Brien family interest in the DRFC transaction."

Just I digress for a moment on that. That was a meeting

shortly after queries were raised concerning the Cheadle and Mansfield transactions; isn't that right?

A. What do you mean by "queries"? Do you mean as to the beneficial ownership?

Q. No, no, the meeting of the 15th March, 2001

A. Right.

Q. was after the Cheadle and Mansfield matters were first drawn to the attention of the Tribunal and sometime after the Tribunal's interest in them was drawn to your attention, presumably by Mr. Phelan and perhaps Mr. Lowry?

A. I am sure that's correct, because I think the purpose of this meeting was to alert me for the first time that this Tribunal was sitting and what it meant and what it was looking into. And that they had asked for, and presumably been given, details of the Cheadle and Mansfield transactions.

Q. Just why was the Doncaster Rovers transaction mentioned at that stage?

A. Well, I presume I was told at that stage at that meeting, as I have said in the last sentence, that they then told me about the O'Brien family interest in DRFC.

Q. What was the relevance of it at that meeting?

A. I presume just a general discussion, you know, this is what's happening with this Tribunal.

Q. But this Tribunal wasn't inquiring into Doncaster at that time at all.

A. Let me put it like this: I was told at that meeting about

the Tribunal. At that stage I don't think I had any knowledge of it, and I was asked to go and meet and discuss the Cheadle and Mansfield matters. But I also was told there about this other issue.

Q. Can you recall who told you about the DRFC thing?

A. It's one of two people: It's either Aidan Phelan or Helen Malone. I mean...

Q. Or Kevin Phelan, possibly?

A. I wouldn't have thought Kevin Phelan.

Q. Well, I think you said he was there, didn't you, or briefly I beg your pardon, you said briefly?

A. When I say briefly, we have to go back into context again, because Kevin Phelan and myself were not speaking at this time because this is, you know, the time when things were he was making certain allegations, etc., and it was suggested that we go and settle our differences privately, and we were put in a room together for a few minutes just to see how we got on. And we had a very sensible discussion there, and I thought at that stage we had resolved our differences and managed to put them into context. But as would be appreciated, as I said later on in the evidence, then of course he reports me or he reports that he has reported me to the OSS. But it was a delicate meeting to bring us together. But we were perfectly civilised, it didn't come to blows or anything.

Q. Did you bring your files to that meeting?

A. Probably. I really can't remember. I was going to ask you

a question. I assume, and I haven't looked if you have asked this of Aidan Phelan or Helen Malone. I don't know whether their recollection is better than my own.

Q. I think they said you did bring your file, but just to be clear about it, what I am trying to ascertain, and I feel certain that they weren't asked this question is: Did you bring the Doncaster file or were you asked to bring the Doncaster file?

A. I wouldn't have brought that because it runs, as you are aware, to sort of 8 or 12 ring-binders, so...

Q. I see. Right. I am just curious as to why Doncaster would have come up for discussion at all? I mean, I am not accusing you of anything.

A. I have recorded that it was brought up in conversation.

Q. But up to then, nobody had seen fit to enlighten you as to any aspects of the

A. No, no

Q. background ownership of DRFC?

A. Not at all, and it goes back to the comment that you brought up a few minutes ago about John Ryall and me saying to John Ryall, I really find it difficult to appear before this Tribunal, because so much information that I now know that I didn't know at the beginning, that it's difficult to sort of separate that out.

Q. All I am concerned about is why anyone felt it necessary, and you can't answer that, but the reason I ask the question is, I wonder why was it felt necessary at that

meeting, which was to deal with Mansfield and Cheadle issues arising in the Inquiry, why it was felt necessary to raise the DRFC matter, but you can't throw any light on it?

A. No.

Q. Okay. I think then if you go on to paragraph 16.

A. This is 16 of my statement?

Q. Yes.

"The first time I met Michael Lowry in relation to the Mansfield project was on the 23rd/24th September, 1998, when a meeting took place at my offices in Northampton. (See his complaint Book 11, Tab 82.)"

Just in relation to that, sometime shortly after the meeting in March, it was in May I think you met, you came to Dublin Castle and you brought your files to discuss the Mansfield and Cheadle projects, and we have

A. These are the 30th May?

Q. Yes. And we have the account and you have some corrections that you made to the statement you say were inaccurate.

But I think that I am right in saying you described your meeting with Mr. Lowry as having taken place in September of 1998 concerning Mansfield. You didn't tell the Tribunal then that it was a two-day meeting, or that it wasn't a two-day meeting, that it spanned two days, your contacts with him, and you have been very clear here to, I think in most places, to refer to the two-day span?

A. Mmm. Well, perhaps I wasn't asked that question.

Q. Well, the Tribunal could hardly ask you whether it was a

meeting that spanned two days if you told them you met

Michael Lowry

A. You could have asked how long it lasted. Anyway...

Q. I am sure we can go back to the document, but I think you'll agree with me that there was no mention in any case of the Doncaster Rovers element in the meeting?

A. Well, I think we have I don't know whether you want to sort of canvass this particular point now, but of course we have a problem over the note of the meeting that took place on the 30th May, because I think we established since I have been here that the note of John Davis was correct in certain parts, that the typewritten note was incorrect in certain parts. The notes of Jacqueline O'Brien which had been used to prepare the long statement have been destroyed. And so, I can remember just one aspect of it. If you look at John Davis's note at the very end, you will see "meeting took place Thursday." The typewritten version says Monday. So, I don't know whether I was asked whether it lasted two days. I think to use that note as an absolute guaranteed piece of evidence, it would be wrong.

Q. All right. Now, you go on to say:-

"There is a minor discrepancy between my version of the date of my first meeting with Michael Lowry and Michael Lowry's version of the meeting. What there is no doubt about is that we met in my office on the morning of the 24th September, 1998, and discussed the purchase of Mansfield. What is in dispute is whether we met in my

office, as I maintain, or in a hotel, which Michael Lowry maintains, the night before, 23rd September, is probably irrelevant. But I am quite positive that we did meet late afternoon/early evening on the preceding day and detailed open discussions took place between myself and Kevin Phelan" and I think you now say possibly Paul May?

A. I do, yes.

Q. "...in the presence of Michael Lowry, about the outstanding issues that needed to be resolved as to the acquisition of DRFC (as set out in my letter of the 23rd August, 1998)."

If we for the moment ignore where the meeting took place.

A. Okay.

Q. What day it took place on, whether it took place in a hotel, in somebody's home, in your office, within office hours, outside office hours; after the meeting, sometime after the meeting you dictated a very careful letter, effectively an attendance of what had happened; isn't that right, as you have done on numerous other occasions in your various files?

A. The letter, of course, is not dictated on the 23rd, it's dictated on the 24th.

Q. Yes.

A. And we get the dates wrong.

Q. Yes, I am saying leaving all those things aside. After your engagement with Michael Lowry, let's put it that way

A. Yeah.

Q. you dictate a lengthy letter addressed to him?

A. Correct.

Q. And consistent with the practice you have, that we have discussed at various times in the course of your evidence, this is virtually an attendance; it was a contemporaneous or near contemporaneous note of everything, of the main things that you felt worth recording; isn't that right?

A. Yeah.

Q. Now, again I am reading from your office copy, because it's the easiest copy to read from.

It's addressed to Mr. Michael Lowry, Abbey Road, Thurles, County Tipperary, Eire, 25th September, 1998.

"Dear Michael,

"Re Doncaster Rovers Football Club.

"I was very pleased to meet you on the 24th/25th."

That has to be the 23rd/24th?

A. Correct, yes.

Q. "My apologies for getting you to Leicester a few minutes late for your BUPA appointment. I hope that all went well and that you eventually returned to Ireland.

"I am enclosing:

"1. Copies of my letters of the 23rd and 25th September, 1998, to Aidan Phelan."

Now, your letter of the 23rd of September to Mr. Aidan Phelan at it's at the tab behind it.

A. I think it's the letter, isn't it, which has got a 7 in it?

Q. I am sorry, it's the next document

A. It's got a 7 in the top right-hand corner?

Q. Yes. I think there is, in fact, a copy on the previous tab as well. Anyway...

So that's the letter you sent: "Dear Aidan, perhaps you could let me know the arrangements for the meeting tomorrow, 24th September, 1998. I am available on" - such and such a number - "after 6 p.m. today, or otherwise the usual office numbers. In the meantime I enclose a brief agenda of topics that I would like to cover. I also enclose revised completion statement and financial statements for your consideration. The most important issue is returning Westferry Limited into a shell company with no assets as soon as possible in accordance with paragraph 5 of my letter of the 23rd August, 1998."

Now, just to deal with one question of dating first. On whatever basis the letters were dated, this letter was being enclosed, presumably, because mainly of the agenda of topics and the other documents that were attached to it; isn't that right?

A. It showed the outstanding issues that I needed to sort out.

Q. Yes. And it referred to what you were then describing to Aidan Phelan as the most important issue, returning Westferry into a shell company?

A. Yes.

Q. Now, with it you then enclosed an agenda of the 24th September, 1998, Westferry, Doncaster Rovers, a whole load

of steps to be taken. "Aidan to sign 288 forms.

Appointment of director. Westferry to execute stock transfer forms to Anglo Irish Bank as to shares."

I presume that was for some kind of security for Anglo Irish Bank.

"Revised completion statement.

Professional fees, solicitors, accountants."

You have already mentioned that you hadn't been paid at least half your fees and there were other outstanding fees to professionals?

A. Yes.

Q. "The funding of DRFC." That's funding the club itself, the playing element; is that right?

A. Correct.

Q. "The future of Westferry." And then, "Other solicitors to be appointed."

The second item on the agenda was Beechwild.

Then the next document was

A. Is my bill.

Q. Is your bill. As usual in the case of a solicitor's bill, I think practice may have changed now with time billing and all of that, but the old-fashioned solicitor's bill contained this long account of the transaction usually; isn't that right? Maybe you still do it like this?

A. I am just having a quick look at it. I had only looked at the bottom-line figure.

Q. Yes. I have no desire to put that or any of those private

matters on the overhead projector, but

A. I am looking at the bill, yeah.

Q. In any case, it's a lengthy document describing receiving the initial instructions, explaining where the agreement took place and so on, coming right up to closing the transaction.

Then the next document is the amended completion statement?

A. Yeah.

Q. Giving all the monies that went in, all the monies that went out?

A. Mm-hmm.

Q. And there was a retention issue, and you show the retention as well.

The next document shows the financial situation of Doncaster Rovers Football Club, something that you were going to have to run for a short period of time; isn't that right?

A. Yeah.

Q. You then go on, to go back to the letter now:-

"You did take a copy of the letter of the 23rd with you on the 24th. However, you will recall that two of the figures were wrong on the completion statement, and those have now been amended, and I would be grateful if you would destroy the incorrect copy and substitute this one."

A. Yeah.

Q. Now, the reason I referred you to the various documents I did a moment ago was simply to try to get some idea of,

some picture of what was happening. You had already given the letter of the 23rd to Aidan Phelan with all the documents I have just referred to, to Michael Lowry?

A. I am sorry

Q. I beg your pardon?

A. I hadn't given any letter to Aidan Phelan at all.

Q. No, no, I appreciate that.

A. Sorry, you said I had given the letter to Aidan Phelan.

Q. I am sorry, my fault. In your letter here, in paragraph 1, you say to Mr. Lowry "You did take a copy of the letter of the 23rd with you on the 24th." Do you see that?

A. Yes. The letter would read better if it said "addressed to Aidan Phelan," wouldn't it?

Q. Yes. But in any case, what Mr. Lowry had taken the night before was the letter and, presumably, the documents

A. The figures.

Q. Yes, that I have just referred to. I went through them, not in detail, but I identified them so as to get a picture of what was happening. So he got your letter to Aidan Phelan with the agenda and with your bill, which was in several pages, with a completion statement, the financial statement and so forth?

A. Yeah. That's what I have recorded in the letter, so I am quite positive that happened.

Q. Yes. And then you go on to point out "I just want to make it clear," you may recall you said that there was a mistake, and I'd be grateful if you'd destroy the incorrect

copy and substitute the one you are now being given?

A. Correct.

Q. Then you go on to say, paragraph 2: "I had not appreciated your total involvement in the Doncaster Rovers transaction, and I am therefore enclosing a copy of my completion letter which was sent to Kevin Phelan, Paul May and Aidan Phelan on completion.

"You will see that in that letter I make reference to the divesting by Westferry of all its assets. This is a matter that I discussed with you on the 24th September and is absolutely vital that process is initiated urgently."

Now, what you are enclosing here is, I think, a much is a letter we have already alluded to?

A. It's the letter that's under tab number 1, isn't it?

Q. Yes. Isn't it 23rd August; isn't that right?

A. Correct.

Q. Book 81, Tab 1?

A. Yeah.

Q. And that, again, is a rather lengthy letter, a total of

A. If you recall a couple of days ago, I described that I drafted this on holiday after completing.

Q. Yes. It wasn't a nice way to spend your holiday. It's about eight, I think eight or nine pages?

A. Yeah.

Q. Nine pages, in fact. So it's a substantial letter setting out, as you described earlier, the status quo as at that moment: Where you were, where you needed to be, and what

you had to do to get there?

A. Yeah.

Q. And you were bringing, as you saw it, Mr. Lowry completely up-to-date then as to the current state of affairs?

A. Yes. I mean, I was telling him for the first time, I wasn't bringing him up-to-date makes it sound as though he had prior knowledge.

Q. I am sorry, I wasn't suggesting that. I am simply dealing with what the letter says on its face. You are quite right. And I am not suggesting that. That letter would give him a picture of where everything was at that time?

A. Oh, yeah. To an intelligent businessman, if you had my letter of the 23rd August and the completion statements, you would be able to grasp exactly where we were in this transaction and what we had to sort out in the future.

Q. And just to pick up on something you said a moment ago. You had discussed that with Michael Lowry, according to your letter, on the 24th. We know that must mean the 23rd?

A. This is, as I referred to, it was an open discussion.

Q. You go on, on the next page, referring to the question of the shedding of the assets. "It's not an issue that I can deal with as a solicitor, as I think that there is a possible conflict of interest with my involvement with Doncaster Rovers. I think it would be best for Aidan Phelan to arrange for the matter to be dealt with via Anglo Irish Bank, and either their solicitors in London, Theodore Goddard, or Messrs. Simcocks in the Isle of Man, who dealt

with the other Westferry matters prior to the acquisition of the shares in Doncaster Rovers."

Now, you refer to Aidan Phelan, and indeed, to other individuals in this letter without any explanation. And would I be right in thinking that that was because from your discussion the night before, you were satisfied that Mr. Lowry was at least familiar with these names?

A. Yes, because when this letter was written, I had never met Aidan Phelan, and if you this letter, of course, is written after I have come back from Leicester. I think the dates may have got ary because I have dictated it and it hasn't got typed till the next day.

Q. I was thinking about it myself, and maybe you can help me. If you had dictated it and you had referred to today and yesterday in your letter, if your secretary typed it on the 25th

A. I think that's maybe an answer. But anyway, this letter was dictated after I had had these discussions about Mansfield, I had met Michael Lowry for the first time, we had been in the car to Leicester, and one of my complaints, if I put it like that, was that I needed input from Aidan Phelan to push these matters along. You will see from the agenda items, there are these forms, 288s. 288 is a form you fill in to register the new Director and Secretary of a limited liability company with Companies House. So, you fill in a Form 288 and send it off. But he had to sign these. And as you will see from the next item, I am not

looking at that time for a second - here we are -

"Westferry to execute stock transfer forms." Although I don't think I had it on completion, I was then aware that part of the security Anglo Irish Bank wanted was to have the shares transferred to them as security. All these needed to be discussed. There is quite a lot more, I won't go into it because it's of a technical nature to do with the company. But I needed this man sitting in a room opposite me to say "Come on, we have got to get on with this," and the spectre of the retention funds being sorted out. You'll be aware from my Completion Letter that these funds had been created. There was money on deposit, there is money attributable to the funds, and we had lost a month. The letter of the 23rd August had been written. 24th I meet Paul May. But we need the man behind it, we need Aidan Phelan. And sort of labouring the point a little. I hadn't met him. Michael Lowry indicated to me that he knew him, and this is another aspect that I sort of latched on to; here is a man who knows Aidan Phelan, he can perhaps organise this meeting. And as you know, I was it was all wrong and I was wrong about his involvement in Doncaster.

Q. Well, you weren't all wrong as far as you were concerned at the time. Somebody told you you were wrong?

A. Kevin Phelan told me that I was wrong, and for the reasons I have set out extensively in correspondence. Up until the 23rd September I had never heard of Michael Lowry in

connection with it, and from the moment I left him at the BUPA hospital, you know, I never heard of him again in connection with it, so...

Q. But the one person, on your evidence, who never told you you were all wrong was Michael Lowry?

A. I don't think I ever asked him.

Q. But he never told you in the course of this meeting, "Don't be handing me these documents"?

A. No, I don't think he never told me he was involved. I assumed that here was a man who could help. I mean, I have tried to explain this in different ways.

Q. You have, but he never said to you "I don't want these documents"?

A. No, he didn't reject them, he didn't say "Oh, go away."

Q. Just to go on with the letter. I think I am on to the paragraph, am I not, that says: "I have absolutely no doubt in my mind that if Mr. Richardson, who was the controller of Dinard Trading and Shelter Trust Anstalt, does not receive his $\frac{1}{2}$ 250,000 on the 31st December, 1998, a lot of expensive, unnecessary and embarrassing litigation will ensue which will not be to anyone's benefit."

Then there is what looks like a heading "Agreement Gameplan International Limited and Bryan Phelan."

"I have heard nothing from Kevin since the document was faxed through to him."

Now, what does that actually mean? I mean, it doesn't mean anything to me.

A. I really haven't a clue at this stage. Gameplan

International is spelt strangely, was the company, as we have heard, that belonged to Kevin Phelan. But I really have no idea what that is.

Q. But presumably it made sense in the context of the discussions that you had had with Michael Lowry in the car, or the discussions you had all had the night before?

A. I don't particularly want to guess, but Bryan Phelan was the firm of chartered accountants where Aidan Phelan was a partner, I believe. And I think Gameplan were, you know, they were involved in the Doncaster Rovers, so I assume there was a document, an agreement that I had sent through to Aidan Phelan. I think that the word "Bryan Phelan" means the firm and not the individual.

Q. I appreciate that. I think I understand that.

A. But I really have no idea what it is.

Q. Then what looks again like a heading "Doncaster Rovers/Westferry/Paul May."

A. Yeah, I know what this is.

Q. Yes.

A. Do you want me to tell you?

Q. Yes, please.

A. It might because somewhere, I think it's there is a note somewhere, it might be on Kate McMillan's note actually, that says Paul May won't help or Paul May has fallen out or it indicates that he won't get involved in this. Paul May, as I understood it, had agreed with Aidan

Phelan that if he worked within the club and got it going again and did work as a manager, director - he's a very clever financial person - he would get $\frac{1}{2}$ 120,000 and some shares in the club.

So I am preparing a draft agreement, I am discussing this with Paul May in respect of his $\frac{1}{2}$ 120,000. This was his sort of finder's not finder's fee, but his fee for getting this club up and running again, because it had just been knocked out of the football league into the conference. This was the job that was given to him, and that was what he was going to get paid, to do it. But in the end he never got any money out of it at all. And I think he has referred to, that he never got any money. And he was not a happy person. I think so he is totally disaffected with this whole thing.

Q. Had that matter been discussed either in the car or the night before?

A. Yes, I think it must have been, because otherwise I wouldn't have mentioned it to him. But that's what it was all about.

Q. Then you go on: "I understand you are trying to organise a meeting between myself and Aidan Phelan.

"Obviously one of the matters to be discussed is the question of my outstanding costs, and an enormous amount of work has gone into the Doncaster Rovers acquisition and only half my fees have been paid.

"Likewise, I believe that there is an outstanding account

due to Grant Thornton which needs to be paid, as we still need their financial input in producing a balance sheet at the completion date of the 18th August, 1998, to enable the retention funds to be accessed.

"Kind regards."

Now, the sentence, "I understand that you are trying to organise a meeting between myself and Aidan Phelan," that presumably means that you believed that Mr. Lowry was going to do something to bring about this meeting?

A. Yeah, I mean for the first time I meet somebody who sort of indicated that he might be able to facilitate this. I had obviously expressed some disappointment that the meeting that I thought this was going to be about didn't take place, because I prepared an agenda, I wanted to discuss the issues, which we know we are all talking about. Aidan Phelan obviously sorry, Kevin I'll start again.

Michael Lowry obviously indicated that he knew this person, and said "Well, I'll try and organise a meeting for you."

Q. But I presume that wasn't in a context of "I know Aidan Phelan, I'll tell him you want to talk to him"? A bit more than that, was it?

A. No, it was we needed a meeting, because from the agenda I needed his signatures on documents.

Q. If we could just briefly go on to the next leaf. I'll come back to it again, the next divider. The only reason I want to go on to it is I want to look at the photocopy of the original.

A. This is Tab 24?

Q. It's divider number 4, Book 81. You received this on, a photocopy on I think what you called heat sensitive paper; is that right?

A. Yes, well I think this is the Weaver letter that he waved at me and I photocopied it before I sent him away.

Q. Is that what we would now regard as the old shiny fax paper?

A. That's what he had, is this heat-sensitive fax paper.

Q. Yes. And if you go to the second page, the last page of the letter, there is an asterisk, a PS, do you see that

A. Yes.

Q. at the bottom? And am I reading it correctly as "I may meet Aidan on" such and such a day anyway "1st October."?

A. Yeah.

Q. Was that as a result of some communication you had received from somebody else?

A. It must have been, yes. I obviously after dictating this letter, I suddenly was told that this meeting could take place on the 1st October.

Q. And who are the people or maybe you can remember who told you that?

A. I can't, no.

Q. And who were the people most likely to have communicated that to you?

A. The most likely person would have been Kevin Phelan.

Q. Kevin Phelan?

A. Oh, yes, yeah. I mean, at that stage there was so many issues we would be talking four or five times a day. I am not going to bore you with all the issues, but there were a huge number of outstanding points and, of course, the football season had started, hence my comment in the agenda that we want liquid cash to keep the club running. What I wasn't aware of, because nobody bothered to tell me, was that they were negotiating with John Ryan at that stage to get rid of the club. So I think the most likely person would have been Kevin Phelan.

Q. But if you had a discussion with Kevin Phelan that prompted you to add that PS, you must have presumably been discussing the letter with him?

A. Not necessarily, maybe I was just you know, he might have said the meeting might happen or whatever.

Q. But one of the things in the letter was that you were trying to you were hoping one of the one of your articles of faith at this point was that Michael Lowry was going to get things moving, and one of the things he was going to do was, he was going to organise a meeting with Aidan Phelan?

A. Yeah.

Q. I am just curious to know, if you had a discussion with Kevin Phelan in which he mentioned that you would be meeting Aidan Phelan, would you not have said, "Well, look, I have also asked Michael Lowry to try and organise it"?

A. Not necessarily, no, because I think it must have been it would obviously have been apparent, because what happens in the next sort of couple of days, that I didn't explain the content of this letter to Kevin Phelan, otherwise the letter would probably have never been sent because he would have then said, "Hang on, hold back, we have got nothing to do with DRFC." So, I can't I think it's likely that he would have told me, but I can't really say any more than that.

Q. Of course.

A. He could have rung my secretary and said the meeting might be on the 1st October, I don't know.

Q. It's also possible, of course, isn't it, that you had a meeting with Kevin Phelan, you discussed the sending of the letter, and it was only on your second meeting that he told you not to send it?

A. I don't think so, no, because I remember him being pretty horrified that I had sent the letter when I told him what had happened. So, I am sure if I had mentioned it to him in fact the letter would have almost certainly never have been sent, and it would have saved ourselves an awful lot of time if I had discussed it with Kevin Phelan before it had gone.

Q. I mean, if Kevin Phelan was horrified, you surely would have been very surprised at that?

A. I think we have to look at it in context. You know, my frustration levels were growing at this stage, that nobody

was acting on my instructions, nobody was getting together.

And suddenly we have Michael Lowry who arrives who says, "Well, I know Aidan Phelan, I can arrange a meeting." And

Q. That's not all he said, obviously?

A. No, but he seemed to be somebody who could facilitate a meeting. Perhaps I was being too conscientious. I could have just sat back and said, oh, you know, let them sort themselves out.

Q. Well, now that we have read the letter, I think we'll deal with the rest of it. We can have a normal lunch break and I suppose...

A. Thank you very much.

CHAIRMAN: Five past two.

THE TRIBUNAL ADJOURNED FOR LUNCH

THE TRIBUNAL RESUMED AFTER LUNCH AS FOLLOWS:

CONTINUATION OF EXAMINATION OF CHRISTOPHER VAUGHAN BY

MR. HEALY:

Q. MR. HEALY: Thank you, Mr. Vaughan.

Now, we were discussing the PS on your letter before the lunchtime adjournment.

A. I am looking at it now.

Q. Yes. You sent that letter by post to Mr. Lowry at his address in Thurles?

A. I posted it, yes.

Q. I think you remember that at the London meeting there was the question of the procedure that had been agreed with

Michael Lowry was canvassed, and I think you had had instructions from Michael Lowry that because he may be in Thurles or in Dublin, you should check with him in advance before sending him a letter, but certainly, presumably, an important letter anyway that you wanted him to read, whatever about any other letter. And there is no doubt this was an important letter. It had a lot of documents in it. It was a package, I suppose really is what we'd call it. And I think you agreed that you, presumably, to follow your practice and to follow the instructions you had received from him just a short while beforehand, did ring him?

A. Well, I may not have done this, because I had met him the day before and he may have said "Send it to Thurles."

Q. I follow, I follow, of course. You may have got your instructions there and then?

A. Yes.

Q. So, either because it was so close to your meeting him and he had told you where to send it or, possibly, and I agree with what you are suggesting sounds more likely, but possibly because you had rung him, he knew in any case that you were going to send him a letter?

A. I am sure he did, yes.

Q. Now, since that time the original of that letter has not been produced by Mr. Lowry, but it was produced to you by Mr. Weaver, no doubt having obtained it improperly, at your offices in October, around the 18th I think, wasn't it,

October of 2002?

A. I can't remember. I know the occasion we are talking about. There is no dispute about that.

Q. Yes. That was the heat-resistant fax copy?

A. Yeah, I think that's why the letter under Tab 4 is so strange, because it was folded up and...

Q. Also, heat-resistant paper I think photographs, or fax photocopies very poorly, doesn't it?

A. Yeah.

Q. So, while we didn't canvass this before because we now have a copy of it, admittedly a photocopy of a resistant piece of fax paper

A. Yeah.

Q. It must have got to somebody, and presumably it got to the person who was on the address on the top? How it got

A. One would assume so, yes.

Q. How it got to Mr. Weaver, one can't be sure, but I think you may have an opinion on that. But judging from your notes in any case, I think it would be reasonable to suggest that you may have thought Mr. Phelan gave it to him, Mr. Kevin Phelan rather, not Mr. Aidan Phelan? You are nodding, I take it you are agreeing that?

A. It is supposition, but it was posted. I didn't give it to anybody.

Q. Yes. You didn't give it to anybody, it was posted. You posted it to Mr. Lowry. You most certainly did not post it

to Mr. Weaver or give it to him?

A. No, no, no.

Q. Mr. Weaver's attendances at your office seem to coincide with difficulties being caused by Kevin Phelan; is that right?

A. Well, I think they coincided with difficulties within the Westferry

Q. Oh, sorry, I agree, yes.

A. transaction. And we know this, but there is no harm in reiterating it. I wasn't involved in that at all, and it would have been helpful, I think, if possibly I had. But I had no knowledge of it at that stage. And I think when difficulties arose, they were trying to sort of up the ante by putting a bit of pressure. That's why I wrote such detailed notes about them.

Q. But the first note you wrote of his contacting you and coming to your office in February of 2002 was in the middle of the issues raised by Kevin Phelan around that time, starting with the letter of January 2002, where he made the widespread allegations involving Cheadle, Mansfield, I think, Altrincham, Doncaster and so on, we have discussed that correspondence this morning?

A. Yeah. Can you just remind me of the date when he came, first of all, because

Q. Yes, I can.

A. I don't want to

Q. Mr. Nathan tells me it's the 18th February, but I can get

you the tab if you want it?

A. Right. Okay. Which tab number is that?

Q. It's in the supplemental sorry, it's in the 81A 81,

Tab 9, sorry. It's in two places.

A. I think it's at the end of tab

Q. 9. The letter is dated the 19th, the day after the

A. It's also at the end of Tab 17.

Q. All right. Because I think at that stage you were drawing

it to somebody else's attention, I think it was maybe

Mr. Vanderpump, I am not sure.

A. Yeah. I am looking at Tab 9, letter to Aidan Phelan, yeah.

Q. Now, we don't need to rehearse all the contents of the

letter again, but Mark Weaver came to you, he had a letter.

It looks like he may have had rather he had the letter

of the 23rd August, 1998, which you had written to Paul May

and Kevin Phelan, with a copy to Aidan Phelan. We have

been discussing it already today. You were wondering what

was happening, and the impression you formed at the end of

your letter was that, was as follows - if you go to the

last page - "On balance, I think it more likely that Kevin

Phelan was somehow behind this visit than not."

A. Yeah.

Q. Now, if you go on to Tab 13, you will see a reference to

the 18th October visit from Mr. Weaver, where he produced

the letter of the 25th the copy of the letter of the

25th September?

A. Yeah.

Q. I don't want to deal with anything in that letter, other than to say that it would appear that you were of the view, and I don't think it would be unreasonable to assume, that Mr. Weaver and Mr. Phelan were in contact with one another?

A. It would appear to be, yeah.

Q. And if Mr. Weaver had a copy of that letter in his possession, it would seem reasonable to suppose that the person, the only person he could have got it from, if he didn't get it from Mr. Michael Lowry, was from Mr. Kevin Phelan, wouldn't that be right, possibly?

A. I can't really say where he got it from. He had the letter.

Q. When Mr. O'Connor came to you, he also had a copy of the letter; isn't that right?

A. I can't remember that. If he said he did, he would have

Q. I think you have indicated, I think in one of your contacts with Ms. McMillan, that he had a copy of it?

A. Yeah. I don't think that would be unusual because he was, of course, Michael Lowry's accountant.

Q. Yes. Just one other thing about the content of the letter and the meeting you had

A. This is the letter of the 19th?

Q. No, the letter of the 25th September, 1998. In your letter to Michael Lowry, as we have discussed, you dealt with a breadth of matters pertaining to the then status of the transaction?

A. Mmm.

Q. And as we said, outlined what steps needed to be taken and what ones needed to be prioritised?

A. Yes.

Q. Would I be right in saying that you appeared to accord him a status similar to that of Mr. Aidan Phelan?

A. The "him" is Michael Lowry?

Q. Yes.

A. No, no.

Q. Mr. Michael Lowry was the first person you had met with Mr. Phelan who wasn't introduced to you or brought to your attention as an agent in Doncaster; isn't that right? You had met Paul May, who was an agent of sorts. You had met Mr. Craig Tallents, you had met other people, but when Mr. Lowry was introduced to you, he wasn't introduced as any form of professional agent, am I right?

A. I am not really quite sure what a professional agent is. I mean, he came to my office to talk about his purchase of the Mansfield property, and arising out of that I realised two things: One, that he was somebody who actually knew Aidan Phelan; and secondly, he was somebody who indicated he may be able to move matters along. So, I don't think the word "agent" is suitable.

Q. Well, you didn't have any perception of him as an agent in any case?

A. No, I didn't. No, I didn't. I mean, I didn't have any perception of him when I met that he had any knowledge of this before that day.

Q. I appreciate that.

A. Otherwise I would not have needed to give him the paperwork. My clear impression was that he came into this as a new thing and he heard us talking about it, and he obviously had no background information, or there was no need to give him the letter of the 23rd August.

Q. He wasn't a messenger boy?

A. No, I didn't see him in that role.

Q. As far as you were concerned, the person from whom, or with whom the buck stopped was Aidan Phelan; isn't that right?

A. The buck stopped?

Q. The buck the principal as you saw it, was Aidan Phelan?

A. Yes, yeah. I mean, he was the person at that moment was the person who was highest up the chain of command that I was aware of.

Q. And the man that was going to get to him for you was Michael Lowry?

A. Correct, yes.

Q. Could I just take you now to Book 81, Tab 12. In that tab what we have is a letter from Mr. Vanderpump to you. We have been through the contents of the letter, we don't need to go through it again. He is drawing to your attention his, or he is asserting and he wants you to confirm your understanding of the ownership of Westferry, if you like the Doncaster Rovers property. That letter was sent to you on the 17th. From the copy that I have, it doesn't appear to have been faxed; isn't that right?

A. It doesn't look like a fax, no. It looks like a clear top copy.

Q. So, I suppose at the very best it arrived on the 18th. I don't know how good the post is in England, but presumably the 18th is the best you'd have got it by?

A. I don't think it was delivered by special delivery or anything like that, or somebody as a postman or anything.

Q. I just want to deal with a number of things that happened around this time. If we come on to the 18th, we have your file note come on to the next divider, we have your file note of the 18th.

A. Yeah.

Q. Where Mr. Weaver arrives with a copy of the letter of the 25th September. And again, I don't want to go into the detail of this again, but if we go to the third page of it.

A. Yeah.

Q. At the top of the page you say: "Before Mark Weaver left I took a copy of the letter. I made the comment to him that I almost certainly did not have a copy, as it would be with the DRFC files, which were with the other solicitors, Peter Carter-Ruck."

Then you give your thoughts on what Mark Weaver had left.

If you go passed the numbered paragraphs and go to the next

paragraph: "Within 20 minutes of Mark Weaver leaving,

Denis O'Connor telephoned me, and he mentioned that there

was a 'letter floating about' which had been produced

outside the mediation hearing last month.

"I said that I had seen Mark Weaver shortly before and told him what had happened. Denis O'Connor wants to come and see me. I have no particular problem in that, but there is little I can say to him other than is set out in this note.

"Putting it bluntly, I am getting extremely fed up with the whole issue..." and so on.

So, sometime around the time that Mr. Vanderpump wrote to you, either the day you received his letter or, perhaps, sometime before the day you received his letter,

Mr. O'Connor rang you after the Mark Weaver visit and asked could he speak to you about a letter that was floating about, and that can only have been the letter of the 25th September; isn't that right?

A. That's what's recorded in my note, yes.

Q. On the next divider, Divider 14, you have your first draft of a letter to Mr. Vanderpump?

A. Yes.

Q. Which although you did not send it, you did keep it on your file. Could that be, just to harp back to something I think you said yesterday, that you thought it might be useful as a reminder?

A. No, I think you suggested it might be a reminder. I can't tell you why it happened to remain on the file, but it was not sent, and we canvassed this yesterday in some detail.

Q. The next divider is Kate McMillan's attendance note.

A. Yeah.

Q. About which she has given evidence. And in evidence has

confirmed that that's what she noted in any case. And if

you go to the fourth paragraph

A. Page 1?

Q. on page 1. Fourth paragraph from the bottom of the page.

A. "CV explained that"?

Q. Exactly. "CV explained that Denis O'Connor was coming to see him from Ireland. DOC had in his possession the faxed copy of the top copy of the letter. The letter of 25th September, 1998, which MV had produced on 18th October, 2002, had been sent only to ML. CV said that he was of the view that the letter could have come only from ML. The letter had not been stolen from CV's file."

A. Correct.

Q. "CV said that he understood that ML had passed all his files to Kevin Phelan at one stage."

A. Yeah.

Q. Now, I think the next thing that happened was that well, not the next thing, but the next day, the 23rd October, Denis O'Connor came to you; isn't that right?

A. Can you just remind me of that?

Q. The 23rd October, Denis O'Connor came to visit you.

A. Right. Can you tell me where that is? It will be in his handwritten chronology of events, won't it?

Q. Yes, I think it's referred to in the next of Kate McMillan's attendances.

A. Well, I have got my handwritten chronology now, so we are

looking at we should be looking at 23rd October, 2002.

21st October that's January, sorry. I can't see that

unless it's

Q. I am just trying to find it now in my own copy. If you go

to Divider 17 for a moment, which is your copy of Kate

McMillan's draft, first draft in fact, police statement.

A. Sorry, just remind me again where we are going to?

Q. Divider 17.

A. Yeah.

Q. If you go to the last page of that, to paragraph 46.

A. 46 of the statement?

Q. Yes.

"I told Denis O'Connor that Mark Weaver had been to see me shortly after Denis O'Connor's telephone call and about what had happened. Denis O'Connor then said that he wanted to come and see me. This meeting took place on Wednesday, 23rd October, 2002. I gave Denis O'Connor copies of my file note with my meeting with Mark Weaver on Friday, 18th October, 2002, and of the photocopy I had taken of the faxed copy of my letter to Michael Lowry of the 25th September, 1998. A copy of my file note appears at pages 17 to 20 of CJV1.

"Denis O'Connor told me he was in contact with Kevin Phelan. He explained this was because it was important to 'run with everyone'."

Now, I know we have discussed this question of ticks before, but there are ticks next to both those paragraphs,

and what distinguishes the document is that where you have ticks in general, you appear to have no amendments, if you follow me? And it would appear to me that at the time you thought this was correct?

A. No, I don't think that's right, because we have talked about another document that has ticks against as well. So I have received this letter from Kate McMillan. I think it's actually been faxed through to me because it's got a DX and a fax number at the top, and she has actually sent it through to my private fax number, which is at the side of my desk, I notice. The letter, I have obviously started to read it, and I don't think you can attribute more sorry, perhaps it's a problem with my copy here, but I seem to start at paragraph 4, I haven't got paragraphs 1, 2 and 3. But I think the tick is just this is where I have got to reading it. I don't think it means I agree it. In fact, I think at the top, is that a tick? I have put "No wrong letter."

Q. Sorry, which page are you looking at?

A. My

Q. Which paragraph are you looking at?

A. My copy of this draft statement prepared by Kate McMillan that I have under Tab 17.

Q. I see it, yes. I see, you are referring to the end paragraph above paragraph 11?

A. Well, mine starts at paragraph 4.

Q. No, no, mine starts at paragraph 4 too. That's all the

Tribunal got.

A. Oh, right, okay.

Q. But if you go on to the next page, is that the page you are referring to?

A. Yeah, I think what you are trying to say to me is, if I have ticked it, it must be right. Well, I don't think that's right.

Q. I am suggesting that where you have ticked it, in general you haven't put in corrections, and I am suggesting that that's because you regard those paragraphs as correct. I am not suggesting that you regard them as appropriate to be in a police statement, that's a totally different matter.

A. I think I have ticked it just to indicate I have read the paragraph. It's a fairly lengthy thing well not a lengthy I could imagine myself sitting down and sort of just, tick, tick, tick, I have read that, phone rings, do something else, where have I got to? Tick. I don't think I'd attribute anything more than just a reminder to me of where I had got to, because I don't start to amend it. And as you rightly know, the thing was so fundamentally wrong, it just didn't seem to hold together. And it was certainly

Q. What's wrong with it?

A. Well

Q. Fundamentally what's wrong with it?

A. This was a statement that was to be used, so Kate McMillan said, in police proceedings. And I was unsure about that

as well because, as you are aware, I was also interviewed by the police about this, and gave them a statement to somebody called PC Gordon, and PC Gordon had a copy of the documents, and I think he came via Kate McMillan, so I was unsure

Q. Do you have a copy of the statement you gave to him?

A. No, I only saw him once, and he came to see me. I think he is the City of London Police. I haven't got it with me, but I know his card is in my office index of addresses. But he came to see me about the same sort of time as well.

Q. Just what's fundamentally wrong with it is what I am trying to drive at?

A. It just didn't seem to be correct. I just wasn't happy with it, bearing in mind, if I had made this statement, I was going to end up possibly in a criminal court being cross-examined about it. And it needed a lot more thought about it. I started to amend it, as I have explained several times, and I just abandoned it. The matter then seemed to fizzle out. I never heard any more about it. I was never asked to reconsider it by her, although, as I said, the police did come and see me.

Q. You did write to Kate McMillan on the 11th November. You will see an office copy of your letter in Tab 18.

A. I have that, 11th November, yeah.

Q. And you see where you say:-

"Dear Kate,

"Westferry Limited.

"Thank you for your letter 8th November. Unfortunately, I was not in the office on Friday afternoon to read the fax.

"I am unhappy about the witness statement as it relates to a lot of issues that are not within the original file note and letter to Aidan Phelan, and I would limit any witness statement to what is contained in those two documents.

"Also, the letter that forms part of the exhibit 'CJV1', dated 23rd August, is not the letter that was shown to me by Mark Weaver, as that was a letter dated 24th September, 1998, and not 23rd August, 1998.

"I am going to be out of the office for the majority of Tuesday, Wednesday and Thursday morning of this week, and I simply will not have sufficient time to consider the draft witness statement in time for your meeting with the police.

"However, I have no objection to your showing them my file note and letter."

Now, looking at the second paragraph of that letter, I don't think you are saying that the draft statement is fundamentally wrong. And as I read it, you are saying that you are dissatisfied with the scope of the document?

A. I was just unhappy. It wasn't a statement that I was happy about at all.

Q. Am I right in saying let's just clarify the words that are used. For starters, you don't say that it's fundamentally wrong?

A. No, "fundamentally wrong" is just an expression I have used in the witness-box today.

Q. All right, okay. So, would you agree with me that that's perhaps an extravagant expression, or are you sticking with it, fundamentally wrong?

A. Let's go back to what my contemporaneous thought was, on the 11th November I am unhappy about the witness statement.

That must be the best explanation because it was written at the time.

Q. And it goes on: "As it relates to a lot of issues that are not within the original note and file letter to Aidan Phelan," and "I would limit my witness statement to what is contained in those two documents."

A. Yeah.

Q. So, judging by what you said at the time, you did not say "I am unhappy about the witness statement as it is wrong, as it is fundamentally wrong" or "as it is wrong in any one or other number of particulars." You don't refer to the accuracy of it at all, you merely express your unhappiness about the scope of it?

A. I haven't gone through it paragraph-by-paragraph. I have just said I am unhappy with it. If I look at the last two paragraphs, she wanted a statement from me that she could show to the police, but I don't allow her to do that. I say "I have no objection to you showing my file note and letter to the police," which is what I am pretty sure PC Gordon came to see me about.

Q. Well, I am not concerned with the statement as a document upon which to base a prosecution, I am concerned whether it

contains an account, a reasonably accurate account of what was happening around the time, and what I am drawing to your attention is that you told her some short time before she produced this statement that Denis O'Connor had come to see you on the 23rd October. Denis O'Connor had confirmed that he went to see you on the 23rd October, in evidence.

Do you agree that he came to see you on the 23rd October?

A. If he confirmed that, I quite accept what's there.

Q. Now, in her note well, firstly, in her draft police statement Ms. McMillan also says that you gave Denis O'Connor a copy of your file note and the photocopy you had taken of the faxed letter to Michael Lowry of the 25th September, 1995?

A. That's what it says here, yes.

Q. Now, in her actual attendance note, which is in the supplemental book at Tab 31, and of which she gave evidence - we can, if necessary, open the evidence - she refers to the same thing. If you look at the if you pass over the handwritten portion and go on to the transcript, you see "Transcript of Kate McMillan's handwritten notes in her counsel's notebook of her telephone conversation with Christopher Vaughan on the 28th October, 2002, prepared by her 11th April, 2007, following receipt of file of papers from Moriarty Tribunal."

If you go on to the under the heading "KM notes written prior to conversation," go to the third one: "What happened when DO came to see him?" She seems to have

wanted to know that as one of the things she wished to pursue. DO meaning Denis O'Connor.

Then if you go on two pages in the transcript, you come to a page starting on the top left-hand side "KP", do you see that?

A. Keep going.

Q. You have got that page, have you?

A. "KP is a man..."

Q. "KP is a man who can talk about twenty different subjects in twenty seconds."

A. Yes.

Q. You go down to a heading of "Denis O'Connor," well it looks like a heading because it has "Denis O'Connor?" Do you see that?

A. Yeah.

Q. "He concerned re ML" re Michael Lowry?

A. Yeah.

Q. "Gave him the paperwork I gave you."

A. Correct.

Q. She seems to be noting what you said to her, and that would suggest that you gave him, as she put in the draft police statement, your file note, and a copy, a photocopy of the heat sensitive copy of the letter of the 25th September, 1998?

A. There is three documents I have given Denis O'Connor.

Q. Two documents I think, am I right?

A. Well, don't we have the letter to Aidan Phelan, the file

note about

Q. I beg your pardon.

A. And the photocopy of the heat sensitive letter yeah.

Q. Three documents?

A. Three separate documents.

Q. Which you had sent on to her as well?

A. Yeah.

Q. Right. Now, in any case, the phone call you received from

him some 20 minutes after the meeting you had from

Mr. Weaver, in which he mentioned the letter, presumably

led to some discussion by you about the Weaver visit?

A. Well, I think so, because I obviously he rang and I

obviously mentioned to him Mark Weaver had come. Don't I

say that somewhere that I explained

Q. I think you are absolutely right, in your file note, yeah.

So he was coming to you to get to the bottom of this in

some way; isn't that right, because he had heard there was

a letter floating about?

A. That's right. I mean, I think by this time I met him three

times, had I?

Q. The reason I am teasing this out with you in some detail is

that he says that you gave him no copy of the letter of the

25th September of

A. Denis O'Connor says that?

Q. Yes.

A. Right.

Q. He says you couldn't find it.

A. Oh, right. I mean, I can't comment because this is seven and a half years ago. Six and a half years ago.

Q. But the point is somebody else has recorded you saying sometime shortly after the meeting that you had given it to him, and doesn't it seem to make sense that if that that's exactly what you would have done? Why else was he arranging a meeting to travel all the way from Ireland?

A. I mean, the note clearly says "gave him the paperwork I gave you." I have interpreted that, I suppose, really for your benefit, that there are three documents, when in fact you said to me there are only two.

Q. Mr. Weaver can we just sorry, I beg your pardon, Mr. Vaughan, can we just get serious for a minute. Just hold on a minute now, please. We are talking about time lapse a moment ago and the impact that can have on one's capacity to remember things, and I don't doubt any of that, right. And Mr. O'Connor has no notes of his conversations, but I am more concerned with the fact that evidence has been given by a solicitor used to keeping notes, used to keeping notes of attendances, keeping a note of an attendance of another solicitor about something the other solicitor about a matter the other solicitor was recounting concerning events that had occurred a few days beforehand. And I am suggesting to you that what she has recorded is your best recollection of what happened?

A. I don't really think I can comment on this, because I haven't you see, what I haven't done, I haven't compared

contemporaneously her file note with my recollection of what I said on the telephone to her, except when she comes to send me the draft statement, and it's quite clear when I look at the draft statement, she has got it wrong. So, if she has made the draft statement from her file notes, then she has got some parts of it wrong. So her file note, if you follow that through, must be wrong.

Q. Mr. Vaughan, can we get into the real world here? Are you suggesting that this solicitor has got your conversation with her wrong, totally wrong, because of the few corrections or amendments you have put in this statement, in your note of her draft police statement? Is that what you are suggesting?

A. Oh, it's not a few corrections. I refused to sign the document, because it's just not right.

Q. Where does your letter of the 11th November, 2002 it's at Divider 18, and I want you to look at it and point out to me where it says she has got anything wrong?

A. It doesn't say it.

Q. Just take your time now.

A. Sorry, remind me again.

Q. I just want you to take her letter of the 11th November, 2002.

A. Just remind me

Q. I beg your pardon, it's Divider 18 of Book 81.

A. This is my letter "Dear Kate...."

Q. Mm-hmm. I was asking you to point out to me where you told

Ms. McMillan in your letter of the 11th November, 2002, where she had got anything wrong in your draft police statement?

A. Second paragraph says "I am unhappy about the witness statement, as it relates to a lot of issues that are not within the original file note and letter to Aidan Phelan."

And then it goes at the end, it says: "I won't have sufficient time to consider the witness statement in time for your meeting with the police."

It's a clear, clear indication to her that I am not happy with this statement; it needs time to consider it, because I was unhappy about it.

Q. It says it related to issues that were not within the original file note and you'd limit the statement to what's contained in those issues. I am simply suggesting that you wanted to confine the scope of the statement. I wouldn't complain about that, but that's all I am suggesting that you were pointing out to her?

A. I think the problem is that I could have written her a 15-page letter, but I really wanted to convey to her that I wasn't happy with the statement. Full stop. I can't I think to say what you are saying to me is, as I didn't identify each particular issue, then I must be happy with it or I must have agreed with it.

Q. No, no, no, Mr. Vaughan. Let's be clear, what I am saying to you is you didn't tell her it was completely wrong, because if it was completely wrong you'd have said "This is

a completely wrong or unreliable account of our conversation. I couldn't possibly agree any part of it"?

A. I think the indication

Q. Perhaps you'd like to take me through the statement and tell me what's wrong with it?

A. I think the indication to Kate McMillan is absolutely clear: I am not going to sign it, it's wrong.

Q. Well, could you tell me what's wrong with it then?

A. Do you want me to well, this is where we have a problem, because this is six and a half years later. I can't possibly go through line-by-line and

Q. Mr. Vaughan, you have given me an account of how seven years ago, nine years ago you were able to recall what happened in your dealings with the letters long form/short form of July and December 2002. The first comprehensive account the Tribunal received from you was in your statement last week. Now, can you go through this document and tell me where she got anything wrong? A lot of it is based, surely, on your own file note?

A. Some of it will be, but let's see what the context of this statement was. I go back to something I said quite a long time ago

Q. Can you

A. I am sorry, you are not following this. This is a statement that she wanted to be used in criminal proceedings for blackmail. I am not a litigation lawyer.

I am not somebody who is used to preparing statements for

use in court proceedings. I read this and thought some of this is wrong, and I am not prepared to sign it in its current form. And if you look at the last paragraph of my letter to her, it's clear that she wanted this statement to be able to show the police officer, PC Gordon. PC Gordon then came to see me. The matter then fizzled out. Nothing well, I may be wrong, but as far as I am aware no blackmail proceedings were ever brought. But to ask me to go through this now word-by-word saying what was right and what was wrong is just ridiculously complicated.

Q. Can I remind you, Mr. Vaughan, that earlier today, in answer to one of my questions, you didn't seem to have any difficulty in sending to the Tribunal of Inquiry a letter from Kevin Phelan to you, which I suggest was a complete lie and should have been known to you to have been a complete lie, perhaps not as serious as blackmail proceedings, but still, nevertheless, a serious matter?

A. I don't see what the connection between those two is.

Q. I am suggesting to you that you didn't pay, on your own account, you mustn't have paid very much attention to that letter of Kevin Phelan's that you were sending on to the Tribunal concerning the long form/short form issue?

A. We discussed yes, I mean we discussed this this morning.

I didn't, because it contained an explanation. I mean, back to this statement; there are obviously large amounts of it that are correct, but I wouldn't know whether it was a right statement that was needed in the circumstances. I

am just not skilled enough to prepare a statement for those purposes. And bearing in mind, she prepared the statement, not me, from two pages of file notes.

Q. I have to suggest to you that there is evidence of Ms. McMillan that she took a telephone conversation, a telephone call from you, a lengthy telephone call, obviously, which you described to her, not something that had happened in 1998 at the time this letter we are discussing is written, not something that had happened in '99, 2000, 2001, but in 2002, and no more than a few days beforehand. And all I want to suggest to you is that it's hard to credit that that evidence, her evidence that you told her that you gave Mr. Denis O'Connor the documents that you gave her, is unreliable?

A. We are back to this point again. I mean, all I can say is that it says in her note that I gave yes, "gave him the paperwork I gave to you." That's what she recorded. And from what you've said earlier, a fact I wasn't aware of previously, was that Denis O'Connor said I didn't, or only gave him the notes and not the copy letter of September that had been sent to Michael Lowry.

Q. You gave him nothing?

A. I gave him nothing?

Q. Yeah. You couldn't find the letter?

A. Right, well well I haven't seen his evidence, but you are saying I couldn't find "The letter", but I quite clearly had mentioned to him on the telephone, I think, the

file note of Mark Weaver and the letter to Aidan about Mark Weaver. And he says he got nothing at all?

Q. Mm-hmm.

A. Well, I can't comment on that.

Q. Now, you do accept you sent it to Kate McMillan. Your letter to Mr. Vanderpump, certainly we know from the documentation he has made available to the Tribunal contained your attendances; isn't that right? We have been through this before.

A. Sorry, can you just that I sent to Kate McMillan

Q. You see, around this time, do you remember you were, as I said, you met Mr. Weaver, you received a telephone call from Mr. O'Connor. Before that you had received a letter from Mr. Vanderpump looking for your comments?

A. Yeah.

Q. Do you want to go through the dates again?

A. Mr. Vanderpump, is it, 17th October?

Q. Yes.

A. My substantive reply is the 23rd, which is Tab 16.

Q. I am just going through the dates. His letter was the 17th?

A. Yeah.

Q. On the 21st, which was a Monday, you prepared a draft letter, which you didn't send, you think?

A. Yeah.

Q. Then, on the 22nd, you have a telephone conversation with Ms. McMillan; is that right? You will see her reference to

that in Divider 15.

A. 22nd, yeah. So that must be a Tuesday, was it? Sorry, I thought you said 23rd Ms. McMillan.

Q. No, the 22nd.

A. Okay.

Q. Then, on the 23rd, Mr. O'Connor visits you?

A. Yeah.

Q. Now, you have already sent Ms. McMillan the three documents. According to her note, you have given them to Mr. O'Connor. Do you remember your meeting with Mr. O'Connor?

A. I don't, no.

Q. Do you remember telling him that you had had a telephone call from Mr. Vanderpump?

A. No.

Q. Did you discuss the letter you were going to write to Mr. Vanderpump with him?

A. I don't remember I don't remember the meeting with Denis O'Connor.

Q. Right, okay. Now, if I just ask you to look at the first page of your letter to Mr. Vanderpump, which was in the first document in Divider 16?

A. I have that, yes. Can I just mention that the manuscript notes at the top are not me.

Q. No, they are not yours, I think they seem to be Mr. Vanderpump's. If you go to the last paragraph:-

"As you are probably aware from Kate McMillan of Peter

Carter-Ruck & Partners, I have been visited by Mr. Weaver, and I enclose herewith a copy of the letter dated 25th September, 1998, and a copy of my file note of Friday, 18th October, and a copy of an earlier letter of 19th February, 2002."

So they are the three documents again, aren't they?

A. Correct, yes.

Q. So, you sent them to Ms. McMillan, you sent them to Mr. Vanderpump, and according to Kate McMillan, you sent them to Mr. O'Connor you gave them to Mr. O'Connor, sorry, not sent them, because there is no letter. You gave them to Mr. O'Connor?

A. That's what Kate McMillan's recorded, yes.

Q. And apart from the fact that I am suggesting that her note is the best note of what your memory was of these matters at that time, it seems extremely unlikely that you'd have lost them that day if you were able to give them to two other people other than Mr. O'Connor?

A. Sorry, could you say that question again?

Q. I beg your pardon. Is it not extremely unlikely that if you were able to give them to Mr. Vanderpump

A. Right.

Q. if you were able to give them to Ms. McMillan

A. Right.

Q. that you'd have lost them, you wouldn't have been able to find them to be able to give them to Mr. O'Connor?

A. Yes, I mean when you say "give," I have actually posted

them to Mr. Vanderpump and posted them to Kate McMillan or sent them in DX.

Q. Yes.

A. You can draw whatever conclusion you want really, but I certainly unfortunately I don't remember the meeting of October sorry October, with Denis O'Connor. He obviously remembers it and says I gave him nothing.

MR. HEALY: I wonder could you rise for five minutes, sir?

CHAIRMAN: All right.

THE TRIBUNAL ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

MR. HEALY: Something has arisen which doesn't concern this evidence of this witness at the moment, but it is something of importance, and I will refer to it in a moment.

Mr. Vaughan, I think in any case, I am told, is flagging, and I don't blame him, so I'll try to just do one or two short matters, deal with one or two short matters before I ask you to adjourn, sir.

Q. Now, I want you to go to Book 81A, and if you go to Divider 8, please.

A. Yes, I am here.

Q. The first letter in Divider 8 is a letter from the Tribunal solicitor to you dated 13th January, 2003. And I am not going to refer to it, we have already mentioned it. And the next document is your response of the 16th 6th, rather, of March, 2003.

A. Yes, I have that.

Q. You remember that letter?

A. Yeah.

Q. "Dear Mr. Davis,

"I refer to your letters of 13th and 16th January, 2003, concerning articles which appeared in The Irish Times on Saturday, 11th January, 2003.

"I am now in a position to review my files in connection with the acquisition of Doncaster Rovers Football Club.

The letter quoted in The Irish Times and dated 25th September, 1998, was drafted by me (there are one or two small discrepancies in the letter.) I attach a copy of the letter which I have taken from my file. You will also note that top copy did not have a typing error as to a date in the first line of paragraph numbered 1, which has not been amended on my file copy.

"A man who introduced himself as Colm Keena telephoned me on my mobile phone at about 6:30 p.m. on 9th of January, 2003, whilst I was at Newport Pagnell service station on the M1 motorway paying for some fuel. He spoke to me for a fairly short period of time, and I think what you have set out in paragraph 2 of your letter of 13th January, 2003, represents the total extent of our conversation.

"The completion of the acquisition of DRFC was on the 18th August, 1998, and following that completion I had been pressing Kevin Phelan to arrange a meeting with Aidan Phelan and myself in connection with a number of outstanding issues. Therefore, when Kevin Phelan arranged the meeting for the 24th September, 1998, I initially

assumed it was in connection with DRFC and that Aidan Phelan would attend.

"Accordingly, I wrote to Aidan Phelan on the 23rd September, 1998, enclosing an agenda of the items I wished to discuss at that meeting. I attempted to fax the letter to Aidan Phelan the day before the proposed meeting, but was unable to do so. The letter was posted to Aidan Phelan, with the enclosures referred to, at a later date.

"Subsequently it transpired that the meeting was not to be in connection with DRFC, but in respect of the purchase of the land at Hilltop Farm Mansfield (the Mansfield property) by Michael Lowry.

"I met Kevin Phelan and Michael Lowry on the 24th September. We had a general discussion about the Mansfield property. I believe that Kevin Phelan broadened the discussion by raising queries on other projects which he was involved in. I would have certainly raised with Kevin Phelan the issue as to the outstanding matters in DRFC and the need to have a meeting with Aidan Phelan to consider those matters, and I gave him a copy of my letter dated 23rd September, 1998, which I had unsuccessfully attempted to fax to Aidan Phelan the previous day."

Now, just to clarify one thing about the dating. At this point in writing to the Tribunal, what you're saying is that initially you believed that a meeting was being arranged for this time, which we now know to be the 23rd September, was to be in connection with DRFC; isn't that

right?

A. That's what I assumed, yes.

Q. You say that subsequently it transpired that the meeting was not to be in connection with DRFC, but in respect of the purchase of land at Hilltop Farm, Mansfield, by Michael Lowry?

A. Yeah.

Q. You say that somebody, presumably Kevin Phelan, alerted you to what you were going to be discussing?

A. I think it's the fact that Aidan Phelan wasn't attending made the meeting sort of a nonsense. I mean, if you look at the end of paragraph 1 on the second page, "the letter was posted to Aidan Phelan, with the enclosures referred to, at a later date." Well, that was the agenda still stood, we still needed to discuss the matters on the agenda.

Q. Yes, with Aidan Phelan?

A. Yeah.

Q. You met Kevin Phelan and Michael Lowry on the 24th September, and you had a general discussion about the Mansfield property. You say, "I believe that Kevin Phelan broadened the discussion."

So, from that one has the impression that the meeting was to be about Mansfield. The meeting was about Mansfield, but then Kevin Phelan broadened it by discussing and raising queries and other projects, including DRFC?

A. Yeah.

Q. You say: "Michael Lowry was present throughout the whole of those discussions, and I formed what I subsequently discovered to be a totally incorrect view, that because of the frank manner in which Kevin Phelan was discussing the outstanding issues relating to DRFC, Michael Lowry was somehow involved in the DRFC project.

"Michael Lowry and Kevin Phelan then wanted to go on to have a meal somewhere, but I returned to my home. It was arranged for Michael Lowry to come to my office the following day to finalise some of the details relating to the Mansfield property and for me to speak to the vendor's solicitors in respect of the property.

"Michael Lowry was brought to my office early in the morning of the 25th September, presumably by Kevin Phelan, but I have no note or recollection of meeting Kevin Phelan on that day. It had been arranged that a car would come to my office and collect Michael Lowry during the course of the morning and take him to Leicester for an appointment at the BUPA hospital."

The car failed to arrive, and you explain how you brought him there.

In the next paragraph you say that: "Following Michael Lowry arriving at my office on the morning of the 25th, we examined the Mansfield property file. I contacted the vendor's solicitors as to issues that had arisen from our discussions as to the purchase of that property.

"No one else travelled in my car to Leicester other than

myself and Michael Lowry.

"So far as I recall, the discussions in the car related to the general property market in England, sport and Irish politics.

"Based on my incorrect assumption from the previous day's meeting, the outstanding issues relating to DRFC were again touched on by me. It is my recollection that Michael Lowry offered to assist me in resolving those outstanding issues by agreeing to try arrange a meeting with Aidan Phelan, whom he led me to believe he knew.

"I have found no handwritten notes of the DRFC file in relation to the meeting on the 24th September or the discussion in the car the following day, which is not surprising, as Michael Lowry had come to Northampton to discuss the Mansfield property.

"In hindsight, it does seem unusual that I believe Michael Lowry to be involved in DRFC, as throughout the whole of the discussions and negotiations relating to the acquisition of DRFC over a period of some nine months, I had never heard Michael Lowry's name mentioned, nor met him with Aidan Phelan or any other person in connection with the acquisition of DRFC.

"When I returned to my office in the afternoon of the 25th September, in an attempt to try and move matters along (as can be seen from the tenor of my letter), I wrote the letter of the 25th September to Michael Lowry.

"Over the course of the next days (which was the weekend) I

spoke to Kevin Phelan, who inquired of me as to how my journey to Leicester with Michael Lowry had gone. I outlined to Kevin Phelan that we had discussed the purchase of commercial property in England in general and the Mansfield property in particular, which I understood had been Michael's main purpose in visiting me in Northampton."

I'll just stop there just for one moment to clarify one matter.

In the third-last paragraph on that page, you say: "In hindsight, it does seem unusual that I believed Michael Lowry to be involved in DRFC, as throughout the whole of the discussions and negotiations relating to the acquisition of DRFC over a period of some nine months, I had never heard Michael Lowry's name mentioned, nor met him with Aidan Phelan or any other person in connection with the acquisition of DRFC."

Aren't I right in saying that you had never met Aidan Phelan either?

A. No, I hadn't met him until sort of October/November that year. I wonder, in fact, whether that might read better as Kevin Phelan "or met with Kevin Phelan or any other person in connection with the acquisition"...

Q. I see.

A. We all have this problem of mixing up the Aidans and the Kevins.

Q. Yes, I follow. On the next page, first paragraph, you say: "I must have told Kevin Phelan that I thought that Michael

Lowry could assist in resolving the outstanding issues in DRFC, and that I had written the letter of 25th September to Michael Lowry. I had also written a letter to Aidan Phelan advising him that I considered that Michael Lowry could arrange a meeting.

"Kevin Phelan then informed me that Michael Lowry was not connected in any way whatsoever to the DRFC project, and that it would be very embarrassing for him if Aidan Phelan had been informed by me that any documentation had been sent to a third party (Michael Lowry)."

Now, just in relation to that. When Kevin Phelan told you that Michael Lowry was not connected in any way whatsoever to the DRFC project and that it would be very embarrassing for him meaning, presumably, Kevin Phelan, was it?

A. I think so, yeah.

Q. If Aidan Phelan had been informed. Can you remember what your reaction was?

A. I suppose it was some sort of surprise. But if I am just trying to think when this I was trying to see if I could recollect actually, you know, how it occurred. I can't remember, but I certainly have a feeling that Kevin Phelan was not happy about this, and that the thought that I had sent paperwork to Michael Lowry would be extremely embarrassing to him, Kevin Phelan. But I just there probably wasn't was an opportunity to answer him at all, he probably just told me to withdraw it straightaway, and then told me it would be embarrassing, but I don't remember that

I had a particular thought at that moment, because of course later on I have said that he hadn't had any involvement before or afterwards.

Q. But that was much, much later, wasn't it?

A. Well, later on the same day.

Q. Right.

A. Later on during, you know, at that time anyway.

Q. In the next paragraph you say: "Kevin Phelan asked me to write to Aidan Phelan to clarify the situation, and it was at this stage that I informed Kevin Phelan that although the letter had been dictated and typed, it had not gone through my fax machine, neither had it been posted, and a copy of that letter which has a line through it still exists on my file, the top copy, I assume was destroyed by me."

The top copy of the letter to Aidan Phelan?

A. Yeah.

Q. I just want to clarify the exchange with Kevin Phelan. You say that he stated that it would be very embarrassing for him if Aidan Phelan had been informed that any documentation had been sent to a third party, or did he mean Michael Lowry specifically?

A. I don't think I'd go further than what I wrote down then.

Q. Doesn't that seem like an extremely strange thing for Kevin Phelan to say, bearing in mind what he had been doing the previous day: Talking about this matter in front of a third party, allowing the third party to take documents

away?

A. I see where you are coming from, but

Q. Did he say to you that it would be very embarrassing for him if Michael Lowry was to be identified with the transaction in documentation connected with it?

A. I don't think I can go further than what I wrote at the time.

Q. Okay.

A. You see, this letter is three and a half years later after the event, isn't it?

Q. Yes.

A. No, I think there is an earlier letter as well. I mean, quite clearly I was told by Kevin Phelan that he had no involvement in the DRFC project and for reasons, as I have said several times, that seemed logical.

Q. But it hadn't seemed logical the previous day, obviously?

A. Well, no, I had been, as I have explained several times, encouraged by people's attitudes.

Q. Well, not just the by their "attitudes", meaning their actions and their words?

A. Yeah.

Q. You are nodding, yes. Now, you didn't have to write to Kevin Phelan you didn't have to write to Aidan Phelan to clarify the situation, but you had written to Michael Lowry. He was a third party now, if your recollection of what Kevin Phelan said to you is correct, and he had a packet of extremely sensitive information. Did you take

any steps to get that back?

A. Not that I recall, no.

Q. Would you not regard that as surprising?

A. If I look at it now it may be surprising, but perhaps I assumed that Kevin Phelan would sort it all out.

Q. Did he say he would sort it all out?

A. I can't say that now. I honestly cannot remember at this stage. The paperwork had been sent.

Q. From the evidence you have given the Tribunal, Mr. Vaughan, it's clear that you are a careful, thoughtful solicitor.

You were dealing with a very big transaction. Even though you were going on holidays, you took a lot of time to get all your ducks in a row, as it were, concerning what was to happen to this transaction. You were also conscious at this time of potential disputes; isn't that right?

Embarrassing litigation that could

A. That's right. It was the retention issues that concerned me.

Q. So you had now written a letter. On the record, as it were, was a letter from you disclosing to a third party, whom you had never met before then, you had never dealt with, containing all this sensitive information. As a solicitor, do you not think you would have thought: I am going to have to do something to get this documentation back, or to put it on the record with this man that there has been a terrible mistake?

A. I am sure you are absolutely right, and I am sure I would

have had concerns, and the fact that I did nothing was probably because I assumed, or I was told, that Kevin Phelan would sort the matter out. I mean, he was Michael Lowry's agent. He had contact with him, I didn't. When I say "contact," he was in touch with him more than I, having only met him the day before. I left it like that. But can we just go back to, you know, how this matter was occurring? It was at the stage at long last we had got our meeting, not wanting to go over that again. Somebody indicates that they can help. Somebody says "I know Aidan Phelan, I can try to get this meeting going." Jolly good I say, have some of the paperwork. And then within 24 hours I get the rug pulled from under my feet; no he can't have, he has got nothing to do with it. It's back to square one bit. I may, I cannot say I did this, but I may have just said to Kevin Phelan, "you sort it out." And I think you are right that in my way of working, if I had I may well have satisfied myself that the letters would be rescued or Kevin Phelan would contact Michael Lowry. But it's clear from my file that I did nothing. Or there is no note on my file that I took positive action.

Q. You say that you assumed, or you were told I mean, are you speculating at the moment

A. Yes, I don't know.

Q. that Kevin Phelan would do something about it? You are speculating about that, are you?

A. I am, yes.

Q. While this letter has given rise to a lot of controversy now, and indeed for some years, at that time, apart from the obvious embarrassment of having sent this letter and possibly the danger that it had gone to a third party and that, you know, there could be not just embarrassment, but complications, you had no reason to think that there were any implications such as this inquiry has been pursuing concerning the matter; isn't that right?

A. Not at all, no, no. I was not aware of any sort of hidden agendas or anything like that, no.

Q. And you continued to deal with Michael Lowry?

A. Yeah, because we were contemporaneously the purchase of Mansfield was continuing.

Q. And did you ever say to him in the course of all those dealings: "Michael, you realise I have made a terrible mistake. Could I please have those documents back the next time you are coming to England or the next time you are in contact with me"?

A. I can't recall making such a statement or request, no.

Q. Isn't that an obvious thing that would have happened, or should have happened?

A. Well, I can't comment on that really. It may well be that I was satisfied in my own mind that matters had been resolved.

Q. Maybe Kevin Phelan had told you that, "Look, I will look after this, it's never to be mentioned again"?

A. I can't say that, because I don't know. I mean, going back

to the Kevin Phelan issue, we are talking on the phone three or four times a day at this stage. I have not kept anywhere a detailed file note of anything of that, so I may have been satisfied in my own mind that my error in sending these documents to him had been sorted out.

Q. I quite understand that, and I am not criticising you for that, or I am not suggesting there should be a document. I am just saying that it was, if you like, quite a momentous error, bearing in mind this was your first contact with this man, and would you agree with that?

A. Well, in 2009 it might seem momentous, at the moment it seemed of no significance at all really.

Q. You told me Kevin Phelan was horrified?

A. Well, he was horrified, but unless it had gone to the wrong you know, this person should not have received this letter. I mean, that is not as momentous as it appears today in 2009.

Q. Oh, I appreciate the other as I mentioned, I fully appreciate the implications, but I am saying there were, nevertheless, professional implications?

A. I didn't see it like that because it wasn't as if the letter had been sent, for example, to the wrong side in a litigation matter revealing something. There was nothing in that correspondence that had not been discussed with Kevin Phelan present.

Q. I suppose it's an irony that it seems to have ended up on the wrong side of the correspondence, with luck, courtesy

of Kevin Phelan, but...

I think what you said, just to clarify something you said a moment ago, "I didn't see it like that because it wasn't as if the letter had been sent, for example, to the wrong side. There was nothing in that correspondence that had not been discussed with Kevin Phelan present."

A. Yeah, that's incorrect, because he wasn't in car, is what you were getting at. He was there the night before.

Q. I think there is I think there is I understood you to mean Kevin Phelan. I think Mr. Nathan thinks that you have made a mistake, but we'll just go over it. Look, don't worry about it. What you are saying is that Kevin Phelan was present when all that information was discussed?

A. He was the night before, yes, yes. But of course, he wasn't in the car.

Q. Yes, he wasn't in the car, all right. Mr. Lowry, in any case. And you never discussed this ever again?

A. No.

Q. Isn't that rather strange?

A. I don't think so at all. I mean, I have been told he had nothing to do with it before and after. As I have said several times, he had never figured on the scene. And of course, what happens then is that not long after the end of September, suddenly things start to move forward and the players and the playing element gets sold off, the deal with Patienceform is completed

Q. But I am asking you to forget about Doncaster.

A. But what I am saying is that was DRFC moving forward. He was not a man anywhere on the scene. Therefore, what I was told by Kevin Phelan must have been correct.

Q. But neither was the actual owner, Mr. Denis O'Brien, anywhere on the scene?

A. Well, I didn't know about him at the time.

Q. Yes, I know. But what I am asking you about is not your further dealings in Doncaster, but your further dealings in Mansfield and Cheadle. In the course of those, it never occurred to you, you are telling me, to say to Mr. Lowry, "I am terribly sorry about that. You got the wrong letter. I got the wrong end of the stick"? You never said that to him?

A. I certainly don't recall saying it to him, no.

MR. HEALY: I think there is not much point in pursuing the rest of this on this occasion, sir.

CHAIRMAN: If we are faced with the unfortunate spectre of finding a final day, I'd like to feel that it will be at a stage where it will be one day absolutely.

MR. HEALY: I think it's going to be two days because of the number of people who may want to examine, and to be fair to Mr. Vaughan and his advisors, Mr. Lowry and Mr. O'Brien, I think it would be unsafe not to put at least more than a day to make more than a day available, because if Mr. Vaughan has to travel from abroad. Then we would be driven up against the same, if you like, boundary if we make only one day available. We should have some bit

of overflow. I have spoken to the people involved, and I think we are safe at over a day. But a day alone, I think, could rerun the risk.

MR. O'CALLAGHAN: I agree with Mr. Healy in respect of that, Chairman. I think we certainly would need two days to deal with Mr. Vaughan's evidence to completion.

CHAIRMAN: Well, not more than that. Well, I would ask that perhaps the respective advisors do confer in the context of the urgency of the situation, and bear in mind that matters such as murder trials do proceed on Saturdays if they have to. But perhaps people will have regard to the urgency of the time pressures that we all face. That leaves only the remaining matter.

MR. HEALY: Yes, there is, sir, the matter that prompted the short adjournment. I just want to clarify one matter concerning what was being pursued in the course of inquiries this morning with Mr. Vaughan. And if necessary, Mr. Vaughan can stay in the witness-stand. And that is concerning the Vineacre payment of some I think the payment I was talking about was in the order of 50-odd thousand pounds, part of an overall payment of $\frac{1}{2}$ 65,000. But the part of the payment that I was dealing with related to events that took place in March of, March and April of 2002.

Now, I just want to make it clear that what the Tribunal was canvassing with the witness was the fact that while issues were being examined by the Tribunal in the course of

its private investigative work concerning the long form/short form letters, Mr. Vaughan was engaged in correspondence with Woodcock's and ultimately with Mr. Phelan concerning interwoven issues, let me put it that way; that evidence was given that negotiations would be conducted, I think as Mr. Vaughan put it, in the nature of shuttle diplomacy of the details of which he was unaware. And according to his evidence, he says that he was unaware that a large sum of money had been paid to Mr. Phelan around the time that Mr. Phelan produced a letter to Mr. Vaughan in response to his request for assistance, and which letter was ultimately produced to the Tribunal concerning the long form/short form letters.

What the Tribunal was examining was - and I am putting this somewhat compendiously - the improper use by Mr. Phelan of documentation, so far as the Tribunal is aware at the moment, connected with the Cheadle and Mansfield transactions so as to cause money that he claimed was due to him in other transactions, including the Vineacre transaction, to be paid. That, in other words, and I can say that the Tribunal what I am suggesting is that the Tribunal was examining the extent to which an improper use was being made by Mr. Phelan of documents connected with one transaction so as to force a payment that was apparently due to him in another transaction to be made.

And I think I made it clear that Mr. Lowry's evidence was that he wanted to get rid of any dealings he had with

Mr. Phelan at that time.

I think that's as much as I want to say in clarification.

MR. FANNING: Mr. Chairman, I am very grateful to Mr. Healy

for that clarification. I did seek an adjournment so I

could have a word with Mr. Coughlan and Mr. Healy, and on

behalf of Mr. Lowry I want to supplement that very briefly.

I have spoken to Mr. Coughlan, and he, on behalf of the

Tribunal, leading the Tribunal on the counsel side, didn't

feel that it would be unreasonable in the particular

circumstances that I would have an opportunity to address

the Tribunal.

I just want to say at the outset that my client, Mr. Lowry,

is extremely disturbed with some of the reporting of this

morning's evidence, and whilst this Tribunal is, of course,

not to be controlled by the media, I do think in the

particular circumstances that have arisen today I should

just have a brief opportunity to say something on his

behalf.

And firstly, sir, Mr. Lowry categorically refutes any

allegation that the monies that were paid to Mr. Phelan

referred to in evidence today, were paid on foot of some

blackmail plot. And unfortunately, that is the unhappy mis

characterisation of this morning's evidence that has

already found its way into the media reports of this

morning's hearing. And Mr. Lowry, that emphatic denial is

corroborated, of course, by Mr. Ian McClune of Taylor

Walton Solicitors, who is the solicitor who acted in the

Vineacre transaction. And as you know, sir, Mr. McClune has written to the Tribunal and has clarified for the Tribunal that insofar as he acted in that transaction, he emphatically rejects any suggestion that there was anything improper or untoward about the payments that were made to Mr. Phelan.

And I am grateful to Mr. Coughlan and to Mr. Healy and to you, sir, for giving me the opportunity to clarify that and to state Mr. Lowry's position on it very clearly this evening.

CHAIRMAN: Well, as you state, Mr. Fanning, it is certainly no function or entitlement of mine to in any way seek to muzzle the media in their reportage, but I think it appropriate that both you and Mr. Healy have sought to clarify the context of the earlier evidence heard today.

In that context then, we will seek to conclude Mr. Vaughan's evidence at the very earliest vantage point that may convenience the various persons involved. There was an intention to have some evidence next week, but a witness has indicated availability and provisionally that would seem to be applicable to the following week. And I will communicate in the usual manner via the website or via the Registrar or members of the legal team with persons who need to be notified in regard to urgent resumption.

MR. O'CALLAGHAN: Chairman, thank you very much. Before you rise, Chairman, could I very briefly mention three points, which won't take the Tribunal much time?

CHAIRMAN: Well, Mr. O'Callaghan, I had made a ruling on Tuesday. I appreciate you had difficulties over the first two-and-a-half days. I had stated that matters other than Mr. Vaughan's evidence ought to be not dealt with at this particular vantage point, but to be brought up with members of the Tribunal legal team or addressed in correspondence, and I'll certainly deal with them then. I don't think that at this time of day

MR. O'CALLAGHAN: The first relates I am simply asking that when a date is being set for Mr. Vaughan's return, that it be done in consultation with Mr. Meagher's office in the hope that a mutually convenient date can be set.

CHAIRMAN: I have already said that, Mr. O'Callaghan.

MR. O'CALLAGHAN: And if possible, if we can think of doing it on a Monday or Tuesday as well it would be a preference to our teams.

MR. HEALY: That's exactly what I am going to try to do.

MR. O'CALLAGHAN: Secondly, rather than waiting for Mr. Vaughan to return, Chairman, I would simply ask that if there are other witnesses there, and we know that

Mrs. Austin is due to be called as a witness, that she be put in as a witness prior to Mr. Vaughan having to return.

CHAIRMAN: I am all too aware of that, Mr. O'Callaghan, I can assure you, and nobody is more anxious than I am to expedite the remainder of this procedure. So, I can assure you liaison will be had with all interested parties in that regard.

MR. O'CALLAGHAN: I am entitled to address the Chairman.

MR. COUGHLAN: I'll talk to Mr. O'Callaghan on this matter.

This is just housekeeping that can be sorted out, sir.

MR. O'CALLAGHAN: We here for four days, I have been here for two days, all I want to make is one final point to you about the opinion of senior counsel. You told us to engage in correspondence. We have engaged in correspondence, but yet a decision hasn't been made yet in respect of putting that opinion into evidence. And it was confirmed on the 2nd of April that the claim for privilege over it had been waived. And we are just particularly anxious that the importance of that opinion be put into evidence. That's hardly an issue that greatly inconveniences or upsets the workings of the Tribunal over the past four days. I have taken about two minutes to say that.

CHAIRMAN: That will be addressed.

THE TRIBUNAL ADJOURNED UNTIL FURTHER NOTICE