

1 THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY, 18TH DECEMBER,
2 2002 AT 10.30 AM:

3

4 CHAIRMAN: Morning everyone.

5

6 MR. FINLAY: Chairman, good morning. Before the evidence of Mr. Dunlop
7 resumes, as a matter of information which I would just like to draw to the
8 Tribunal's attention, if I may, and if it suits the Tribunal at this point in
9 time; and it relates to Jackson Way Properties Limited.

0

11 The position to which I am about to refer is in fact one which has been already
12 fully documented and the relevant correspondence is with the Tribunal, and so I
13 propose merely to summarise the factual position and its present consequence.

14

5 The factual position, briefly described, is as follows:

16 Jackson Way Properties Limited, as the Tribunal is aware, is an English
17 company. In respect of this module of the Tribunal's work it was granted, by
18 the Tribunal, limited representation. Subsequently an order for the production
19 and discovery of documents was made by the Tribunal in respect of Jackson Way.

0 On foot of that order a substantial quantity of documents were furnished, or
21 was furnished rather, to the Tribunal. I understand something in the order of
22 six lever arch files of documents.

23

24 In relation to the aspect of the order which concerned the Affidavit of
5 Discovery, Chairman, the position is, as the Tribunal would have seen from the
26 correspondence, that the company, acting on the advice of its English
27 solicitors, is not prepared to swear the Affidavit of Discovery envisaged by
28 the Order.

29

0 The Tribunal also has, and I am sure will have seen, the detailed

1 correspondence indicating the efforts made by, and advices given by,
2 Mr. Stephen Miley to the company with a view to ensuring compliance with that
3 aspect of the Tribunal's order. And the Tribunal will also be aware that
4 Mr. Miley made it clear to the company that if that aspect of the order was not
5 complied with, Mr. Miley, given that he is an officer of the court before this
6 Tribunal, would no longer be in a position to represent the company.

7

8 That aspect of the order remains uncomplied with. The affidavit has not been
9 sworn, and in those circumstances Mr. Miley is no longer in a position to
0 represent the company.

11

12 I am sorry to have taken so much time to describe that, Chairman. But as I
13 say, that is merely a summary of considerable volume of correspondence, all of
14 which is with the Tribunal. If you wish to have any further detail I can of
5 course give it to you.

16

17 CHAIRMAN: First and foremost, it was an order giving the company
18 representation. And it was an order giving Mr. Miley -- sorry, not Mr. Miley,
19 Mr. Caldwell, representation also.

0

21 MR. FINLAY: That's correct, Chairman.

22

23 CHAIRMAN: And in addition, I stand subject to correction, from the actual
24 transcript, as far as I recall it Mr. Caldwell has said that the land
5 certificate is held "to his order". I think that is the exact phrase he used.

26 I stand subject to correction.

27

28 So, you have on the one hand a man who appears to be in control of the company.

29 He is present, in that you are acting on his behalf before this Tribunal. He

0 is the man who, if he is the man with control of the title documents, would

1 certainly be expected to -- well, first of all, he must produce them. There is
2 an actual order for discovery and production, and one of the documents would
3 be, that should be produced, would be the land certificate.

4

5 MR. FINLAY: Chairman --

6

7 CHAIRMAN: Just a moment. In a letter of 31st May -- 31st January, 2002,
8 Miley & Miley Solicitors wrote:

9

0 "Mr. Caldwell's interest in the land is as above mentioned. He has however
11 always exercised complete control over Jackson Way Properties in the sense that
12 all of Mr. Harker, Mr. Bullock and Mr. Holland have conducted affairs in
13 accordance with his instructions, or left it to him to decide how the affairs
14 should be conducted." The remainder of the letter is available to you.

5

16 Now, that has to be, the whole matter has to be seen in that light and it is
17 not just a simple matter of going off record.

18

19 MR. FINLAY: Well, first of all, Chairman, I am not aware, and I apologise for
0 my ignorance in that regard, that the provisions relating to solicitors being
21 on record necessarily apply in the context of the Tribunal, and it is against
22 that background that I understand that it is necessary for parties to come and
23 actually apply for representation, which of course isn't the position in court,
24 but leaving that aside for a moment, if I might move on --

5

26 CHAIRMAN: You have been granted -- correction, Jackson Way Properties
27 Limited have been granted --

28

29 MR. FINLAY: Absolutely.

0

1 CHAIRMAN: And the solicitors -- I am reminded the solicitors are actually on
2 record as appearing for Jackson Way, and that is what you seek to disassociate
3 yourself with, you and your instructing solicitors, isn't that so?

4

5 MR. FINLAY: For the avoidance of doubt, Chairman, the position is that my
6 solicitors, in the circumstances which I have tried to outline, but of course I
7 can go into it in greater detail, are no longer in a position to represent the
8 company given the inability of my solicitors to obtain the requisite
9 instructions, or compliance, with an aspect of the Tribunal's order. The
0 Tribunal will be aware of all of the documents received voluntarily, but not in
11 relation to the affidavit of discovery.

12

13 But I do want to, if I may, attempt to respond to another point raised by you,
14 Chairman, and that is in relation to Mr. Caldwell. The Chairman may not be at
5 present aware, because of the volume of material which is exchanged on a daily
16 basis, and it is impossible for any individual to be fully cognisant of it all,
17 but in relation to that aspect, Chairman, there is the letter of 12th December
18 from Mr. Miley to a solicitor to the Tribunal. And it details a matter which
19 has already been referred to in correspondence with the Tribunal, and that is
0 the status of Mr. Caldwell in relation to Jackson Way Properties Limited, and
21 in particular his powers, or lack of powers, as the case may be, to act
22 unilaterally in relation to that company.

23

24 That has been set out in great detail in correspondence. I can of course open
5 it if you wish, but it is there in detail in the letter of 12th December. That
26 letter also recites the advices, both of English counsel, Queens Counsel, and
27 Irish solicitors in relation to his status and powers concerning Jackson Way
28 Properties Limited. I can readily open all of that if needs be. But I just
29 mention that in response to the query that you raised, Chairman.

0

1 CHAIRMAN: Mr. Finlay, we will defer our decision on this matter until after
2 lunch.

3

4 MR. FINLAY: Certainly, Chairman.

5

6 CHAIRMAN: We just want to have a look at all that correspondence,
7 particularly the letter of 12th.

8

9 MR. FINLAY: By all means, Chairman, and as I say, my reference this morning
0 was merely in summary form, because the correspondence is quite detailed and I
11 didn't feel it appropriate to open it all at this stage, but obviously that can
12 be done, if necessary.

13

14 Finally, Chairman, if I might just clarify; my references this morning arise
5 actually on foot of a request from the Tribunal Solicitor herself.

16

17 CHAIRMAN: We are aware that correspondence has been going on as to
18 compliance with the discovery and production order. I am well aware of that.

19

0 MR. FINLAY: It goes further than that. The actual point I am raising this
21 morning in relation to representation is being made at the express request of
22 the Solicitor of the Tribunal, of a letter of late last night.

23

24 CHAIRMAN: I appreciate that. Mr. Finlay, I think the best course of action
5 is to defer further discussion of this matter until after 2 o'clock. What
26 further discussion we may have will determine our attitude as to whether it
27 should be further deferred until tomorrow morning.

28

29 MR. FINLAY: Absolutely, Chairman.

0

1 CHAIRMAN: We must take it in sections.

2

3 MR. FINLAY: Absolutely. That is perfectly noted, thank you very much.

4

5 CHAIRMAN: Mr. Gallagher, when you are ready?

6

7 MR. GALLAGHER: Mr. Dunlop, please.

8

9 CONTINUATION OF EXAMINATION OF FRANK DUNLOP BY MR. GALLAGHER:

0

11 Q.1 MR. GALLAGHER: Good morning, Mr. Dunlop

12 A. Good morning.

13 Q.2 I want to return, if I may, to the monies you say you got from James Kennedy in

14 order to, as you say, ensure that sufficient councillors would support a vote

15 for the Paisley Park proposal.

16

17 You have told the Tribunal that you believe that you may have sought a sum of

18 £50,000, and that after some discussion a figure of £25,000 was agreed. You

19 have also told the Tribunal that that money was paid to you at a subsequent

20 meeting, and there was agreement, a promise, that you would be paid £100,000 in

21 the event that the lands were rezoned. Is that correct?

22 A. That is correct.

23 Q.3 And you indicated that you received the £25,000 from Mr. Kennedy some time

24 after the initial meeting in January 1991. That money was in cellophane bags

25 with Ulster Bank wrappers. I think, if my recollection is correct, that you

26 said that you kept the cash in your home?

27 A. Yes.

28 Q.4 Can you remember when you first took money from that £25,000 in order to pay it

29 to somebody, or to otherwise disperse it, or use it?

0 A. No, I can't recall. I can't -- I can not say definitively to you now that I

1 recall when I first took money from it.

2 Q.5 I see. Can I refer you then to the meeting of the County Council held on 24th

3 May 1991, that is the meeting you spoke about yesterday, where you told -- the

4 meeting at which you said Mr. Lawlor had voted in favour of option one?

5 A. Yes.

6 Q.6 And that was to your great surprise as I understand it, and you had some words

7 with Mr. Lawlor subsequent to that meeting, seeking an explanation as to why he

8 voted as he did?

9 A. Yes.

0 Q.7 That was an important meeting, from your client's point of view, I take it,

11 because it might very well decide that the Draft Development Plan, when put on

12 public display, would propose the rezoning of the Paisley Park lands?

13 A. Correct.

14 Q.8 And I take it that you had lobbied and spoken to some councillors before that

5 meeting with a view to securing their support for the rezoning proposal?

16 A. Correct. And I did make an error yesterday.

17 Q.9 If you did please correct it.

18 A. In the context of the voting. When I brought your attention to the fact that

19 only one Fianna Fáil councillor voted for the motion that was incorrect, there

0 was another Fianna Fáil councillor, Betty Coffey, voted for it as well. She

21 had seconded the motion. Seconded the proposal of the Chairman that they --

22 the Chairman then proposed that, Councillor Betty Coffey seconded that the vote

23 be taken, and option set out in manager's report. And then it gives the lists

24 of the numbers and then the people who voted, and in that list is B Coffey.

5 Q.10 I see. So you are saying that two Fianna Fáil councillors voted in favour of

26 the motion?

27 A. Correct.

28 Q.11 That was Councillor Coffey and Councillor Lawlor?

29 A. Correct.

0 Q.12 The question I was addressing to you is whether, prior to the meeting in

1 question, you had lobbied councillors with a view to securing their support for
2 the inclusion of the rezoning of the Paisley Park lands in the Draft
3 Development Plan?

4 A. Yes.

5 Q.13 And your answer is that you did?

6 A. Yes, I did.

7 Q.14 Did you pay any monies to any councillors at that time?

8 A. In relation to that particular motion.

9 Q.15 Yes?

0 A. No.

11 Q.16 That particular meeting?

12 A. No.

13 Q.17 Did you promise any councillors that you would pay them money?

14 A. There were discussions, yes, with some councillors about money.

5 Q.18 Would you tell the Tribunal about those discussions, and if any of the
16 councillors with whom you spoke or whom you will be naming are not on the
17 circulation list, would you please write down the name of the councillors?

18 A. Yes. The discussions -- the councillors are on the circulation list.

19 Q.19 All right. Would you tell the Tribunal the councillors, and perhaps you would
0 take them in whatever order you wish?

21 A. I seem to have misplaced my circulation list.

22 Q.20 Sorry?

23 A. Well, I would have lobbied quite a significant number of the councillors, I
24 cannot say definitively how many I would have lobbied, but I would have lobbied
5 a significant number of the councillors, particularly the Fianna Fáil
26 councillors, some Fine Gael councillors. And I would have discussed money with
27 Councillor Hand, Councillor Fox, Councillor McGrath, Councillor Gilbride,
28 Councillors Larkin and Gallagher. I think that is the -- I am working from my
29 own document in relation to my statement. I am not working from the
0 circulation list.

1 Q.21 Can I take those from the top, as it were. What discussion did you have with
2 Councillor Hand in relation to monies prior to the meeting of the 24th May,
3 1991?

4 A. The discussions with Councillor Hand ran according to any discussion that I had
5 previously, or subsequently, with Councillor Hand, in relation to support for
6 motions, and that put simply was that money would be required for his support.

7 Q.22 Who said that money would be required?

8 A. Councillor Hand.

9 Q.23 Did he indicate how much would be required for his support?

0 A. No, not on that occasion.

11 Q.24 Can you recall where that conversation took place?

12 A. The conversation, to the best of my recollection, took place in Dublin County
13 Council.

14 Q.25 You mean in the offices of Dublin County Council?

5 A. Correct.

16 Q.26 Can you recall exactly where?

17 A. Well, most discussions, Chairman -- Mr. Gallagher, with Councillor Hand took
18 place in either the lobby of Dublin County Council or the immediate environs of
19 Dublin County Council. It wasn't a very big building.

0 Q.27 What was your response to the suggestion that it would cost you?

21 A. Well, my response to the suggestion that it would cost me was that it already
22 cost me.

23 Q.28 In what sense?

24 A. Because monies had already been given to Councillor Hand in the context of
5 another matter, and --

26 Q.29 When you say "another matter" you mean other than the Carrickmines matter?

27 A. Correct. I beg your pardon. And that was the nature of the discussion.

28 Subsequently when the motion was defeated the matter came before the council
29 again, as I outlined to you yesterday.

0 Q.30 Bear with me just a second, I want to get the minutes of the meeting of the

1 24th May. Page 1264, please? Yesterday you identified those minutes as,
2 perhaps we can move on to subsequent pages, that was the report on
3 Carrickmines. You recall at page 263 and 264 there is a reference to the
4 voting for that motion?

5 A. Yes.

6 Q.31 Perhaps you can move on to 264? On page 1267 the options that were presented
7 to the council by the manager. He recommended that the council should adopt
8 one of the three options that he outlined there. My understanding of your
9 evidence yesterday was that option one was the option least favoured by
0 Mr. Kennedy and by yourself because it was least likely to result in the
11 rezoning of the Paisley Park lands, is that correct?

12 A. That's correct.

13 Q.32 But that was the option that was passed and it was accepted, and that is the
14 option for which Councillors Lawlor and Coffey, among others as you indicated
5 earlier, voted. Perhaps we can see the voting against that option on the
16 following page? Among those who voted against that option one motion were
17 Councillors Fox, Gallagher, Hand, Lydon, McGrath. Is there anybody else in
18 your list? Perhaps we can go back to the previous page? Councillor Larkin
19 doesn't appear to have voted in that, on that motion. Isn't that right?

0 A. That's correct.

21 Q.33 Did you have many meetings with Councillor Hand during the period from 1990 up
22 to 1993/1994?

23 A. Well, the answer is yes.

24 Q.34 Your diary indicates, for example, that on 15th May, 1991, you met Councillor
5 Hand. Can I have page 1252? It appears that you met him in the Gresham Hotel?

26 A. Correct.

27 Q.35 That is on screen?

28 A. Yes.

29 Q.36 Can you recall what was discussed at that particular meeting?

0 A. In relation to that particular meeting I am sorry, Mr. Gallagher, I can't.

1 Q.37 Did you say yesterday that the first time you paid money to any councillor in
2 respect of a rezoning matter was in respect of the Carrickmines lands?

3 A. No, I did not. I don't think I said that, Mr. Gallagher.

4 Q.38 I see.

5 A. I stand corrected if you --

6 Q.39 Perhaps you would tell the Tribunal, we can check the transcript. Would you
7 tell the Tribunal in what -- or write down perhaps, the lands in respect of
8 which you first paid monies to a councillor.

9 (paper handed to witness)

0 A. If you give me a moment, Mr. Gallagher, I just want to think carefully about
11 this.

12 Q.40 Yes. Mr. Dunlop, would you put today's date on that, 18th December, and mark
13 it "Number 1" if you would?

14 A. What date is it?

5 Q.41 18th December.

16 (paper handed to Tribunal)

17 I should say I will check the transcript, it may be that you said yesterday
18 that the first parcel of land in respect of which you received monies from an
19 owner was the Carrickmines lands, but we will check that and come back to it.

0

21 The next person you mentioned, the next councillor you mentioned in respect of

22 --

23

24 MR. O'DULACHAIN: Chairman, might I intervene briefly to enquire as to
5 whether that list, which is now in the domain of the Inquiry, is coming into
26 the public domain for the purpose of cross-examination, or whether it is a list
27 that is retained for the eyes only of the Members of the Tribunal?

28

29 MR. GALLAGHER: It would not be my intention, if I may just say, it would not
0 be my intention to deal with this matter. It will be dealt with in a future

1 module, and there will be every opportunity given to all concerned at that time
2 to raise questions about --

3

4 CHAIRMAN: For the time being it remains confidential to the Tribunal.

5

6 MR. O'DULACHAIN: Mr. Chairman, if I might simply note an objection for the
7 record? In that, in the last ten minutes the information Mr. Dunlop is raising
8 in relation to Mr. Hand is of a general nature in terms of allegations against
9 him, and they are being presented as evidence in this module, and for the
0 purpose of cross-examining Mr. Dunlop in relation to the testimony in this
11 module it will be necessary to cross-examine him on the generalised testimony
12 he chooses to give and he chooses to be questioned on in this module.

13

14 MR. GALLAGHER: Sir, can I say, first of all, Councillor Hand isn't in a
5 position to give any evidence, or any instructions, in relation to this matter.
16 Secondly, if My Friend wishes to put a general question arising from the
17 evidence, then he is perfectly free to do so. Specific questions can be dealt
18 with, and will be dealt with, in due course.

19

0 CHAIRMAN: We will await the situation when it arises.

21

22 MR. O'DULACHAIN: Thank you, Chairman, and members.

23

24 MR. O'TOOLE: Mr. Chairman, can I intervene? I have a concern arising out of
5 the last exchange of Mr. Gallagher and Mr. Dunlop. Mr. Gallagher asked a
26 question concerning Mr. Dunlop's references to the Carrickmines lands yesterday
27 in evidence, and the question was "was he correct in his recollection that the
28 first time he received money was for Carrickmines?" He was then -- he then
29 wrote down the answer, which the Tribunal has, and what I would like to know is
0 does that answer reinforce or contradict the evidence that Mr. Dunlop gave

1 yesterday, and does it answer Mr. Gallagher's question one way or another?

2 That is important to our re-examination, or cross-examination, of Mr. Dunlop,
3 when that occurs.

4

5 MR. GALLAGHER: Can I say, Sir, that in asking a number of questions from Mr.
6 Dunlop today I was relying on my memory, and I made it clear that I would go
7 back to the transcript to see if I was correct in my recollection, and I said I
8 would come back and re-visit the matter.

9

0 The parcel of land and the individual -- sorry, the parcel of land in
11 respect -- written down by Mr. Dunlop, is not Carrickmines, more than that I am
12 not prepared to say at this stage.

13

14 CHAIRMAN: If that is the only module under consideration that is an answer
5 to the question at this point in time. Thank you.

16 Q.42 MR. GALLAGHER: Mr. Dunlop, the second name that you mentioned this morning
17 as a person to whom you spoke about money prior to the 24th May, 1991, was
18 Councillor Tony Fox. Would you tell the Tribunal where, when and the details
19 of the discussion you had with Councillor Fox

0 A. Yes. Yes, sir. I called to Councillor Fox's place of work at the time, not
21 only on this occasion but on other occasions, to discuss with him his support
22 for this particular development. I cannot recollect the correct address, I can
23 tell you the general area. He no longer -- he subsequently moved from that
24 area because of his -- of the area that he worked, he moved to another office.

5 But --

26 Q.43 Perhaps you would tell us where the area is, if you can't remember the exact
27 date, generally speaking?

28 A. I always have difficulty about this, not being a Dubliner, but it is the
29 Rathgar/Rathmines area. I will get you the exact address.

0 Q.44 All right.

1 A. And I discussed the matter with him. He indicated that he would be supportive,
2 as he had been previously. And would continue to be, but that the normal rules
3 of engagement would apply. And the normal rules of engagement --

4 Q.45 Were they his words?

5 A. No. "I will need to look after people".

6 Q.46 You are using his words now?

7 A. Yes, his words, yes. And I told him that I understood that but that he and
8 others had been in receipt of monies already in relation to other matters, and
9 that until such time as we saw which way this particular item went I asked him
0 for his support without any payment in advance. He agreed.

11 Q.47 Do I understand you correctly to say that Councillor Fox told you that he would
12 have to look after others, that is that he would have to pay money to others?

13 A. Yes.

14 Q.48 Did he tell you who those others were?

5 A. No.

16 Q.49 Did he tell you how much he would have to pay them?

17 A. No.

18 Q.50 Did he tell you how much he expected you to pay him?

19 A. No.

0 Q.51 Did you indicate to him how much you were prepared to give him?

21 A. No.

22 Q.52 Did you indicate when and in what manner you would pay him if he supported the
23 proposal in -- on 24th May, 1991?

24 A. I said we would see what would happen and we would discuss it again as a result
5 of the outcome of the motion.

26 Q.53 Can you just tell me, and clarify for me please, the motion that you were
27 referring to at that stage? You see, I understand that the manager's report
28 would -- certainly was read at the meeting?

29 A. Yes.

0 Q.54 And whilst we haven't any details of when it was circulated, it was normal

1 practice, as I understand it from the evidence of Ms. Collins, that managers
2 reports would be circulated to members a short time before the meeting, I think
3 she said on occasion it might even be as late as the morning of a meeting, but
4 sometimes it would have been circulated some days or a week or so in advance.
5 Can you tell the Tribunal what particular proposal you were asking Councillor
6 Fox to support at that time?

7 A. Yes. I have no doubt in my mind, Mr. Gallagher, I was talking to him about
8 Paisley Park Development, proposal for Paisley Park. And that the matter would
9 come up in the context of the Carrickmines Valley. Normally when you are
0 discussing a matter with a councillor in relation to a proposal for development
11 or zoning during the course of the Development Plan these matters appear on the
12 agenda well in advance. The substantive report may not appear on the agenda
13 well in advance, but the issue may appear on the agenda well in advance, and my
14 recollection of my discussion with Tony Fox on that particular occasion was in
5 relation to the Paisley Park development in the context of what would happen at
16 the Carrickmines.

17 Q.55 Can you tell us anything further about that meeting, about what was discussed,
18 about the merits or otherwise of the lands, the suitability of the lands, the
19 location of the lands, the access of the lands, the servicing of the lands, the
0 ownership of the lands, anything of that nature?

21 A. Yes. In the particular instance, in this particular case, and in relation to
22 this particular councillor he was not -- it was not usual for him to ask too
23 many questions about either the merits of the land proposal or the ownership or
24 otherwise of the particular lands. I don't mean to suggest, I hasten to add, I
5 do not mean to suggest that this particular councillor, Councillor Fox, would
26 vote for anything regardless of what was put before him. I do not under any
27 circumstances suggest that. Nonetheless, I do have to say that the very fact
28 that I brought the proposal to him was, I suppose, sufficient for him to
29 indicate that he would support.

0 Q.56 The next person you mentioned was Councillor McGrath. Can you tell the

1 Tribunal where, when you met Councillor McGrath and what was discussed in the
2 context of the Paisley Park lands and the meeting of the 24th May?

3 A. Can I preface my answer to that question, Mr. Gallagher, by saying it doesn't
4 necessarily follow that when I went to meet with a councillor, and in this
5 particular instance Councillor McGrath, that there was only one item on the
6 agenda. In other words, it was -- doesn't necessarily follow that you would
7 talk about one development.

8 Q.57 All right.

9 A. I want to make that clear. So I -- neither he nor I would arrange to meet one
0 another or discuss a specific issue solely at a meeting. The context of what
11 was happening was the Development Plan, and there were significant developments
12 proposed during the course of the Development Plan of which I had already --
13 which I was already involved in and which this particular councillor,
14 Councillor McGrath, and others were fully aware of. I cannot, in answer to
5 your specific question, I cannot say to you exactly where I met Councillor
16 McGrath, I haven't referred to my diary, if there is any reference in my diary,
17 in relation to meeting Councillor McGrath. Could I say to you that at that
18 particular time, again because of the Development Plan, there were many
19 meetings with Councillor McGrath. Some in his business premises in Clondalkin,
0 some in my office, together with others, and some in Dublin County Council, or
21 hotels or hostelries nearby.

22 Q.58 In relation to the Paisley -- are you saying that in relation to the Paisley
23 Park lands you cannot recall any specific meeting or discussion?

24 A. I cannot recall any specific meeting or discussion, no.

5 Q.59 I will be coming to deal with the various motions in due course, but I would
26 like you to continue now to deal with your discussions with Councillor Sean
27 Gilbride in relation to the Paisley Park lands?

28 A. I would have approached and discussed the matter in the context of the May,
29 24th, May 1991, meeting. Again in the same circumstances that I outlined to
0 you in relation to Councillor McGrath, I would have discussed other issues with

1 Councillor Gilbride in relation to the Development Plan.

2 Q.60 All right. Can you recall any specific discussion with him about the Paisley
3 Park lands?

4 A. Well, the -- I would like to be as helpful as I possibly can about discussions
5 that took place, but many many discussions took place. Again I want to put
6 Councillor Gilbride into the same context I put Councillor Fox. I do not mean
7 to suggest that because of his relationship with me that he would necessarily
8 vote, or indicate that he was going to support a particular motion or a
9 particular development because it was simply I was recommending it. But I have
0 absolutely no doubt in my own mind that there would have been discussions in
11 relation to the Carrickmines Valley and Paisley Park in particular, which would
12 have led to a statement to me by Councillor Gilbride that it would be a matter
13 to be discussed at the party meeting prior to the council meeting which would
14 look at these matters.

5

16 In other words, it would be a discussion that would take place at the
17 council -- at the Fianna Fáil party meeting prior to the meeting as to whether
18 or not a whip would be applied.

19 Q.61 Does it follow that you cannot recall any specific discussion with Councillor
0 Gilbride in relation to Paisley Park lands?

21 A. Yes.

22 Q.62 But I had understood you to say that Councillor Gilbride was one of the
23 individuals with whom you discussed monies in relation to his voting for the
24 Paisley Park lands?

5 A. Correct.

26 Q.63 When did that discussion take place?

27 A. Well, again without reference to meetings with Councillor Gilbride in my diary
28 or elsewhere, many meetings took place, some of them recorded some of them not,
29 with Councillor Gilbride in relation to the Development Plan and matters
0 appearing on the agenda that we either had a direct or -- that I either a

1 direct or an indirect interest in.

2 Q.64 The only two meetings that I have been able to locate in your diary with

3 Councillor Gilbride were held on the 27th May, 1991 and the 28th May, 1991,

4 both of those meetings were after --

5 A. After the meeting, yes.

6 Q.65 Perhaps we can have page 1280 on the screen? You see at the bottom of the page

7 "Monday 27th May, 1991" you had a meeting with Sean Gilbride and somebody

8 described as "Tommy B"?

9 A. That is Tommy Boland.

0 Q.66 Can you remember that meeting, where it was held or what was discussed?

11 A. I can't. I certainly can't tell you where the meeting was held. I refer

12 again, Mr. Gallagher, to the context of what was happening in relation to the

13 development plan. There were serious issues arising and which would either be

14 about to be voted on, or had already been voted on, other than Carrickmines.

5 Q.67 All right. There was also a meeting with Councillor Gilbride at 5 p.m. on

16 Tuesday 28th May?

17 A. Mm-hmm.

18 Q.68 In the Gresham Hotel?

19 A. Yes.

0 Q.69 Can you assist the Tribunal by recalling what was discussed at that meeting in

21 relation to Carrickmines, what if anything was discussed at that meeting in

22 relation to Carrickmines?

23 A. I doubt very much if that was a meeting about Carrickmines. I Can not tell you

24 if it was or was not, but I doubt very much, given the date the meeting took

5 place and given the date of a subsequent special meeting of Dublin County

26 Council at which a serious issued was resolved.

27 Q.70 In fairness to Councillor Gilbride you have said that he was one of the

28 councillors to whom you spoke concerning money for his support for the Paisley

29 Park lands, you obviously remember something about such a discussion about the

0 Paisley Park lands and his support and money, and I think you should elaborate

1 on that and tell the Tribunal what you can recall about it?

2 A. Again, to the best of my ability, the discussions that were taking place were
3 taking place about a number of matters. It is true that Sean Gilbride and I
4 spoke about money on several occasions. It is true also that Councillor
5 Gilbride and I -- Councillor Gilbride would have indicated to me that support
6 for any motion would require money, and I have already said to the Tribunal in
7 sworn evidence two days ago, or I think last Friday, a comment that Councillor
8 Gilbride made in relation to a development, to the effect that it would cost
9 me. But on this particular occasion, given that I had already been -- had
0 already disbursed monies to people, that I was not prepared to give money in
11 this particular instance, similar to what I discussed with Councillor Fox.

12 Q.71 Do you mean that you indicated that you weren't prepared to pay money in
13 relation to the Paisley Park lands until after the meeting of the 24th May,
14 1991, is that what you are saying?

5 A. Yes, Mr. Gallagher. And also again, and forgive me if I keep making an attempt
16 to contextualise this, the local elections were just around the corner, and
17 without being dramatic about it, I was under siege for monies from quite a wide
18 range of politicians, most of them obviously councillors that I was dealing
19 with on a regular, daily, basis.

0 Q.72 Can you recall the first time you were asked -- sorry, perhaps you have dealt
21 with that question. I will just check it again. The next person you spoke --
22 mentioned, was the late Councillor Jack Larkin.

23 A. Yes. Jack Larkin came from the Balbriggan area and he was closely aligned with
24 the North County Dublin councillors, and again I don't wish to suggest in any
5 way that Councillor Larkin would vote for anything, but the only meetings that
26 I ever had with Councillor Larkin were in the actual confines of Dublin County
27 Council, the Royal Dublin Hotel and Conways Pub. He was an extremely amiable
28 man and never asked any very serious questions about any particular
29 development. If it was indicated to him that Councillor Gilbride, for example,
0 was in support of it or Councillor Gallagher was in support of it, Councillor

1 Larkin would invariably become supportive. I know that Councillor Gallagher --
2 I beg your pardon, Councillor Larkin became ill during the course of the
3 Development Plan, I cannot recollect exactly when he was ill, but I do know
4 that he had heart surgery or had a heart attack. I can't recollect exactly.
5 The only other time that I spoke or visited Councillor Larkin was when I
6 visited him in Drogheda Hospital.

7 Q.73 Can you recall Councillor Larkin speaking to you about money in the context of
8 the Paisley Park lands?

9 A. No, I cannot.

0 Q.74 You have already said that you did speak to him?

11 A. Yes, I did speak to him.

12 Q.75 About money, in the context of the Carrickmines lands?

13 A. Yes. The discussion that I had with him in relation to the Carrickmines lands,
14 to the best of my recollection, took place in Conways Pub when others were
15 present, other councillors were present. And he indicated that he would
16 support it. I had -- again trying to be as helpful as possible in relation to
17 this matter, I spoke to him subsequently on his own and he reiterated his
18 support, but that he would need "a few bob". They are his words.

19 Q.76 Where did that --

0

21 MR. O'HIGGINS: Chairman, I appear for Mr. Cosgrave and I wonder could a
22 point just be clarified as to how examination is to proceed? This is
23 Mr. Gallagher's witness, and in the ordinary course when you are taking your
24 own witness you are not, for instance, entitled to cross-examine him.

5

26 Now, I do understand from what I have heard that there is a great deal of
27 latitude afforded to people giving evidence here in respect of things like
28 hearsay evidence, and hearsay upon hearsay and so on and so forth, but we have
29 just heard the witness say that he had no recollection of ever having a
0 discussion about money, and Mr. Gallagher's reply to that is "Did you not tell

1 us earlier that you had met these people about money" and the witness, having
2 testified on oath to not having any memory, proceeds to give an actual example,
3 in an actual place, in a public house; and I wonder would the Tribunal clarify
4 for us in circumstances where Mr. Gallagher is dealing with his own witness,
5 who gives sworn testimony that "I did not, I cannot have any memory of
6 discussing money with him", in what circumstances is Mr. Gallagher to be
7 permitted to cross-examine on that and to have the witness alter his testimony
8 directly from what had been given 30 seconds earlier?

9

0 MR. GALLAGHER: Sir, I would wish to respond very briefly, if I may, to the
11 submission by Mr. O'Higgins?

12

13 CHAIRMAN: Very good.

14

5 MR. GALLAGHER: There are two points that I want to make.
16 One, this is not a criminal trial. This is an inquiry in public.
17 Number two, this witness is not my witness. This witness is a Tribunal
18 witness. Every other witness is the Tribunal witness. I am trying to
19 establish what information, what evidence, this witness can give to this
0 Tribunal, and it is my understanding that, and in my note, that this witness
21 said that prior to the meeting of the 24th May, 2000 -- 1991, he had spoken
22 with a number of councillors and had discussed the question of money with them
23 in the context of the Carrickmines rezoning.

24

5 When I asked this witness about his discussions with a number of the
26 councillors he said he couldn't remember the details of the discussions and I
27 was putting to him, and will continue to put to him, if it arises that he has
28 already said he had discussions with councillors. If he says that he can't
29 recall such discussion then there is a contradiction, and what I am trying to
0 establish is how he explains that contradiction. Nothing more, nothing else.

1 I am drawing his attention to something that is inconsistent, an inconsistent
2 response that he gave earlier.

3

4 I again emphasise, this is not my witness. He is a Tribunal witness. I don't
5 seek to stand this witness up or to stand any other witness up.

6

7 CHAIRMAN: First and foremost, it is just five minutes to 12 and we will
8 retire for quarter of an hour and respond and rule on this matter when we come
9 back.

0

11 THE HEARING THEN ADJOURNED FOR A SHORT BREAK

12 AND RESUMED AGAIN AS FOLLOWS:

13

14 CHAIRMAN: The Tribunal's ruling.

5

16 This hearing is related to Carrickmines One and Carrickmines One only. The
17 Tribunal is inquiring, at this point in time, to payments made or discussed
18 between Mr. Dunlop and any other particular councillor, council member in
19 relation to Carrickmines.

0

21 Witnesses called to give evidence are witnesses of the Tribunal and not to one
22 or other side. The nature of the inquiry being conducted by Counsel on behalf
23 of the Tribunal is inquisitorial, and of necessity, must involve direct and a
24 degree of cross-examination. When Mr. Gallagher, or anyone else, asks a
5 question of a witness and the response is in conflict with any prior statement
26 made, oral or written, already given by that witness, he is entitled to seek
27 clarification of that particular issue. So far as practicable counsel for any
28 particular party shall endeavour to confine his examination of that witness to
29 matters germane at the moment to the Carrickmines area only.

0

1 I think that will get a clarity on the situation and try and get a sequence
2 which will get over the problems which undoubtedly are being experienced.

3

4 That is the ruling.

5

6 MR. O'HIGGINS: Thank you Mr. Chairman.

7

8 MR. GALLAGHER: Mr. Dunlop, please.

9 Q.77 Mr. Dunlop, you have told the Tribunal about your meetings and discussions with

0 the late Councillor Jack Larkin. I would now like you to deal, move on and

11 deal with your recollection of any discussions you had with the late Councillor

12 Cyril Gallagher before the meeting of the 24th May 1991, please?

13 A. Yes, Mr. Gallagher. I told you in evidence that I lobbied the named

14 councillors in relation to the Carrickmines/Paisley Park issue prior to the

5 meeting of the 24th May, 1991. In that context I met Cyril Gallagher. I do

16 not recall the exact circumstances, where I met Councillor Gallagher. I

17 normally met Councillor Gallagher either at his home in Swords or at a public

18 house in Swords, or at the Royal Dublin Hotel in Dublin or Conways Pub.

19

0 As I indicated to you in the context of other councillors that I lobbied, money

21 was discussed. As I also indicated to you, I told Councillor Gallagher that in

22 the context of what was happening in general terms with the Development Plan, I

23 was not prepared to pay any money, and I did not pay any money, but did so

24 subsequently in relation to the motion that came before the council in the

5 course of the Development Plan in 1992.

26 Q.78 I want to return, if I may, to a statement which you furnished to the Tribunal

27 and which was the basis of some of my questions yesterday. You set out, at the

28 bottom of the first page, in relation to Paisley Park, your understanding in

29 relation to Mr. Lawlor's interest and what you had been told by Mr. Kennedy.

0 And the next page you then set out, in general terms, details of meetings you

1 had with Mr. Kennedy over the next five or six years. Can you elaborate on
2 those, please, those meetings? Is there anything you can add to what you have
3 in that statement? Perhaps I will read the paragraph?

4 A. Which paragraph are you referring to? Mr. Kennedy --

5 "Mr. Kennedy informed me, that in addition to having an interest."

6 Q.79 No.

7 A. "Over a period of five or six years".

8 Q.80 "Over the period of five years I had a number of meetings with Mr. Kennedy,
9 apart from meeting him in his basement office on Westmoreland Street, a number
0 of these meetings were held in the Temple Bar Hotel. On virtually all of these
11 occasion Mr. Kennedy spoke of Mr. Lawlor and his ongoing interest in these
12 lands. Some years later I was also informed that there had been a falling out
13 between Mr. John Caldwell and Mr. Lawlor."

14 A. Yes. As I said in the statement, over that period I did have a number of
5 meetings with Mr. Kennedy. They -- all the meetings with Mr. Kennedy related
16 to the body of land which the Chairman has described as Carrickmines One. In
17 the first instance the entity known as Paisley Park and subsequently Jackson
18 Way. No other discussions took place in relation to any specific body of land
19 other than those, other than that.

0 Q.81 Have you any idea how many meetings you had with Mr. Kennedy over that period,
21 approximately?

22 A. Well, I beg your pardon, I think most of them are actually listed in my diaries
23 and I would have said, over the period - I cannot give you an accurate figure,
24 and you know I can count them in the diaries up to and including whatever the
5 last one was, but if you are asking me to guesstimate --

26 Q.82 That is what I am asking you?

27 A. I understood that is what you are asking me to do, I would say I had something
28 in the order of ten meetings with Mr. Kennedy.

29 Q.83 Can you tell the Tribunal your recollection of what Mr. Kennedy told you about
0 Mr. Lawlor and Mr. Lawlor's interests in these lands in the course of these

1 various meetings?

2 A. Yes. The first reference, and indeed only reference, as I recall it, by
3 Mr. Kennedy to Mr. Lawlor's ownership or part ownership or participation to
4 whatever extent, or whatever percentage, which was never discussed, was in the
5 context immediately after the vote on the 24th May 1991, when Mr. Lawlor had
6 voted as he had voted in the context of the Carrickmines Valley. Mr. Kennedy
7 expressed himself, as I think I indicated yesterday, quite volubly about the
8 matter and used the phrase, as I think I again used yesterday, you know, "you
9 think because he had an interest in it". He went on to further explain to me
0 that whatever that interest was he had advised Mr. Lawlor to register it abroad
11 and had given him advice as to the mechanics of doing it, and he said he had it
12 done in Lichtenstein.

13 Q.84 You say that was the only occasion on which Mr. Kennedy discussed with you
14 Mr. Lawlor's alleged interest in, beneficial interest, in the lands in
5 question?

16 A. In the lands in question, yes.

17 Q.85 You see, looking at your statement I have to say that I read it in a somewhat
18 different way, you said, and I quote: "On virtually all of these occasions
19 Mr. Kennedy spoke of Mr. Lawlor and his ongoing interest in these lands".
0 I read and understood that sentence to mean on virtually all of these occasions
21 Mr. Kennedy spoke of Mr. Lawlor and of Mr. Lawlor's ongoing interest in these
22 lands. Is that what you meant?

23 A. What I meant by that phrase was that Mr. Lawlor's "ongoing interest" was the
24 help and assistance that Mr. Lawlor was providing in relation to how the matter
5 could be proceeded with during the course of the Development Plan.
26 Mr. Lawlor's involvement in the land was not alluded to by Mr. Kennedy until
27 after the meeting of the 24th May, and subsequently while there was hardly a
28 meeting that took place, and some of the meetings were attended by Mr. Lawlor,
29 that Mr. Lawlor's interest was not shown in the context of what Mr. Kennedy
0 would say as to the advice that Mr. Lawlor had provided.

1 Q.86 What you are saying then when you use the words "His ongoing interest" you did
2 not mean his ongoing beneficial interest?

3 A. His ongoing beneficial interest, no.

4 Q.87 Were you saying there that he was speaking about Mr. Lawlor's ongoing support
5 for the proposed rezoning of the lands?

6 A. Yes.

7 Q.88 Is that what you are talking about? I see. Can you tell the Tribunal what Mr.
8 Kennedy said to you about Mr. Lawlor's ongoing support for the lands in
9 question?

0 A. Mr. Kennedy, at the meetings, particularly at the meetings after the 24th May
11 1991, having reconciled himself to the fact that Mr. Lawlor had done what he
12 had done, albeit in circumstances where neither he nor I could get a
13 satisfactory explanation as to why this had happened, but we were, he was and
14 indeed I was comfortable with the fact that a mechanism existed whereby we
15 could get a motion put forward under the Development Plan after the first
16 review -- after the first display. And this advice was given to me by
17 Mr. Lawlor and was also given, as I understood it, by Mr. Lawlor to
18 Mr. Kennedy.

19 Q.89 Did Mr. Kennedy talk to you about that support and how it might manifest itself
0 in the course of the review of the Development Plan?

21 A. Mr. Lawlor's support?

22 Q.90 Yes.

23 A. Yes, he did. In the context of what had happened in the local elections of
24 1991, Mr. Lawlor lost his seat.

5 Q.91 Yes?

26 A. Therefore, Mr. Lawlor was no longer a member of the actual council and
27 therefore was not to -- was not -- did not have a direct bearing on how
28 anybody -- Fianna Fáil party or anybody else would vote, in the context of
29 anything that happened. Mr. Lawlor's "interest" as I have used the word in my
0 statement, his support continued, notwithstanding the fact that he was no

1 longer a member of Dublin County Council. And that support manifested itself
2 in advice to Mr. Kennedy and to me as to how we should proceed.

3 Q.92 What advices did Mr. Lawlor give to you as to how you should proceed?

4 A. Well, the first and particular advice that he gave was that when the Draft
5 Development Plan came off the first public display there would be an
6 opportunity -- during the course -- I beg your pardon, let me start again.
7 During the course of the first public display an opportunity would be available
8 to make a representation to the display which would then be noted, numbered and
9 noted by the officials, by the council. That would afford the proposers an
0 opportunity to bring forward a motion on foot of that representation, and that
11 motion would therefore have to be considered by the council during one of
12 the -- during the course of one of the special meetings in relation to the
13 Development Plan.

14 Q.93 Did he give you any other advices in relation to the submission as to who might
5 prepare the submission, as to its contents, or anything of that nature?

16 A. No. I am not aware, or I was not involved in the course of the preparation of
17 any submission in relation to representation to the plan -- I knew such a
18 submission was being prepared. I am also aware that, from comments made by
19 Mr. Kennedy, that Mr. Lawlor was assisting in relation to that particular
0 submission. On a number of occasions Mr. Kennedy referred to technical matters
21 that would have to be dealt with, and that that was being looked after in the
22 submission and that Liam was helping. By "Liam" he meant Mr. Lawlor.

23 Q.94 What type of technical matters are you referring to?

24 A. Technical matters in relation to those that I alluded earlier on, a day or two
5 ago, in relation to services for the land, access for the land and the most
26 important question of all, a sewer, a foul sewer.

27 Q.95 I see. Did Mr. Lawlor speak to you about the proposed submission, and if so,
28 did he speak about any role, if any, he was playing in relation to the proposed
29 submission?

0 A. I don't recollect he ever spoke to me about either the submission or the role

1 that he was playing.

2 Q.96 Are you aware that a submission was lodged with Dublin County Council in
3 relation to the Paisley Park lands?

4 A. Oh, I am aware that a submission was made to Dublin County Council in relation
5 to the Paisley Park lands. I was not aware as to authorship of it. I was not
6 aware that Mr. Lawlor had written the submission. You are saying that his
7 submission was -- his report was submitted.

8 Q.97 I am sorry, you dropped your voice?

9 A. No. In reply to your question I was not aware that Mr. Lawlor's report, or
0 submission, was made to Dublin County Council. I am aware that a submission
11 was made to Dublin County Council because it was required.

12 Q.98 No. I don't recall saying that Mr. Lawlor wrote the submission. I asked had
13 he spoken to you about it or about its contents?

14 A. No. I don't ever recall him ever speaking to me about its contents.

5 Q.99 May I have page 297 to 312, please?

16 This is a submission dated 3rd December, 1991, an objection to the Draft
17 Development Plan. Submitted by D McCarthy and Company to Dublin County
18 Council. The letter is headed "re: Carrickmines District Centre and Business
19 Park. Client: Paisley Park Investments Limited. Map number 27.

0 Dear Sir, I enclose herewith representations relating to the above on behalf of
21 my client. I wish to have same considered. I request an opportunity to state
22 the case orally". That is on behalf of D McCarthy and Company.

23

24 The next page please? This is the submission on page 298 of the brief. It is
5 a submission on behalf of Paisley Park Investments Limited, Carrickmines
26 District Centre and Business Park. Town planner: Grainne Mallon, 8 Merrion
27 Square, Planning Consultants", Grainne Mallon at that address. And consultant
28 engineers are shown as D McCarthy and Company, Lynwood House, Dublin 16.

29 Perhaps we can have the next page?

0

1 This goes on to set out the reasons why Paisley Park was seeking to have the
2 lands rezoned as a district centre and business park, isn't that right? Did
3 you see that submission at any time?

4 A. No, I have never seen that submission, Mr. Gallagher.

5 Q.100 Were you aware that it had been handed in to Dublin County Council?

6 A. I was aware that a submission had been handed in to Dublin County Council, yes.

7 Q.101 Your statement goes on to say that you were informed some years later that --

8 "I was also informed that there had been a falling out between Mr. Caldwell and
9 Mr. Lawlor"

0 A. Yes.

11 Q.102 Who told you that?

12 A. Mr. Kennedy.

13 Q.103 Can you recall when and where he told you that?

14 A. Well, he -- it was at one of the meetings that I have alluded to, that I had
15 with Mr. Kennedy. And the circumstances in which I was told, were to the
16 effect that John Caldwell and Liam Lawlor had had a difference of opinion about
17 some matter and that there was threatened litigation. I didn't enquire from
18 Mr. Kennedy what the difference of opinion between Mr. Caldwell and Mr. Lawlor
19 was. It wasn't relevant to me. But I do recall Mr. Kennedy saying so. And if
20 I can fast forward to a statement made to me by Mr. Caldwell in my office, in
21 the presence of a journalist some years later, when asked by the journalist in
22 relation to Mr. Lawlor he replied "I don't wish to speak about Mr. Lawlor,
23 Mr. Lawlor and I no longer see eye to eye" or words to that effect.

24 Q.104 Who was the journalist?

5 A. Charlie Bird.

26 Q.105 Was that the meeting held in response to queries raised by Mr. Bird as to the
27 ownership of the --

28 A. Correct.

29 Q.106 -- Jackson Way lands?

0 A. Correct.

1 Q.107Do I take it, therefore, that whilst you had been told by Mr. Kennedy, and had
2 received confirmation from Mr. Caldwell that there had been a falling out, you
3 don't know what the nature of the falling out was, or the matters over which
4 they had fallen out, or do you?

5 A. Specifically, no.

6 Q.108Well, generally do you know what the falling out was about? If you tell me --

7 A. No.

8 Q.109Generally speaking you don't?

9 A. No.

0 Q.110Your statement goes on to say as follows:

11 "My understanding of what I was informed was that Paisley Park was bought and
12 owned by Mr. Kennedy. That Mr. Caldwell had a portion of it and that in
13 consideration of it, assistance provided by Mr. Lawlor, he was given an
14 interest therein, and that on Mr. Kennedy's advice that interest was registered
5 offshore." Is that right?

16 A. That's correct.

17 Q.111I take it that when you are talking about an "interest" given to Mr. Lawlor you
18 are talking about a beneficial interest?

19 A. Yes, I am.

0 Q.112Were you told the size of that interest?

21 A. No.

22 Q.113Who told you that Paisley Park was bought and owned by Mr. Kennedy?

23 A. Mr. Kennedy himself.

24 Q.114Where did that conversation take place?

5 A. That conversation took place in Mr. Kennedy's premises in Westmoreland Street.

26 Q.115Did he tell you anything about the purchase and financing of the purchase of
27 the lands?

28 A. No.

29 Q.116Did he tell you what share Mr. Caldwell had in the lands?

0 A. No.

1 Q.117Did he tell you what interest, what share he, Mr. Kennedy, had in the lands?

2 A. No.

3 Q.118Did he tell you how his interest was held in the lands? In other words, did he

4 tell you that the shares in the land were held by him indirectly or for his

5 benefit through an offshore company?

6 A. The reason I pause, Mr. Gallagher, he did not -- he did not go into any

7 technical details. I was aware from a comment that he made that Paisley Park

8 was an Isle of Man company. That is the limit of my understanding. As to

9 whether it was an offshore company or not, that was my understanding as a

0 result of conversation with Mr. Kennedy.

11 Q.119Are you telling the Tribunal that it was your understanding that Mr. Kennedy,

12 Mr. Caldwell and Mr. Lawlor each had an unspecified interest, beneficial

13 interest, in the lands known as the Paisley Park lands?

14 A. As told to me by Mr. Kennedy, yes.

5 Q.120Did he tell you that on more than one occasion?

16 A. The only reference he made to Mr. Kennedy's participation -- or Mr. Lawlor's

17 participation, was as I outlined to you already. He indicated to me the nature

18 of the company, Paisley Park, being an Isle of Man company, relatively early on

19 after meeting him. He never indicated to me the size or otherwise of John

0 Caldwell's participation in the company.

21 Q.121Sir, it is now five past one, and if it is convenient --

22

23 CHAIRMAN: We will rise until quarter past two.

24

5 THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

26

27

28

29

0

1 THE HEARING RESUMED AS FOLLOWS AFTER LUNCH:

2

3 CHAIRMAN: The Tribunal's ruling on the application made by Mr. Finlay.

4

5 Mr. Finlay has made an application to the Tribunal for in effect, leave by

6 Mr. Miley to come off record for Jackson Way Properties Limited on the basis

7 that he no longer is in receipt of instructions from that company.

8

9 The Tribunal is concerned that such an application is being made by Mr. Miley

0 while he, Mr. Miley, continues to act for Mr. Caldwell, given the fact that

11 Mr. Caldwell has stated that he is a beneficial owner of the company, and has

12 control of the company.

13

14 To enable the Tribunal to rule on Mr. Miley's application, it is required that

5 Mr. Caldwell will attend in person tomorrow, and at the moment we'll say 10.30

16 but it would be feasible to say 2 o'clock if that was more convenient, and give

17 evidence on matters pertaining to the application, and the concerns referred to

18 above.

19

0 Furthermore, in the light of the concern that the Tribunal now has, as to the

21 documentation that Mr. Miley has in his possession relating to Jackson Way

22 Properties Limited, and currently the subject matter of an order for discovery

23 and production, invite Mr. Finlay to make a submission as to what steps are

24 proposed by Mr. Miley to preserve the documentation pending further order of

5 the Tribunal.

26

27 MR. FINLAY: Chairman, I am taking a note of your ruling, obviously I will need

28 to take instructions in relation to at least two aspects of your ruling.

29

0 I just would like for the avoidance of any subsequent misunderstanding, if at

1 all possible, to make one point, pending the taking of instructions which of
2 course I will come back to you on, possibly by the end of today's hearing if I
3 can do that.

4

5 The point I would like to make is this, for the possible avoidance of later
6 misunderstanding, my own understanding of the position, the legal position, is
7 that I did not and indeed was not so requested to do by the solicitor for the
8 Tribunal, make an application to come off record, I have had the opportunity
9 since this morning of reminding myself of the provisions in this regard which
0 apply under the Rules of the Superior Courts. In my respectful submission,
11 they have no application whatsoever here, because Mr. Miley is not on record in
12 any sense understood by the rules, that applies in litigation, and Your
13 Lordship will be aware, Chairman will be aware that that applies in a context
14 whereas between solicitor and client as between solicitor and client, if a
5 solicitor wishes to cease to act, he must apply to the High Court, the High
16 Court for liberty to so cease to act as between himself and the client, that
17 must be on notice to the client. The Chairman is well aware of that of course.

18

19 I merely make that point. Of course I have come here on foot of the invitation
0 or request for the solicitor to the Tribunal, to inform, to inform and I use
21 the Tribunal's own words, that Mr. Miley as a matter of fact, is no longer
22 representing Jackson Way.

23

24 So, I would like that to be just said, for the avoidance of a possible later
5 misunderstanding. That may or may not have a bearing on some of the issues
26 raised in the Chairman's ruling, because if I were per chance to be correct in
27 my understanding of representation before this Tribunal and what that means, if
28 I were to be correct in that, it could be that some of the matters raised by
29 the ruling would not arise as a matter of law, if as a matter of fact,
0 Mr. Miley has ceased to represent the company.

1

2 Of course, and without prejudice if I may to those observations, if I may I
3 will of course take instructions in relation to the matters raised, as I
4 understand it. And just again for the avoidance of doubt because we don't have
5 a text, I am relying on my note, one of the matters concerns the preservation
6 of securing, I use the term without any distinction, the preservation or
7 securing of documents which Mr. Miley has in his possession relating to Jackson
8 Way Properties Limited. Have I correctly understood --

9

0 CHAIRMAN: That's --

11

12 MR. FINLAY: I will most certainly take instruction in relation to that.

13

14 I am just not quite sure, and I again apologise if I am trespassing, quite sure
5 of the relevance of the other aspect of the ruling, if my understanding of the,
16 of the legal position is correct as to the meaning of representation before the
17 Tribunal and the fact that as a matter of fact Mr. Miley does not represent the
18 company any more. But --

19

0 CHAIRMAN: Mr. Finlay, may I put it to you this way, simplify the situation,
21 there is an order, a valid order duly served on Jackson Way Properties to make
22 discovery. Make an order -- there is an order for discovery and production,
23 that order is a valid order, it was served etcetera. There is no doubt about
24 that.

5

26 MR. FINLAY: Indeed, Chairman, it was to that order I referred in my summary
27 this morning.

28

29 CHAIRMAN: Let me be quite frank about this, no nonsense about this, those
0 documents are presently in this country.

1

2 MR. FINLAY: Which documents, Chairman?

3

4 CHAIRMAN: Documents relating to Jackson Way Properties.

5

6 MR. FINLAY: Indeed, in fact --

7

8 CHAIRMAN: No, no, let's be quite clear about this. What I am concerned about

9 is that documents do not leave this jurisdiction pending the matter being

0 resolved by an appropriate authority. No -- I am not in any way saying that we

11 must of necessity have jurisdiction or otherwise, but other bodies in this

12 country such as the courts, have jurisdiction to preserve those documents.

13 They are the subject matter of a proper and appropriate order and it has in the

14 past, been doubtless, they are simply produced here in court, an undertaking is

5 given they will not be inspected they are sealed in fact, put away and then the

16 matter can be debated as to the rights and the wrongs, but what I want to

17 preserve is the presence in this country of documents which are currently in

18 the possession of a solicitor who was, and I am accepting the situation that

19 his instructions may have been store -- they are now here, and as far as I am

0 concerned I make an order this evening, directing a subpoena duces is taken to

21 produce the documents here, I want an undertaking from everyone concerned that

22 pending the termination of this matter that no document, literally no document

23 of any kind, which is in the possession, I mean the physical possession of

24 either Mr. Caldwell or Messrs. Miley & Miley will be removed from the

5 jurisdiction.

26

27 The matter can be debated, the rights and wrongs may be debated and ultimately,

28 an appropriated validated decision made whether by this Tribunal or the High

29 Court.

0

1 Let me be quite clear about this, I will be extremely annoyed if there is any
2 attempt to in any way interfere with that situation.

3

4 MR. FINLAY: But, Chairman, unless I was wholly misunderstood at the outset
5 this morning when I, at the Tribunal's invitation, informed the Tribunal that
6 such a situation --

7

8 CHAIRMAN: That's --

9

0 MR. FINLAY: -- does not arise at all in relation to what I had to say this
11 morning. I was making an entirely different point, I am very sorry if my
12 attempt to describe the position was misunderstood.

13

14 CHAIRMAN: No, I am concerned to maintain those documents within this
5 jurisdiction of the laws of this country.

16

17 For the moment, if on mature consideration let's put it that way, a different
18 situations arises, so be it, at this moment in time, as the presiding Officer
19 in this Tribunal my duty is to see, as far as it is within my power, that those
0 documents are preserved for the use of this Tribunal, if they be appropriate.

21

22 MR. FINLAY: Of course, Chairman, and no suggestion to the contrary is --

23

24 CHAIRMAN: May I have an undertaking from Mr. Miley to that effect and it will
5 take the tension out of the whole situation?

26

27 MR. FINLAY: If that is the cause of your, Chairman's concern, let me pause for
28 a moment and talk to Mr. Miley about it, but that of course was not anything
29 ever envisaged, that situation was not one ever envisaged I want to make that
0 point clear. Let me just formally consult with my solicitor, if I may.

1

2 CHAIRMAN: Certainly, but that is my immediate concern, after that we can
3 discuss the matter, in what I might call an atmosphere of --

4

5 MR. FINLAY: Of course, might I say I hope it is not to be taken in any sense
6 as impertinent. I regard the Chairman's concern as wholly understandable and
7 predictable, it is one my understanding it will be wholly unnecessary, but let
8 me just formally --

9

0 CHAIRMAN: Would you like ten minutes to do so?

11

12 MR. FINLAY: Yes. I think just to put everything in order formally, five
13 minutes might be sufficient.

14

5 CHAIRMAN: Five minutes. Right, we'll rise for five minutes.

16

17 MR. FINLAY: Yes.

18

19 THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK AND RESUMED AS FOLLOWS:

0

21

22

23 CHAIRMAN: Mr. Finlay?

24

5 MR. FINLAY: First of all, Chairman, I am most obliged to the Members of the
26 Tribunal, including the reserve member, for this opportunity to formally
27 confirm the position which is of course exactly as I anticipated it to be.

28

29 It seems to me, Chairman, important to identify two entirely separate issues, I
0 hope this is of assistance rather than a hindrance.

1

2 From a legal perspective I believe with great respect the following to be the
3 position, in relation to representation, as a matter of fact, in the
4 circumstances greatly detailed in the correspondence and crudely summarised by
5 me, Mr. Miley for the reasons given and stated in the correspondence and to the
6 Tribunal, no longer represents the company, that is one issue.

7

8 There is an entirely separate issue, which the Chairman has quite
9 understandably raised. That issue relates to documentation, in this
0 jurisdiction and I, entirely without prejudice to the first factual position in
11 relation to representation I want if I may to say the following: There is not,
12 was not and could not ever be any question that an officer of the court,
13 Mr. Miley, would in any circumstances part with any document relating to
14 Jackson Way in his possession while there is a subsisting order of this
5 Tribunal. Any suggestion to the contrary, I fully accept no such suggestion is
16 being made by the Tribunal, but any concern by the Tribunal in that regard is
17 absolutely unnecessary and insofar as an undertaking is required from that
18 regard, it is of course forthcoming.

19

0 But I merely wish to point out, that the undertaking while automatic is a
21 matter of course. Mr. Miley is here, and any documents that are here in his
22 possession there could never be any question of them moving from his possession
23 in the context of the existing order, irrespective of any attitude taken by the
24 company in England.

5

26 I hope that is absolutely clear to the Tribunal. That's the first point.

27

28 I do wish to just remind the Tribunal, and I appreciate there has been such a
29 volume of correspondence that it is difficult to keep up. That in relation to
0 that of course, there is already, I understand the Tribunal is fully aware of

1 that, there is already a substantial volume, as I mentioned some six volume of
2 Lever Arch files of Jackson Way documents in the possession of the Tribunal
3 forwarded to the Tribunal by Mr. Miley. That's the position in relation to
4 Mr. Miley. That's what I have been concerned with since the Tribunal kindly
5 rose to allow me to consider the position.

6

7 In relation to the Tribunal's other reference to Mr. Caldwell, may I be so bold
8 as to make a suggestion? I make this suggestion against the legal point that I
9 made earlier, or attempted to make in relation to the factual position on
0 representation.

11

12 It seems to me that the concern of the Tribunal in relation to Mr. Caldwell
13 insofar as that relates to documents might be met by the following
14 circumstances, that if assuming that I am in a position to take instructions by
15 tomorrow morning, I will attempt to do that obviously later in the day, if on
16 behalf of Mr. Caldwell I was able to provide to the Tribunal an identical
17 undertaking to that given on behalf of Mr. Miley to the Tribunal tomorrow
18 morning, namely that any document in Mr. Caldwell's possession as distinct from
19 any document in Mr. Miley's possession, relating to Jackson Way Properties
0 Limited would of course not leave his possession irrespective of the position
21 of the company and it's representation. That is my suggestion against the
22 legal position as I understand it in relation to representation and ceasing to
23 act.

24

5 CHAIRMAN: Mr. Finlay, in the first instance I accept that you are no longer
26 acting for the company. And I likewise accept that Mr. Miley is no longer,
27 Miley & Miley or Mr. Miley, whichever it is, are no longer acting for Jackson
28 Way.

29

0 Now that, and I accept your undertaking which you have just offered, no

1 question of that.

2

3 The question in relation to Mr. Caldwell is entirely different. We have been
4 informed through correspondence, which was forwarded to us by Miley & Miley
5 that Jackson Way do not propose to cooperate further with the Tribunal, that is
6 effectively what they have said. This is a very serious development. On the
7 other hand we have had, been told by Mr. Caldwell that he has control over the
8 company. Effectively, I am not going into the actual detail, and in
9 particular, the company's English solicitor has taken up the attitude, in a
0 letter of the 6th of December to Miley & Miley which was furnished to us, I
11 quote from the third paragraph "The company is not prepared to list such papers
12 document by document, as fall within that category. Given in any event the
13 company is not represented before the Tribunal, no Affidavit of Discovery on
14 its behalf must be produced. It is a matter for your client Mr. Caldwell to
5 decide whether he is prepared to provide an affidavit or otherwise."

16

17 So, it is manifestly clear that Jackson Way Properties have no intention
18 whatsoever of assisting the Tribunal in any way. As a matter of fact they are
19 quite clearly going to obstruct the Tribunal's progress.

0

21 In those circumstances, we need to have Mr. Caldwell come and give evidence to
22 this Tribunal as to what is the position, and as to what is his capacity to
23 give instructions, as to whether he has the authority, as he has said he has,
24 that he is in a position to control the company in all relevant matters.

5

26 In fact, I quoted already this morning a letter from Miley and Miley on the
27 31st of January 2002, page 4 of that letter paragraph one, "Mr. Caldwell's
28 interest in this land as mentioned above. He has however always exercised
29 complete control over Jackson Way Properties Limited in the sense that all
0 Mr. Harker, Mr. Bullock and Mr. Holland have conducted affairs in accordance

1 with his instructions."

2

3 Now, it is manifestly clear that here is a man that is claiming to have
4 authority, full authority to deal with the affairs of the company and is in all
5 probability the essential owner of the company. Now, I want to have
6 Mr. Caldwell come here and either confirm or alter that position on oath.

7

8 Now, I do appreciate Mr. Caldwell may not be in the country at the moment and
9 that it may be difficult to get him to travel. We'll facilitate him to that
0 extent because in the light of the undertaking given by Mr. Miley, which you
11 have also given on Mr. Caldwell's behalf, that papers which are here, which are
12 under the control of Mr. Caldwell will remain here. In the light of that we
13 will obviously, will facilitate Mr. Caldwell, if he is out of the jurisdiction,
14 as we are coming up to the end of term, Christmas and all of that.

5

16 But now, we would suggest that we'll sit either on -- no particular desire to
17 sit on Monday, but we would like to facilitate Mr. Caldwell or alternatively
18 fix a date in the new year when he comes over specifically for the purpose of
19 giving evidence and whatever undertaking or otherwise he may feel appropriate
0 in the circumstances.

21

22 MR. FINLAY: Thank you, Chairman. Just if I might respond to a couple of
23 points that is you raised. If I might deal first with the question of the
24 undertaking which was my suggestion, it is a suggestion which arises out of the
5 something which only first appeared this afternoon. It is my suggestion, I
26 anticipate no difficulty with it, but my suggestion in that regard was that
27 that was something which I hoped to be able to obtain in the immediate term, it
28 wouldn't depend on, depending on the Tribunal's perspective, it would not
29 necessitate Mr. Caldwell's presence. In other words, if he is not available
0 tomorrow I still would hope to be in a position to give the undertaking. Of

1 course, I cannot give the undertaking without taking instructions. I have been
2 at hearing since 2 o'clock or whatever, and I obviously had no opportunity to
3 take an instruction. I anticipate no difficulty whatever in obtaining it, but
4 I must formally take the instruction. The Tribunal will fully understand my
5 position in that regard.

6

7 Having obtained my instruction as I anticipate, I expect to be in a position to
8 furnish the undertaking to that, that is intended to deal in the immediate term
9 with the issue as to documents.

0

11 There is a separate issue which the Chairman has identified in relation to the
12 control or management of Jackson Way Properties Limited. And my understanding
13 is that that is a matter on which the Tribunal wishes to hear evidence from
14 Mr. Caldwell. And I understand that the timing of that evidence is a matter
5 for arrangement.

16

17 Of course the ownership as I understand, the ownership and by implication if I
18 would understand it, the structure and management and organisation of Jackson
19 Way Properties is the designated subject of the Carrickmines 2 module, of which
0 we have been notified. And I am just anxious to know, it might be helpful at
21 some stage to know to what extent the anticipated evidence from Mr. Caldwell in
22 relation to this issue overlaps or is distinct from the matter to be discussed
23 in the second module which concerns the entire structure and ownership of
24 Jackson Way?

5

26 But I do wish at this stage, so that again there would be no misunderstanding
27 at a later stage, to remind the Tribunal of the letter which they already have,
28 it's not a copy of a letter to a third party, in this case it is a letter to
29 the Tribunal itself, of the 12th of December from Miley & Miley, the last
0 paragraph on the first page which gives detail of the matter which the Chairman

1 inquired about. And that paragraph reads as follows, having dealt with certain
2 aspects of Ms. Howard's letter of the 9th of December in relation to certain
3 documents of Jackson Way which are being forwarded with this letter to the
4 Tribunal, and having referred to copies of letters from the English solicitors
5 to Jackson Way and responses from Mr. Miley to those letters and a copy of a
6 letter to Mr. Holland, it continues as follows: "As material will not now be
7 forthcoming from Jackson Way Properties Limited on a voluntary basis I have had
8 to look at Mr. Caldwell's position in relation to his power of procurement. As
9 you know", and I pause there because that is a reference back to earlier
0 correspondence which the Tribunal has also had and seen in relation to what's
11 about to follow in the letter. "As you know, Mr. Caldwell's only avenue into
12 Jackson Way Properties Limited is through Renzenbrinck Investments Inc, apart
13 from the rights which accrue to Renzenbrinck Investments Inc on foot of the
14 transfer of the lands in 1993 and on foot of the Declaration of Trust dated the
15 4th of August 1993," which are relevant to the question you raise. "The only
16 rights which Renzenbrinck Investments Inc has in relation to Jackson Way
17 Properties limited are those which arise on the foot of the mandator's
18 agreement which is contained at pages 226 to 231 of the Jackson Way book."
19 Once again that's a document which the Tribunal already has. "I have received
0 an opinion from Queen's Council in London on the correct interpretation of this
21 agreement and Council's advice is as follows." And I can read that advice,
22 normally of course it would be a matter of privilege.

23

24 CHAIRMAN: You don't have to, it is here in print in front of me.

5

26 MR. FINLAY: Yes, I am happy to read it if the Tribunal wishes. The advice of
27 Queen's Council is there set out, and in summary as you will see the advice is
28 to the effect that the mandatories cannot act on the basis of a single
29 mandator's instruction.

0

1 And Mr. Miley then continues his letter to the solicitor for the Tribunal as
2 follows: "The opinion received concurs with my own interpretation of the
3 document." That's Mr. Miley's advice. "And accordingly I think there is
4 nothing more which can be done, if you think otherwise I would be pleased to
5 hear from you, or if you wish to discuss it with me I would be pleased to do
6 so."

7

8 The next paragraph of the letter deals with a different matter, the mechanism
9 for supplying further documents to the Tribunal.

0

11 So I wish the Tribunal to be aware that amongst the many documents before the
12 Tribunal there is that letter and its contents, and that is the legal position
13 in relation to Mr. Caldwell and his status vis-a-vis Jackson Way Properties
14 Limited.

5

16 So I just wished to draw that respectfully to the Tribunal's attention. So if
17 I could attempt to conclude in the following way, my understanding is that I
18 will before the opening of business tomorrow obtain instructions from
19 Mr. Caldwell, hopefully with a view to then giving the undertaking which I
0 suggested. And then also at that stage I would hope to have information in
21 relation to the availability of Mr. Caldwell to give such evidence as the
22 Tribunal might require on this aspect only.

23

24 But it would be, if I might just say this, because it may relate to the
5 logistics of Mr. Caldwell and the time it might take, it would be of enormous
26 assistance, and I put it no more than that, it would be of enormous assistance
27 to me and my solicitor, and probably Mr. Caldwell as well, if we were to know
28 the extent to which information which the Tribunal might wish to have at this
29 stage from Mr. Caldwell on the issue raised by the Chairman is part of or in
0 addition to or separate from the issues which are to be considered in relation

1 to the ownership of Jackson Way Properties Limited, in the second Carrickmines
2 module, that would be of great assistance, I put it no more than that.

3

4 MR. GALLAGHER: Sir, can I -- I don't wish to -

5

6 CHAIRMAN: Sorry -- certainly, please.

7

8 MR. GALLAGHER: Unfortunately the evidence of the witness in the box has been
9 delayed considerably because of this application and I don't wish to prolong
0 matters any more than is necessary, but if the undertaking that is sought is
11 forthcoming, tomorrow morning, can I suggest that it be dealt with at a quarter
12 past ten in the first instance so Mr. Dunlop's evidence can start at half past
13 ten and proceed without interruption hopefully. And, secondly, can I suggest
14 that if Mr. Caldwell is to give evidence as the Tribunal requires, then that a
5 date -- and on the assumption that the undertaking which the Tribunal has
16 sought or which Mr. Finlay has offered, is in fact forthcoming, that the matter
17 of the examination of Mr. Caldwell, and in relation to the matters you have
18 outlined, should be deferred to a date in January. That would give everybody
19 an opportunity of considering the matter, reading the documentation, reading
0 the correspondence, and being in a position to approach the matter in an
21 informed way.

22

23 CHAIRMAN: Well, there are problems in relation to sitting at quarter past ten.
24 Certainly I would like to facilitate everybody but there is a problem. One of
5 the our number has another commitment in court. As far as I am concerned I
26 will wait for announcement tomorrow morning that you will be in a position to
27 give the undertaking which I assume --

28

29 MR. FINLAY: Yes, Chairman, and in ease of Mr. Gallagher I hope that will take
0 no more than 20 seconds.

1

2 CHAIRMAN: Okay. Well now in relation to, if there is any -- what I will do is
3 I will get the solicitor to the Tribunal to write a fairly full requisition as
4 to information we require in relation to ownership and control, more in fact in
5 relation to control, ownership may or may not be an issue later. It is a
6 question of control at the moment and indeed when we are investigating the
7 matter we might as well clarify in simple terms who actually owns the premises.
8 It is obviously the subject matter of a very complex series of documents and I
9 don't think there should be any problem saying well the ultimate end product is
0 X. However, that's a matter for yourself.

11

12 And in the interests of trying to resolve the matter without any further
13 unnecessary upset to anybody, I propose to adjourn the hearing, if any, that
14 may arise, to the 22nd of January 2003. And again that depends upon the
5 progress we make in correspondence.

16

17 MR. FINLAY: Of course, that's most helpful Chairman, I am obliged for that.

18

19 CHAIRMAN: Thank you.

0

21 MR. FINLAY: Thank you.

22

23 CHAIRMAN: Mr. Finlay, it would be -- Mr. Finlay? It would be of assistance to
24 the Tribunal.

5

26 MR. FINLAY: Yes, Chairman?

27

28 CHAIRMAN: We would like to sit before half past ten if we can, sometime from
29 between 20 past and half past ten, if you could be kind enough to be here.

0

1 MR. FINLAY: I will most certainly be here at that stage if that's of
2 assistance.

3

4 CHAIRMAN: We will Certainly instanter and you can be gone back to your other
5 affairs. Thank you.

6

7 MR. FINLAY: Thank you very much, Chairman.

8

9 CHAIRMAN: Mr. Gallagher, when you are ready.

0

11 MR. GALLAGHER: I have to say, Sir, I am just a little confused about the
12 suggestion of the sitting on the 22nd of January. That is a matter, as I
13 understood it, which would arise in relation to Carrickmines 2 module, the
14 ownership of the company. I didn't understand that was the intention --

5

16 CHAIRMAN: At the moment we are only concerned with control, who can give
17 instructions.

18

19 MR. GALLAGHER: Yes, well all right --

0

21 CHAIRMAN: I don't think matters should take any time because as I understand
22 Mr. Finlay he is prepared to be forthcoming as to control. He is obviously not
23 willing to admit to particular ownership, but he certainly is prepared to give
24 us the necessary detail, under the documents which relate to Mr. Caldwell's
5 capacity to control.

26

27 MR. FINLAY: Yes indeed Chairman. Again, sorry if I misunderstood you, I did
28 understand from the way you put it that depending on the responses which you
29 would receive to correspondence which we anticipate from the Tribunal, the
0 necessity for that evidence would in fact be reviewed by the Tribunal, I think

1 that's how I understood --

2

3 CHAIRMAN: In the light of that we'll talk to Mr. Gallagher and if necessary

4 alter the date from the 22nd to such date as would fit in in the other module.

5

6 MR. GALLAGHER: Indeed, I understand the Tribunal said they required

7 Mr. Caldwell to give evidence and what you are saying is you would indicate the

8 headings on which you like you would ask to give evidence.

9

0 CHAIRMAN: That's essentially what is intended. It may be that correspondence

11 may resolve the situation. I am assuming correspondence may, if it doesn't

12 we'll have to have evidence given under appropriate --

13

14 MR. GALLAGHER: I see. Thank you.

5

16 CHAIRMAN: Thank you.

17

18 MR. GALLAGHER: Mr. Dunlop please.

19

0

21

22 FRANK DUNLOP CONTINUED TO BE EXAMINED BY MR. GALLAGHER AS FOLLOWS:

23

24 Q.122Mr. Dunlop, before lunch you were giving evidence in relation to matters which

5 had been referred to by you in your statement furnished to the Tribunal, I want

26 to continue to go through your statement and to deal with matters that you had

27 referred to therein.

28

29 The next paragraph of your statement reads as follows: "An essential part of

0 rezoning of Paisley Park was the line of the motorway and ensuring that as much

1 of the Paisley Park lands as possible were included on the development side of
2 the motorway. The motion to rezone these lands was defeated in 1992."

3

4 I will come to deal with the motorway in greater detail, but because I am
5 anxious to maintain the sequence of your statement as you have presented it to
6 the Tribunal, we will come to your supplemental statement, if I might so call
7 it, which dealt with the line of the South East Motorway, and that's a document
8 you furnished to the Tribunal on the 31st of July 2002, I will deal with that
9 in a few moments.

0

11 Your statement continued as follows "Subsequently, lands north of the motorway
12 were rezoned and part of the Paisley Park lands, then known as Jackson Way, was
13 rezoned in that context." You are referring there to rezoning of part of the
14 Jackson Way land and part of the O'Halloran Kilcoyne Darragh lands in 1997;
5 isn't that right?

16 A. Correct.

17 Q.123 We will come to that in due course also.

18

19 You then went on to detail with what you did with the -- some of the monies you
0 received from Mr. Kennedy; isn't that right?

21 A. Correct.

22 Q.124 You say that you gave £1,000 each of the money you received from Mr. Kennedy,
23 you gave the sum of £1,000 each to Messrs Gilbride, that's Sean Gilbride?

24 A. Correct.

5 Q.125 Larkin, Jack Larkin, and Cyril Gallagher; isn't that correct?

26 A. Correct.

27 Q.126 Now can I ask you to outline the circumstances in which you gave £1,000 to Sean

28 Gilbride, indicating if you can do so the approximate time that you made this

29 payment, the background to the making of the payment, whether it was in cash or

0 cheque or otherwise, and any other materially relevant matter which you can

1 tell the Tribunal?

2 A. I'd like to draw your attention, Mr. Gallagher, to my diary of 1992,
3 specifically June of 1992 and the 11th of June of 1992. I don't have the
4 reference on your file, I am working from my own copy, diary copies.

5 Q.127Just bear with me and I will get it for you. Page 1590 please? Mr. Dunlop,
6 would you just look at the screen, page 1590 is on the screen?

7 A. Yes.

8 Q.128That indicates you mentioned that you met John Caldwell on Monday the 8th, it
9 also indicates that on the 11th you received, or you saw Sean Gilbride or you
0 have a note Sean Gilbride here 6 pm?

11 A. Correct. We are speaking about the motion in the context of my statement you
12 read out, we are speaking about the motion that was put before the Council on
13 the 12th of June 1992 in relation to the Paisley Park lands for the rezoning of
14 the 108 acres.

5 Q.129Yes.

16 A. Signed by Councillors and Senator Don Lydon and Tom Hand.

17 Q.130Yes.

18 A. On the 11th, Thursday 11th of June 1992 Sean Gilbride came to my office, hence
19 the word "here" in my diary and on that occasion I paid him £1,000 in cash.

0 Q.131Was that paid in your office?

21 A. Yes.

22 Q.132Would you outline the background and circumstances in which that money was
23 paid?

24 A. The background and circumstances, Mr. Gallagher, are as per outlined by me
5 earlier. In relation to monies being asked for, in relation to the 24th of May
26 of 1991 and being refused and subsequent to the Development Plan display, first
27 display and a recommendation by, a representation I should say, by Paisley Park
28 and subsequently a motion being put forward on the agenda, that I then renewed
29 by lobbying with councillors in relation to that particular motion, and in
0 relation to that particular motion monies were, money was discussed and money

1 was paid.

2 Q.133 Well now, do you say that money was discussed with Sean Gilbride in relation to
3 the motion which was on the agenda of the special meeting of the 12/6/1992?

4 A. Yes, I do.

5 Q.134 Where did that discussion take place?

6 A. Well, the discussion in relation to the transfer of the money took place in my
7 office at 6 o'clock on the, Thursday the 11th of June 1992. Prior to that, I
8 would have lobbied Councillor Gilbride as would -- I would have done with
9 others, in relation to his support for the motion.

0

11 He would have guaranteed his support -- sorry he would have promised his
12 support for the motion. He would have asked for -- I would have agreed the
13 payment of £1,000 and on this particular day at this time I paid that money
14 over.

5 Q.135 Do you say that you agreed to pay him £1,000 prior to the 11th of June 1992?

16 A. Yes, I do.

17 Q.136 Can you remember how long before that date or in what circumstances or in
18 what --

19 A. Well, the circumstances would have been in the discussion on foot of my
0 lobbying of Councillor Gilbride in relation to the actual proposal and the
21 motion. It would have been important to him that a motion was, had been signed
22 and submitted as per requirements of the Development Plan.

23

24 In the context of the question about when the discussions took place with
5 Mr. Gilbride, prior to the payment it would most certainly in my view, have
26 been -- it would most certainly have been between the submission of the motion
27 on the 4th of May of 1992 and the actual payment of the monies on the 11th of
28 June of 1992

29 Q.137 Are you telling the Tribunal that the meeting held in your office on the 11th
0 of June of 1992 was arranged in order that you could pay the money over to

1 Mr. Gilbride?

2 A. Yes.

3 Q.138And are you saying that Mr. Gilbride came there by arrangement with you in

4 order to collect that money.

5 A. Yes.

6 Q.139Now would you characterise for the Tribunal what that payment was?

7 A. The payment to Councillor Gilbride was for his support for the motion that

8 would be put forward at the Council meeting as it transpired the following day.

9

0 It was an inducement

11 Q.140Do you say it was paid by you, and accepted by him, as an inducement?

12 A. Correct.

13 Q.141Can you be any more specific in relation to what was said in the context of

14 agreeing to pay an inducement, to receive an inducement, or in the context of

5 handing over the monies?

16 A. Well, in the context of handing over the monies, I handed him a thousand pounds

17 as per agreed. In the context of offering it and him accepting it as an

18 inducement, that was part of the discussions that we had had leading up to that

19 point. In other words, his support would be available for this motion in

0 Dublin County Council during the course of the Development Plan on receipt of

21 the stated amount.

22 Q.142Can you recall what was said in your office on the date in question, when the

23 money was handed over?

24 A. In detail, no.

5 Q.143Well, in general terms can you remember what was said?

26 A. Well, a discussion would have taken place, Mr. Gallagher, about the

27 possibilities of success, or what would happen in relation to support for the

28 motion. I told, I would have told him -- sorry, I told him that I had done

29 extensive lobbying with others and that I was hopeful that, with his support

0 and others, that the motion would be successful.

1 Q.144And what was said at the time the money was actually handed over?

2 A. I said to him that that's what we agreed, there is the grand. And he said
3 thanks very much.

4 Q.145Was that money in -- it was cash, I understand from you?

5 A. Yes.

6 Q.146Was it in large denominations, can you remember?

7 A. I can't recall.

8 Q.147Can you remember the source of those funds?

9 A. The source of the funds would have been as I indicated to you previously, in
0 relation to the money that I received from Mr. Kennedy, in relation to the
11 proposal for the rezoning of Paisley Park, or the attempted rezoning of Paisley
12 Park.

13 Q.148I will go through your diary in greater detail at a later stage, but at this

14 time I would just like you to -- to refer to you page 1507 please? That is

5 your diary for the 11th of May 1992, that suggests that you met Mr. Gilbride at
16 the County Council office at 2 pm on that date?

17 A. Yes, sorry.

18 Q.149Can you recall that meeting?

19 A. I don't specifically recall the meeting, if it is in my diary it is there
0 because it took place.

21 Q.150And it was a meeting that had been arranged, it wasn't a casual chance meeting

22 in the street, or anything of that nature, it was a specific appointment I take

23 it that was made, otherwise it wouldn't appear in your diary?

24 A. Perhaps that gives me an opportunity of saying, Mr. Gallagher, that you asked
5 me yesterday in relation to entries in my diary.

26

27 If there were entries in the diary they are there by appointment. That does

28 not necessarily mean that I did not meet politicians, councillors otherwise,

29 socially or by accident. But if they are in my diary they are there by

0 appointment, so therefore the entry of Sean Gilbride on Monday, 11th of May

1 1992 was there by arrangement

2 Q.151And the entry appears to me to suggest that the meeting was at the County

3 Council offices (C. Council); is that correct.

4 A. Yes it is, that is correct.

5 Q.152Well the date in question lay between the date on which the motion was lodged

6 with the Council, that's the 4th of May of 1992, and the -- obviously the 12th

7 of May, 12th of June 1992 when it was dealt with.

8

9 Is it likely that you discussed with Mr. Gilbride the Paisley Park motion at

0 that meeting?

11 A. Yes, it is likely.

12 Q.153Could that have been the meeting at which the money that you have referred to

13 was discussed?

14 A. Yes, it could be.

5 Q.154Now, I just want to, if I may, to get you to identify the motion again that we

16 are talking about, that's on page 443 and 444.

17

18 This is the motion proposing the rezoning of 108 acres of land at Carrickmines.

19 It was proposed by Councillor Lydon and seconded by Councillor Hand. And if we

0 look at the names of those who voted for and against we see that on the next

21 page, please -- Councillor Gilbride was one of those that voted in favour of

22 the motion, isn't that right, at the top of the page on the screen in front of

23 you?

24 A. That is the -- I am sorry, Mr. Gallagher, that is the report and the motion in

5 relation to the 12th of June 1992.

26 Q.155It is yes, just to -- can we go back on that --

27 A. No no, I'm --

28 Q.156Perhaps you can go back to 441? You see 443 is the lands at

29 Carrickmines/Paisley Park Investments, the report of the manager was read, it

0 was recommended that the motion be not passed?

1 A. Correct.

2 Q.157And then there was a motion proposed by Councillor Lydon, seconded by
3 Councillor Hand, that the lands comprised 108 acres be zoned E and there was a
4 debate following, which there was a vote and the motion was defeated by two
5 votes?

6 A. That's correct.

7 Q.158And among those who voted for the rezoning was Councillor Sean Gilbride?

8 A. Correct.

9 Q.159Now, again in fairness to Councillor Gilbride, I must put it to you that he
0 strenuously denies that he paid you any monies, or sorry you paid him any
11 monies for his vote in relation to the Carrickmines lands, or indeed in
12 relation to any other lands, you are aware of that?

13 A. I am so aware, yes.

14 Q.160Do you wish to say anything arising from that, from his -- from his statement?

5 In other words, do you wish to retract or amend or vary in any way the evidence
16 that you have given about this £1,000 donation?

17 A. I neither retract, amend nor vary.

18 Q.161Councillor Gilbride strenuously denies receiving that £1,000, but does confirm
19 that he received £2,000 from you prior to the local election of June 1991.

0 That's a payment towards his election expenses, do you have any recollection or
21 do you accept that you paid him £2,000?

22 A. Oh, I do have a recollection, Mr. Gallagher, of making a payment to
23 Mr. Gilbride prior to the local elections of 1991.

24 Q.162Was that a bona fide election contribution that £2,000 payment?

5 A. I am at somewhat of a loss, I need your guidance here as to what I can or
26 cannot say. You were asking me about a 2,000 -- £2,000 payment. Prior to the
27 local elections of 1991.

28 Q.163Yes, I have asked you, did you make such payment and you told me you did?

29 A. Yes, I did.

0 Q.164I asked you was that a legitimate political payment?

1 A. No.

2 Q.165 All right. And you are aware from Mr. Gilbride's statement that the £2,000 he
3 says was paid in cash and you asked him, that's Councillor Gilbride, to sign a
4 receipt for the money and he says he signed a receipt and gave it to you, what
5 do you say about that?

6 A. There was no such request and there was no such signature.

7 Q.166 Was a receipt sought or --

8 A. No.

9 Q.167 -- given?

0 A. No.

11 Q.168 And he also says that he never sought or received a payment or benefit directly
12 or indirectly in any planning or rezoning context, what do you say about that?

13 A. Well, I stand by what I say in relation to the payment that we are now
14 discussing, which is a £2,000 --

5 Q.169 Sorry just in, the £1,000 --

16 A. Well, I made the payment to him and I have already said I neither retract nor
17 vary the statement that I have made.

18 Q.170 You say that that was an inducement?

19 A. Yes.

0 Q.171 Do you distinguish that from the word that was used yesterday in relation to
21 payments yesterday?

22 A. No, I don't. I think it is the same word.

23 Q.172 The same word, interchangeable?

24 A. Interchangeable.

5 Q.173 Bear with me, Mr. Dunlop, for just a moment. Mr. Gilbride has said in his
26 statement of the 22nd of November of 2002 that he did not propose or second any
27 motion in relation to the lands at Carrickmines Great, do you accept that?

28 A. Yes, I do.

29 Q.174 He says that on the occasions he was present in the chamber he would vote in
0 favour of the motion if the Fianna Fail councillors from that particular area

1 were in favour of the motion. That I presume is his explanation for voting in
2 favour of the motion?

3 A. Sorry, could you repeat that again? Sorry, I was looking at a document.

4 Q.175Sorry, I will get a copy of the statement. What he said was on the occasions,
5 and I am quoting "On the occasions I was present in the chamber, I would vote
6 in favour of the motion if the Fianna Fail councillors from that particular
7 area were in favour of the motion?"

8 A. Correct.

9 Q.176But he is, as I understand it, suggesting that that was the reason and the only
0 reason why he voted in favour of the Paisley Park motion?

11 A. I disagree.

12 Q.177You disagree?

13 A. Yes.

14 Q.178He says that the £2,000 which was paid to him prior to the June 1991 local
5 elections was paid towards his election expenses?

16 A. No.

17 Q.179When you say no you disagree?

18 A. I disagree.

19 Q.180I see. Is there anything else you wish to say to the -- he says that he had no
0 dealings with you or with any other intermediary agent, save as he has set out
21 above, that is in relation to the £2,000 and his explanation for the, for his
22 support for the Paisley Park motion?

23 A. Well, he says "I had no dealings with Mr. Dunlop or any other intermediary
24 agent save as outlined above".

5 Q.181Yes.

26 A. As outlined above deals solely with Carrickmines.

27 Q.182Well he also, certainly the statement is headed "re: Carrickmines lands"?

28 A. Yes.

29 Q.183Well, do you wish to comment on that statement at sub paragraph A?

0 A. In relation to sub paragraph A it is untrue. In my statement from the witness

1 box. It is untrue. There were other occasions in which I dealt with
2 Councillor Sean Gilbride.

3 Q.184 Well, I don't want to get involved in other lands, but I want to know were
4 there any other dealings with Councillor Gilbride apart -- in relation to
5 Paisley Park lands apart from the dealing you had with him on the 11th I think
6 it was, the 11th of June 1992 when you say you paid him £1,000?

7 A. No, there were no other dealings.

8 Q.185 But I do take it that you had other meetings with him in that period?

9 A. Yes, I did.

0 Q.186 Yes, all right. Is there anything else you wish to add in relation to your
11 dealings with Councillor Gilbride in the context of the Paisley Park lands at
12 that time?

13 A. Not in relation to Paisley Park lands, no.

14 Q.187 Now, the next person you say that you gave £1,000 to was to the late Councillor
15 Jack Larkin. Will you outline the circumstances and background, the date,
16 where, when, in what manner you paid him £1,000 and what conversation or
17 conversations preceded and surrounded the payment of that money, yes?

18 A. The payment to councillor Jack Larkin was made in Conway's pub subsequent to
19 the vote of the 12th of June 1992, in cash.

0 Q.188 When you say subsequent to the vote, do you mean it was made on the date or can
21 you say whether it was made on the date of the meeting, or was it made at a
22 subsequent, on a subsequent date?

23 A. On a subsequent date.

24 Q.189 Yes, can you tell the Tribunal how that arose?

5 A. Well, I believe it arose in the immediate aftermath, in the lead up to the vote
26 I should say. I discussed with Councillor Larkin his support, as I did with
27 others, on a lobbying basis, whether or not we support the motion. I think I
28 indicated already today, that he indicated that he would support on the basis
29 of money being available. I agreed, I agreed £1,000 and I paid him that £1,000
0 subsequently, by that I mean on a date after the vote, in Conway's pub in cash.

1 Q.190 Again that is a very public place to hand over cash, and a place that was
2 frequented, as I understand it, by many councillors at that time and indeed
3 council officials for all we know. Are you aware -- first of all, can you
4 confirm it was a place frequented by a large number of councillors?

5 A. Yes, I can so confirm.

6 Q.191 Was it frequented by developers, landowners, lobbyists and others?

7 A. Yes, yes.

8 Q.192 And was it a place where they visited and stayed perhaps after Council meetings
9 or indeed during Council meetings?

0 A. They visited prior to, during and after Council meetings and Fianna Fail held
11 their party meetings prior to votes up stairs in Conway's pub.

12 Q.193 And was that something that happened occasionally, intermittently or on a
13 regular basis?

14 A. The Fianna Fail meetings or the --

5 Q.194 Yeah, the Fianna Fail meetings?

16 A. The Fianna Fail meetings took place in an upstairs room in Conway's pub because
17 the rooms allocated to them in the Council building in Upper O'Connell Street
18 were too small to hold all the members.

19 Q.195 Did you ever attend any of those meetings?

0 A. No, I did not.

21 Q.196 Were you ever in Conway's pub when such meetings were held?

22 A. Yes, I was.

23 Q.197 Did you speak with councillors before they went into the meeting or after the
24 meeting ended?

5 A. Both.

26 Q.198 And did you establish from councillors the nature of the discussion, the
27 matters that were discussed at the meetings?

28 A. In particular circumstances, in relation to particular items on any given
29 agenda, yes.

0 Q.199 Do you -- do I understand you to say that in relation to matters which you had

1 a direct or personal interest such as for example perhaps the Paisley Park
2 lands or other lands where you were lobbying to have lands rezoned, you were
3 able to establish that these lands had been the subject of debate at those
4 meetings; is that right?

5 A. That's correct.

6 Q.200Do you know whether such meetings were held in the room over Conway's pub prior
7 to each special meeting of the council?

8 A. No, I can't say that.

9 Q.201Can you say that they were held regularly?

0 A. Yes, I can say that.

11 Q.202Now, you say that you handed £1,000 to the late Councillor Larkin in Conway's
12 pub and my understanding of your evidence is that you say that this, you had
13 agreed to pay him £1,000 at an earlier date?

14 A. Yes.

5 Q.203It was handed over subsequent to the vote?

16 A. Yes.

17 Q.204On the 12th of June of 1992?

18 A. Yes.

19 Q.205What was said at the time money was handed over?

0 A. He was pleased to have been of assistance and I thanked him in, albeit in the
21 circumstances that the motion hadn't been successful.

22 Q.206But did you discuss the reason why the motion hadn't been successful?

23 A. No.

24 Q.207Or whether or not any further motions would be brought or anything of that
5 nature?

26 A. No.

27 Q.208Was there any other discussion about the matter that you can recall?

28 A. Not that I can recall, no.

29 Q.209Did you meet him there by appointment or was it a casual meeting?

0 A. No, I met him -- I met him there not by appointment, but by the fact that I

1 knew he would be there and that I had undertaken to give him a thousand pounds
2 for something that he undertook to do, and I knew he would be there and I met
3 him, not by appointment, not by diary reference, but I knew he would be there
4 because that's where he always went prior to Council meetings and during
5 Council meetings and after Council meetings.

6 Q.210 And do you, can you recall where in the pub you handed this money over? I just
7 wondered because it's a busy pub, somebody handing over a large bundle of money
8 or an envelope containing a large bundle of money is likely to be seen?

9 A. To my recollection, Mr. Gallagher, it's not quite an L shaped pub, but if you
0 walk in and go straight ahead, you come down to a corner which is where most of
11 the councillors sat. If you go to the other, if you turn to your right when
12 you go in the door you are going towards another door, the doors to the toilets
13 and the door to the stairs going upstairs. So it was to the left, when you
14 walked in you walk straight down to the corner, from which there was no exit,
5 that's the corner.

16 Q.211 And you say the money was handed over in that corner.

17 A. Yes.

18 Q.212 Is that not an extremely public place, open space, open location where bar men,
19 other customers might very well see what was happening?

0 A. Yes it is, and yes as you say the possibilities exist that or did exist that
21 such an event might occur.

22 Q.213 Did you take this bundle of money out of your pocket and put it on the table,
23 what did you do?

24 A. No, I put it between us. We sat on the leather -- not leather in Conway's,
5 sorry, on the seat, and I put it between us, and he deftly removed it.

26 Q.214 Did he put it into his pocket or into a briefcase or can you remember?

27 A. No. He certainly didn't put it into a briefcase, I can never recall Jack
28 Larkin carrying a briefcase, he put it into his pocket.

29 Q.215 Presumably -- he put it into his pocket. And how would you characterise that
0 transfer of monies?

1 A. Exactly as I have characterised the other payments that you have asked me about
2 yesterday and today.

3 Q.216 You mean as a bribe or inducement?

4 A. Correct.

5 Q.217 Do you say that this was a payment made to him after he had voted in favour of
6 the unsuccessful motion on the 12th of June of 1992?

7 A. Correct.

8 Q.218 May I have the pages 444 again please, the page dealing with the voting record
9 in respect of that motion? We start at page 443 which is on the screen,
0 Mr. Dunlop, you see that?

11 A. Yes, I do.

12 Q.219 The councillors who voted for it are shown at the bottom of the screen.

13 Perhaps we can go onto the next page, on page had 444 and we see that among
14 those on the top line -- the internal pagination on the Council minutes is page
5 566, we see that among those who voted in favour of the motion was Councillor
16 Jack Larkin.

17 A. Correct.

18 Q.220 Yes. Now, Mr. Larkin has died unfortunately in the intervening period, and so
19 the Tribunal hasn't had any, didn't have an opportunity of getting a response
0 from him, but his family clearly know nothing about this payment and they say
21 they have told the Tribunal that they know nothing about this alleged payment.

22

23 The next witness, or the next person to whom you refer is Councillor Cyril
24 Gallagher.

5

26 Sorry, before I leave the matter of the payment to Councillor Jack Larkin I
27 should say that in response to a questionnaire issued by the Tribunal in early
28 1998 Councillor Larkin with a significant number of other councillors responded
29 to the Tribunal and gave certain information, and perhaps I might put it on the
0 record at this stage.

1

2 His name was Jack Larkin. Address, 39 Dublin Street, Balbriggan. He was a
3 member of Balbriggan Town Commissioner, Dublin County Council, Fingal County
4 Council, a member of Balbriggan Town Commissioner from June 1960 to '64, Dublin
5 County Council from June '85 to '93, and Fingal County Council from '93 up to
6 the date of his death. He was a member of the Fianna Fail party. He had been
7 Chairman of the Balbriggan Town Commissioner in 1973 and '74 and was a member
8 of the Municipal Authorities from 1985 to 1994. He was asked a number of
9 questions, many of which related specifically to lots 1 to 6 which are referred
0 to in the Terms of Reference, but question 22 of the questionnaire he was asked
11 as follows, and I quote: "Are you aware of any payment or offer of payment or
12 other benefit to any public representative, member of An Bord Pleanala, local
13 government official or official of An Bord Pleanala in connection with the
14 zoning, planning, by-law or tax designation status of any property or in
5 connection with the provision of services including roads, sewerage, water
16 mains, wayleaves etcetera to any property?" And his answer to that question was
17 "No".

18

19 And he was also asked question 24 as follows: "Are you aware of any act or
0 omission by any public representative, member of An Bord Pleanala, local
21 government official or official of An Bord Pleanala which could involve
22 corruption or involve attempts to influence by threats, deception or otherwise,
23 to compromise the disinterested performance of public duties, see paragraph 5
24 of the Terms of Reference?" And to that question the late Councillor Larkin
5 answered "No".

26

27 As I indicated, his personal representatives were written to and they through
28 their solicitors, by letter of the 23rd of April 2001 said as follows, "our
29 client", that's the personal representative of the late Jack Larkin. "Our
0 client has no idea as to whether the late Mr. Larkin received any income from

1 political donations, quasi political donations, gift etcetera." They are the
2 only communications we have had from the estate of Mr. Larkin.

3

4 I am now moving on to another contribution -- sorry.

5

6 CHAIRMAN: It's five past four.

7

8 MR. GALLAGHER: Say 20 past 10 in the morning, is that too --

9

0 CHAIRMAN: Very good. 20 past 10 in the morning.

11

12 MR. GALLAGHER: Thank you.

13

14 THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,

5 19TH DECEMBER, 2002 AT 10.20 AM.

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