

THE HIGH COURT

Record No.2020/53MCA

Between:

MAURICE D. LANDERS

Applicant / Appellant

-and-

THE INFORMATION COMMISSIONER

Respondent

RESPONDENTS' BOOK OF PLEADINGS

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THE HIGH COURT

RECORD NO.

In the matter of the Freedom of Information Acts
2014 Section 24

2020/53 MCA

BETWEEN:



MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

NOTICE OF MOTION

Monday 16th March

Take notice that on ~~14th~~ day the ~~20th~~ day of ~~FEBRUARY~~ 2020 at the hour of 11 o'clock in the forenoon or the first available opportunity thereafter the Applicant will apply to this Honourable Court for the following Orders:

1. An Order directing the Information Commissioner to compel the release of the Internal Audit Plan ("engagement letter") between PwC and the NTMA and the National Pensions Reserve Fund (NPRF) as part of PwC's role as internal auditor for the NTMA (NPRF) for the financial years ending December 31 2009, 2010 and 2011.
2. The Internal Audit Plan is in the possession of PwC and Chartered Accountants Ireland (ICAI). Both organizations can provide this document to this Honorable Court.
3. I also request this Honorable Court to verify the authenticity of this document, the reason being that it would be too easy to forge such a document and backdate it.
4. Such further or other Order(s) as this Honourable Court may deem fit.

Wherein said application will be grounded upon the proceedings and pleadings had herein this Notice of Motion, the grounding affidavit of Maurice D Landers sworn on the 18th day of FEBRUARY 2020, the nature of the case and the reasons to be offered.

Dated the

Signed:
Signed EMMELINE LANDERS



3 Talbot Court, Millview Road, Malahide, Co. Dublin (Irish address)

3080 33rd St., Astoria, New York 11102 (US address)

To: Chief Registrar

Central Office

High Court

Four Courts

Dublin 7

To: _____

The Information Commissioner

The Office of the Information Commissioner

6 Earlsfort Terrace, Dublin 2, D02 W773

A TRUE Copy of the Original.

THE HIGH COURT

RECORD NO.

In the matter of the Freedom of Information Acts

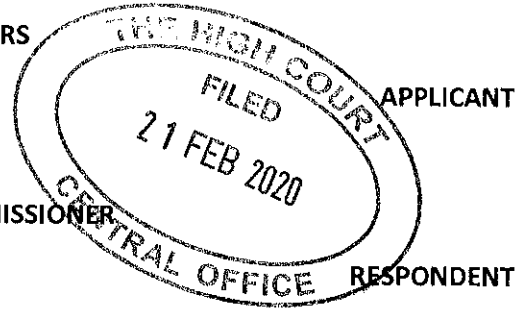
2020/53MCA

BETWEEN:

MAURICE D. LANDERS

and

THE INFORMATION COMMISSIONER



Affidavit of Maurice D. Landers

I **Maurice D. Landers** a Fire Safety Director of 3 Talbot Court, Millview Road, Malahide, Co. Dublin and 3080 33rd St., Astoria, New York 11102, aged eighteen years and upwards MAKE OATH and say as follows:

- 1 I would like to make an appeal under Section 24 of the FOI Act. I'm appealing to the High Court a FOI decision by a Statutory Body (Information Commissioner) regarding the release of a document (internal audit plan) by the National Treasury Management Agency (NTMA) where he upheld the NTMA's decision (I had made a FOI request to them also) that they couldn't find it or it never existed (see Exhibit I below). The document is the internal audit plan ("engagement letter") between PwC and the NTMA and the National Pensions Reserve Fund (NPRF) as part of PwC's role as internal auditor for the NTMA (NPRF) for the financial years ending December 31 2009, 2010 and 2011.
- 2 I refer to the powers of the OIC within my reply to the OIC below, where on p. 24 of my update Report,
- 3 **Exhibit A** - <http://www.failte32.org/wp-content/uploads/2018/03/update-Report-February-2018.pdf> (P. 24)
- 4 I detail these powers exactly as they were detailed on the OIC's website before it was completely rehauled. Below (end) is a copy for your convenience. Compare these powers with the replies/decisions I received from the OIC. According to these powers, the OIC could have easily requested a copy of the internal audit plan from PwC or any of the other oversight bodies ((ICAEW, ICAI etc.) referred to in my update and Final Reports i.e. "Under Section 45, he may also require any person who he considers has information relevant to a case or investigation to provide it to him."

- 5 I also refer you to the Irish Statute Book, Freedom of Information Act 2014, Powers of Commissioner, in particular 45. (1):
- 6 **Exhibit B** - <http://www.irishstatutebook.ie/eli/2014/act/30/section/45/enacted/en/html> (see 45. (1))
- 7 The Office of the Information Commissioner concurred with a decision by the NTMA that the audit plan never existed. This is not true. It's quite amazing that the very organization (NTMA) that should have the audit plan is the only one saying that it never existed, and then this is backed up by the Information Commissioner in his decision.
- 8 PwC itself refers to the internal audit plan i.e. 'engagement letter', in its letter to me and Chartered Accountants Ireland (ICAI) as detailed on p. 181 and 176 of my update Report,
- 9 **Exhibit C** - <http://www.failte32.org/wp-content/uploads/2018/03/update-Report-February-2018.pdf> (p. 181 and 176)
- when it states in part, "Our work was performed in accordance with the Auditing Practices Board's Auditing Guideline - "Guidance for Internal Auditors", and with the terms of reference as set out in our engagement letter."
- 10 ICAI in one of its decisions stated in part, "The member firm provided us with a copy of internal audit plan for the NPRF as presented to, and subsequently agreed with, the NPRF Commission and the NTMA and the matter complained of appears to have been outside the scope of the internal audit work undertaken by the member firm."
- 11 **Exhibit D** - Final Report - <http://www.failte32.org/wp-content/uploads/2019/10/Final-Report.pdf> (see Attachment A (1) - first click on Attachment 1 to get to Attachment A (1))
- 12 Existence of the internal audit plan was also confirmed by ICAI's Head of Professional Conduct,
- 13 **Exhibit E** - Final Report - <http://www.failte32.org/wp-content/uploads/2019/10/Final-Report.pdf> (see Attachment A (2) via Attachment 1)
- 14 and ICAI's Conduct Committee,
- 15 **Exhibit F** - Final Report - <http://www.failte32.org/wp-content/uploads/2019/10/Final-Report.pdf> (see Attachment A (4) via Attachment 1)
- 16 when, after I requested confirmation that they had verified that the copy of the internal audit plan for the NPRF which they received from PwC was legitimate (i.e. time stamped for 2010/2011), they stated that they were satisfied that the audit plan provided to the Executive by the member firm related to the correct time period.
- 17 And, as per p. 3 of my Final Report,

18 **Exhibit G** - <http://www.failte32.org/wp-content/uploads/2019/10/Final-Report.pdf> (p. 3, fourth paragraph from end)

19 I state in part (referring to **Attachment 1** in the paragraph), "ICAEW, ICAI and PwC I believe lied about its scope of services."

20 For points relating to ICAEW on 'scope of services', see:

Exhibit H - update Report - <http://www.failte32.org/wp-content/uploads/2018/03/update-Report-February-2018.pdf> ((c) p. 158 - ~~159~~) 160

21 **Therefore, this 'engagement letter' exists and the Information Commissioner received all the above information in my Reports and therefore knows who has a copy of the internal audit plan and can require them (at least PwC and ICAI) to provide it to him.**

22 **"Powers of the Information Commissioner**

23 The FOI Act 2014 provides the Information Commissioner with significant powers to allow him to carry out his function of reviewing the decisions of FOI bodies. If he considers a decision to be inadequate, he may, under Section 23, require that a new one be issued. Under Section 45, he may also require any person who he considers has information relevant to a case or investigation to provide it to him. Furthermore, he may require the person to attend before him to present the information. He can enter any premises occupied by an FOI body and require any person found on the premises to provide him with records (documents) which he may copy and retain for a reasonable period. Anyone who hinders the Commissioner in the performance of his review or investigative functions is guilty of an offence and, in accordance with Section 45, may have a fine imposed or be imprisoned for a term not more than 6 months."

Source: taken from the Information Commissioner's original website

24 **Exhibit I - Copy of the decision by the Information Commissioner**

From: OIC Applications Shared Mailbox <applications@oic.ie>

To: Landers, Maurice <mauricelanders@yahoo.com>

Sent: Friday, January 17, 2020, 09:11:16 AM EST

Subject: Case Number: OIC-58612-G9F7Z0

Dear Mr Landers

Please find enclosed letter from the Office of the Information regarding submissions that have been received from National Treasury Management Agency in relation to your application for review to this Office.

Can you please confirm receipt of this email and also note that any responses you may have must be received by this Office no later than 31 January 2020.

Kind Regards

Anne Greenalgh

Tabhair freagra ar an ríomhphost seo ach an rogha 'tabhair freagra do' a úsáid nó seol ríomhphost chuig applications@oic.ie, agus an Uimhir Thagartha á lua agat i líne ábhair an ríomhphoist.

Please respond to this email by using the reply to option or email applications@oic.ie with the Reference No. in the email Subject line.

Office of the Information Commissioner, 6 Earlsfort Terrace, Dublin 2, D02 W773
| * applications@oic.ie | ((+353-1) 639 5689 | www.oic.ie

We have moved!
Our new address is **6 Earlsfort Terrace, Dublin 2, D02 W773.**

Bhog muid!
Is é **6 Ardán Phort an Iarla, Baile Átha Cliath 2, D02 W773**, an seoladh nua.

25 [Letter to Maurice Landers outlining FOI submissions](#) (link also directly below – same letter)

<http://www.failte32.org/wp-content/uploads/2019/12/Letter-to-Maurice-Landers-outlining-FOI-submissions.docx>

26 **My response to the above:**

From: maurice landers <mauricelanders@yahoo.com>

To: OIC Applications Shared Mailbox <applications@oic.ie>; Oic Info <info@oic.ie>

Sent: Friday, January 17, 2020, 09:52:00 AM EST

Subject: Re: Case Number: OIC-58612-G9F7Z0

Dear Anne,

Your first paragraph, second sentence, is incorrect (surprise surprise!). You state, " In particular you requested internal audit plans for the financial years ending 31 December 2009, 2010 and 2011 as per your engagement with PwC".

First, I requested a copy of the internal audit plan between the NPRF/NTMA and PwC for the year ending 2010.

Second, it was not "...as per your engagement with PwC". I had no engagement with PwC as you very well know.

More shenigans eh!

Under no circumstances do I wish to withdraw my application for review.

I would like the case to progress to a formal, legally binding decision, which will be published on your website, but I do not want it anonymised. Why you people have to do everything to cover up for these organizations and people by blindly accepting their response/submissions is beyond me, with all the powers the Office of the Information Commissioner has at its disposal as I detailed in my FOI request and Reports based on your own words on your own website. You must have no shame whatsoever. And now you want to anonymise the names of those involved? You guys are some piece of work!

I look forward to seeing my case up on your website. Please inform me when this is done.

Aside from that, please don't waste anymore of my valuable time. I have much more important things to be doing than putting up with this nonsense.

Maurice D. Landers

27 Subsequent reply from the OIC, and their final decision:

Our Reference: OIC-58612-G9F7Z0

Your Reference:

24 January 2020

Mr Maurice Landers

By email: mauricelanders@yahoo.ie

Re: Application for review under the Freedom of Information Act 2014 (the FOI Act)

Dear Mr Landers,

I refer to the review of the decision of the National Treasury Management Agency on your FOI request for access to internal audit plans for the National Pensions Reserve Fund for the financial years ending 31 December 2009, 2010 and 2011.

Enclosed please find a copy of the Senior Investigator's decision in the matter.

It is this policy of this Office to publish decisions on our website in an anonymised format.

Yours sincerely,

Anne Greenalgh


Office of the Information Commissioner

Scanned Decision M Landers (link also directly below – same letter)

<http://www.failte32.org/wp-content/uploads/2019/12/Scanned-Decision-M-Landers.pdf>

28 I make this affidavit from facts within my own knowledge save where otherwise stated and where so stated I believe those facts to be true.

29 Accordingly I pray this Honourable Court for an Order in the terms of the Notice of Motion herein.



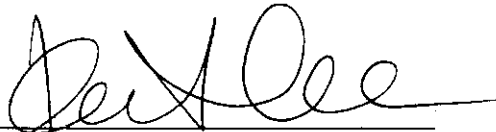
Sworn before me by the said

on the 18th day of Feb 2020, at Cotibank

in the city/county of

Maurice D Landus before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (N.Y.S. Driver Lic containing a photograph



Commissioner for Oaths/Practicing Solicitor

Janet Gerena
Notary Public, State of New York
No. 01GE6223275
Qualified in Dutchess County
Commission Expires 11/21/2022

THE HIGH COURT

RECORD NO. 2020/53MCA

In the matter of the Freedom of Information Acts

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "...A..." referred to in the Affidavit of Service of Maurice D. Landers



Sworn before me by the said
on the *20th* day of *March* 2020, at

in the city/county of *New York*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*NYS License # 560-566-698*)
containing a photograph

Andrew Almonte
Notary Public, State of New York
No. 01AL6392824
Qualified In Queens County
Commission Expires 06/03/20*20*



An Post
Retail Receipt

Post Office: 2605 Position: 3
Date: 26-Feb-2020 Time: 12:21:00

Trans. Ref. ID 26050304141000
Destination Ireland - 26 Counties
Weight (Flat) 0.386 kg
RegisteredPost 8.30 EUR

TRACKING NUMBER RL 761 567 045 IE

No Commercial Value

As there has been no value declared on this item, a maximum insured value of 25 EUR will be payable in the event of a successful claim.

Total Amount Paid 8.30 EUR
Payment Method VisaDebit

Note: Mails Items - Where a TRACKING NUMBER(S) is shown on this receipt, this receipt is your proof of posting.
Payment ID : 7JJK4YM8

Contactless
Card: VisaDebit XXXXXXXXXXXX1058
Auth Code: 926009
MID: ***11673 TID: ***5055
AID: A0000000031010
APP PSN: 00
APP Label:

An Post,
General Post Office,
O'Connell Street Lower,
Dublin 1.

No Cardholder Verification

Your account will be debited with the above amount.

Please keep this receipt for your records.

Customer Copy

To track an item visit
www.anpost.com and enter
the TRACKING NUMBER listed above.

An Post Customer Services
Phone: 01 705 7600
Email: customer.services@anpost.ie
You can also write to us at ...

An Post Customer Services,
GPO, O'Connell Street Lower,
Dublin, D01 F5P2.
Terms & Conditions at your local Post
Office or www.anpost.com

Informant

Commissioner
Information Commissioner



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THE HIGH COURT

RECORD NO. (2020/53Mg)
2020/53MCA

In the matter of the Freedom of Information Acts

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "A" referred to in the Affidavit of Maurice D. Landers

Sworn before me by the said

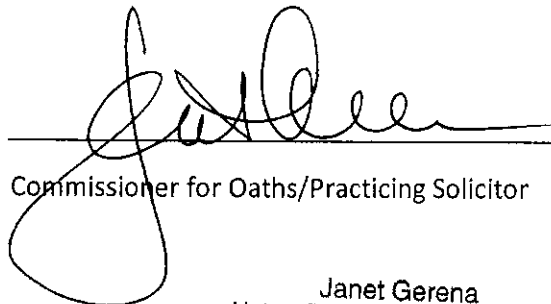


on the 18th day of Feb 2020, at Citibank

in the city/county of New York / Dutchess.

before me a Commissioner for Oaths / Practicing Solicitor and the deponent Maurice D Landers.

whose identity has been established by reference to a relevant document (N.Y.S. Drive Ltd
containing a photograph



Commissioner for Oaths/Practicing Solicitor

Janet Gerena
Notary Public, State of New York
No. 01GE6223275
Qualified in Dutchess County
Commission Expires 11/21/20_22

The Department stated that while IFI was established on foot a policy decision taken by Government and implemented by the Department, the Department has no act or part in the execution of the decisions regarding the funds, and no records relating to the executive functions of the NPRF/ISIF or EI are held in the Department. Specifically, the Department stated that it had no role in the particular IFI investment decision identified by the applicant, and that it consequently does not hold any records relating to that decision."

If this is the only explanation you have to give to the Information Commissioner for him to rule in your favor, the criminals are going to love him! Did he not think that he should have done even a simple search to see for himself if there are any documents/records that evidence the DJEI's involvement in decision-making relating to the awarding of funding under IFI, instead of just taking the alleged criminal's word for it?

According to the Office of the Information Commissioner's website when I was in communication with them (the website has been completely overhauled since my communications with the OIC as all the original links are no longer accessible including the link to the information immediately below titled "Powers of the Information Commissioner". This overhaul obviously occurred sometime in 2017 because my last communication with the Information Commissioner was I believe on October 10, 2016, and I made a copy of the original website's site map/links page on November 19, 2016 when all of these links were still active):

"Powers of the Information Commissioner

*The FOI Act 2014 provides the Information Commissioner with significant powers to allow him to carry out his function of reviewing the decisions of FOI bodies. If he considers a decision to be inadequate, he may, under **Section 23**, require that a new one be issued.*

*Under **Section 45**, he may also require any person who he considers has information relevant to a case or investigation to provide it to him. Furthermore, he may require the person to attend before him to present the information. He can enter any premises occupied by an FOI body and require any person found on the premises to provide him with records (documents) which he may copy and retain for a reasonable period.*

*Anyone who hinders the Commissioner in the performance of his review or investigative functions is guilty of an offence and, in accordance with **Section 45**, may have a fine imposed or be imprisoned for a term not more than 6 months."*

It's interesting to note that instead of using the actual name of the U.S. VC firm in his 'explanations' above, the Information Commissioner refers to the VC firm as "*in the particular IFI investment decision identified by the applicant*". While I, the author of this update Report, have to replace (redact) the actual name of the VC firm with '(name of U.S. VC firm)' for privacy purposes, why does the Information Commissioner have to avoid using the actual name of the VC firm in a formal FOI decision?

Obviously, I know the name of the VC firm so he didn't need to 'redact' it for privacy purposes since I'm the recipient. Of concern to me is, if a FOI request is made in future by somebody else, does this mean that this particular decision/document by the Information Commissioner will not appear in the search results if a search is done under the name of the firm? Doesn't the Information Commissioner have to be as specific as possible, particularly when it comes to the inclusion of the actual names of the parties involved in his decisions, for the sake of future reference? After all, I would have thought that 'future reference' is in large part what the FOI retrieval process is all about? Is this another Irish Government trick of the trade?

A True Copy of the Original

THE HIGH COURT

RECORD NO. 2020/53MCA

In the matter of the Freedom of Information Acts

BETWEEN:

MAURICE D. LANDERS

APPLICANT


and

THE INFORMATION COMMISSIONER

RESPONDENT

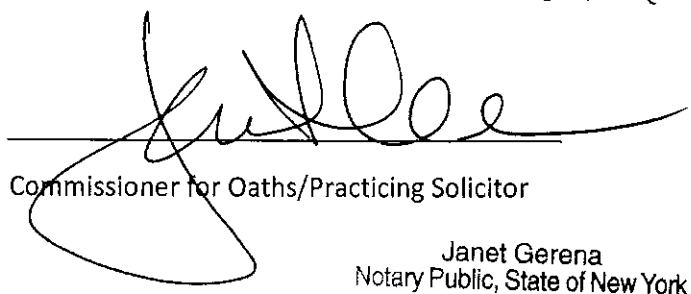
Exhibit "B" referred to in the Affidavit of Maurice D. Landers

Sworn before me by the said

on the 18th day of Feb 2020, at Cotuit Bank 

in the city/county of New York Dutchess

before me a Commissioner for Oaths / Practicing Solicitor and the deponent Maurice D Landers
whose identity has been established by reference to a relevant document (N.Y.S. Driver's Lic
containing a photograph



Commissioner for Oaths/Practicing Solicitor

Janet Gerena
Notary Public, State of New York
No. 01GE6223275
Qualified in Dutchess County
Commission Expires 11/21/20 22

Home > Acts > 2014 > Freedom of Information Act 2014

Freedom of Information Act 2014

Powers of Commissioner

45. (1) The Commissioner may, for the purposes of a review under [section 22](#) or an investigation under [section 44](#)—

(a) require any person who, in the opinion of the Commissioner, is in possession of information, or has a record in his or her power or control, that, in the opinion of the Commissioner, is relevant to the purposes aforesaid to furnish to the Commissioner any such information or record that is in his or her possession or, as the case may be, power or control and, where appropriate, require the person to attend before him or her for that purpose, and

(b) examine and take copies in any form of, or of extracts from any record that, in the opinion of the Commissioner, is relevant to the review or investigation and for those purposes take possession of any such record, remove it from the premises and retain it in his or her possession for a reasonable period.

(2) The Commissioner may for the purposes of such a review or investigation as aforesaid enter any premises occupied by an FOI body and there—

(a) require any person found on the premises to furnish him or her with such information in the possession of the person as he or she may reasonably require for the purposes aforesaid and to make available to him or her any record in his or her power or control that, in the opinion of the Commissioner, is relevant to those purposes, and

(b) examine and take copies of, or of extracts from, any record made available to him or her as aforesaid or found on the premises.

(3) Subject to [subsection \(4\)](#), no enactment or rule of law prohibiting or restricting the disclosure or communication of information shall preclude a person from furnishing to the Commissioner any such information or record, as aforesaid.

(4) A person to whom a requirement is addressed under this section shall be entitled to the same immunities and privileges as a witness in a court.

(5) The Commissioner may, if he or she thinks fit, pay to any person who, for the purposes of a review under section 22, or an investigation under section 44, attends before the Commissioner or furnishes information or a record or other thing to him or her—

(a) sums in respect of travelling and subsistence expenses properly incurred by the person,
and

(b) allowances by way of compensation for loss of his or her time,

of such amount as may be determined by the Minister.

(6) Subject to this Act, the procedure for conducting a review under section 22 or an investigation under section 44 shall be such as the Commissioner considers appropriate in all the circumstances of the case and, without prejudice to the foregoing, shall be as informal as is consistent with the due performance of the functions of the Commissioner.

(7) A person who fails or refuses to comply with a requirement under this section or who hinders or obstructs the Commissioner in the performance of his or her functions under this section shall be guilty of an offence and be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 6 months or both.

(8) Where an FOI body fails to comply with a binding decision of the Commissioner under this Act, the Information Commissioner may apply to the court for an order to oblige the FOI body to comply with the decision.

(9) This section does not apply to a record in respect of which a certificate under section 34 is in force.

(10) *Subsection (2)* shall not apply to—

(a) information, documents or things designated by regulations made under section 126 (1)(a) of the Garda Síochána Act 2005, or

(b) Garda Síochána stations designated by regulations made under section 126 (1)(b) of the Garda Síochána Act 2005,

except to the extent specified in a direction of the Minister for Justice and Equality.

(11) In deciding where to issue a direction under *subsection (10)* the Minister shall take into account the public interest.

(12) The Commissioner shall comply with the provisions on professional secrecy in—

(a) the Rome Treaty,

(b) the ESCB Statute, or

(c) any of the Supervisory Directives,

(within the meaning of the Central Bank Act 1942) in holding and dealing with information contained in records provided to him or her by the Bank under this Act.

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THE HIGH COURT

RECORD NO.

In the matter of the Freedom of Information Acts

2020/53 MCA

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "C" referred to in the Affidavit of Maurice D. Landers

Sworn before me by the said

on the 18th day of Feb 2020, at

Maurice D Landers
Cotabank

in the city/county of

New York / Dutchess

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

Maurice D Landers

whose identity has been established by reference to a relevant document (

N.Y.S. Driver Lic

containing a photograph

[Signature]

Commissioner for Oaths/Practicing Solicitor

Janet Gerena
Notary Public, State of New York
No. 01GE6223275
Qualified in Dutchess County
Commission Expires 11/21/20 22

Reply H - PwC

It took PwC from June 27 to November 3 to get back to me, coincidentally after my replies to the above PABs. And after so many months, I received their scant reply below.

I find the letter I received from PwC pretty disgraceful, and you can read my analysis following. I would have thought that PwC would have been jumping all over this based on their direct or indirect involvement in the allegations I've brought against the Irish Government, something that could potentially taint their reputation, particularly since they proclaim adherence to the highest of standards, which I will also address further below under PwC's Code of conduct in **theory** versus **practice**.

I'll now address/analyze PwC's only correspondence with me below (see also Exhibit 15).

Regarding the **first** paragraph (immediately below) of PwC's letter I got the impression they were trying to minimize their involvement with, and responsibility for, the NPRF by effectively stating that their involvement with it was just part of a wider engagement. If so, what a way to start off a letter, as if it matters what other entities PwC was engaged with. You're meant to apply the same standards across the board.

"As referred in your correspondence, PwC Ireland was appointed by the National Treasury Management Agency (the "Agency") as internal auditors for the financial years ending 31 December 2009, 2010 and 2011. The National Pension Reserve Fund ("NPRF") was among a number of entities which were included under the overall engagement letter with the Agency."

Regarding the **second and third** paragraphs (immediately below) of PwC's letter, I'll refer you to Reply G above, part B (in particular, my email response on December 5, 2017, and corresponding attachment).

"Our work was performed in accordance with the Auditing Practices Board's Auditing Guideline - "Guidance for Internal Auditors", and with the terms of reference as set out in our engagement letter. In performing our work we had regard to the professional statements issued by the Institute of Internal Auditors, UK & Ireland and the Institute of Chartered Accountants in Ireland."

"We complied with all relevant standards in the course of carrying out this work"

Regarding the **third** paragraph (sentence) above, not only do I believe they did not comply with all relevant standards bodies, I believe they even attempt to limit their requirement to comply with at least one of the selective institutes they referenced above, that is, the Institute of Internal Auditors, UK & Ireland. I also refer you to Reply A above where I establish that the (Chartered) Institute of Internal



Private and confidential

Mr Maurice Landers
(by e-mail to failte32@gmail.com)

3 November 2017

Dear Mr Landers

As referred in your correspondence, PwC Ireland was appointed by the National Treasury Management Agency (the "Agency") as internal auditors for the financial years ending 31 December 2009, 2010 and 2011. The National Pension Reserve Fund ("NPRF") was among a number of entities which were included under the overall engagement letter with the Agency.

Our work was performed in accordance with the Auditing Practices Board's Auditing Guideline – "Guidance for Internal Auditors", and with the terms of reference as set out in our engagement letter. In performing our work we had regard to the professional statements issued by the Institute of Internal Auditors, UK & Ireland and the Institute of Chartered Accountants in Ireland.

We complied with all relevant standards in the course of carrying out this work

We were not engaged to prepare or review the financial statements of the NPRF for the year ended 31 December 2010.

For reasons of client confidentiality, we are not in a position to comment further.

Yours sincerely


PricewaterhouseCoopers

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Feargal O'Rourke (Managing Partner - PricewaterhouseCoopers Ireland)

Olwyn Alexander Paul Barle Brian Bergin Fideima Boyce Damian Byrne Pat Candon John Casey Mary Cleary Siobhán Collier Thérèse Cregg Richard Day
Fiona de Búrca John Dillon Ronan Doyle John Dunne FCCA Kevin Egan Martin Freyne Aileen Hayden FCCA Olivia Hayden Paul Hennessy Gareth Hynes Ken Johnson
Patricia Johnston Paraic Joyce Andrea Kelly Joanne P. Kelly John Loughlin Gillian Lowth Vincent MacMahon Declan Maunsell Enda McDonagh John McDonnell
Daire McCraith Ivan McLoughlin Declan Murphy Damian Neylin Andy O'Callaghan Jonathan O'Connell Denis O'Connor Paul O'Connor Irene O'Keefe
Ger O'Mahoney Padraig Osborne Ken Owens Anthony Reidy Mary Ruane Emma Scott Mike Sullivan Billy Sweetman Paul Tulla

Located at Dublin, Cork, Galway, Kilkenny, Limerick, Waterford and Wexford

Chartered Accountants

PricewaterhouseCoopers is authorised by Chartered Accountants Ireland to carry on investment business.

On Wed, Nov 29, 2017 at 7:25 AM, Derek Dee <Derek.De@charteredaccountants.ie> wrote:

Dear Mr Landers,

Apologies for the delay in replying to your email but I have been out of the office on sick leave.

I have received a reply from PwC and they enclosed a copy of a response sent to you by email dated 3 November 2017 responding to your complaint to the firm. PwC have referred in their reply to the fact that the internal audit work they were engaged to undertake for the years ending 31 December 2009 to 2011 was set out in the terms of reference in their engagement letter and that they were not engaged to carry out any work in relation to the preparation or review of the financial statements of the National Pensions Reserve Fund for the year ended 31 December 2010.

I presume you are in receipt of PwC's letter. If not please contact me and I will forward a copy.

Regards

Derek Dee

Senior Complaints Case Manager, Professional Standards

Chartered Accountants Ireland

From: Failte32 Failte32 [<mailto:failte32@gmail.com>]

Sent: 24 November 2017 11:55

To: Derek Dee

Subject: Re: Our Ref 17/058: PwC and the National Pensions Reserve Fund Commission

Dear Derek,

Have you heard back from PwC as per your email to me below dated October 24, 2017?

Kind regards,

Maurice D. Landers

A True Copy of the Original

THE HIGH COURT

RECORD NO.

In the matter of the Freedom of Information Acts

2020/53 MCA

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "D" referred to in the Affidavit of Maurice D. Landers

Sworn before me by the said

on the 18th day of Feb 2020, at

Maurice D Landers
Chubb Bank

in the city/county of

New York Dutchess

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

Maurice D Landers

whose identity has been established by reference to a relevant document (N.Y.S. Driver's Lic

containing a photograph

[Signature]

Commissioner for Oaths/Practicing Solicitor

Janet Gerena
Notary Public, State of New York
No. 01GE6223275
Qualified in Dutchess County
Commission Expires 11/21/20 *22*

Attachment A

Read from top down.

(1)

Initial decision by ICAI, and my reply part of (4) below:

From: **Derek Dee** <Derek.Dee@charteredaccountants.ie>
Date: Tue, May 29, 2018 at 5:06 AM
Subject: FW: Our Ref 17/058: PwC and the National Pensions Reserve Fund
Commission
To: failte32@gmail.com <failte32@gmail.com>

Dear Mr Landers,

I refer to previous correspondence in relation to the above matter resting with my email dated 8 December 2017.

Please note, the Institute's disciplinary process is private and confidential, correspondence and documentation sent by Professional Standards to you may not be disclosed to or discussed with third parties.

I have reviewed your complaint that the member firm, whilst providing internal audit services to the National Pension Reserve Fund (NPRF) Commission, failed to identify that funds were awarded from Innovation Fund Ireland and by the NPRF Commission without following correct tendering and evaluation procedures and determined that your complaint does not concern a disciplinary matter. The reason for the determination is as follows:

The scope of the internal audit work undertaken by the member firm was specific scope and the scope was agreed with and approved by the Audit Committee of the National Treasury Management Agency (NTMA) and the National Pension Reserve Fund (NPRF) Commission each year. The member firm provided us with a copy of internal audit plan for the NPRF as presented to, and subsequently agreed with, the NPRF Commission and the NTMA and the matter complained of appears to have been outside the scope of the internal audit work undertaken by the member firm. I therefore have concluded that this complaint does not concern a disciplinary matter in relation to the member firm.

You may, within fourteen days of receiving this notification, notify me in writing of any further representations that you wish to make in relation to the complaint. If you provide further representations, the Head of Professional Conduct shall consider the matter and decide whether or not the complaint concerns a disciplinary matter. The Head of Professional Conduct shall notify you of her decision and the reasons for the decision.

Regards

Derek Dee
Senior Complaints Case Manager, Professional Standards

Chartered Accountants Ireland

Chartered Accountants House | 47-49 Pearse St, Dublin 2, Ireland
Android: [NewsDesk App](#) | Apple: [NewsDesk App](#)
Phone: +353 1 637 7263 | Reception: +353 1 637 7200

(2)

Decision letter from Head of Professional Conduct:

<http://www.failte32.org/wp-content/uploads/2019/07/180904-Letter-to-Mr-M-Landers.pdf>

Complainants (author's) replies:

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Wed, Sep 5, 2018 at 1:27 AM
Subject: Re: File Ref: 17/058
To: Marie Byrne <Marie.Byrne@charteredaccountants.ie>

Dear Ms. Mawe,

In accordance with Disciplinary Regulation 18.6, I request that my complaint be referred to the Conduct Committee for final decision as to whether or not the complaint concerns a disciplinary matter.

I request that I receive a reply from the Conduct Committee prior to December 31, 2018. Based on the date of your reply (9/4/18) to my additional representations submitted on June 6, 2018, I believe this is a reasonable time frame.

You state in part under the heading Decision and Reasons:

"In my view liability to disciplinary action cannot arise in such circumstances and accordingly my decision is that the complaint does not concern a disciplinary matter."

A True Copy of the Original
2020/53 MCA

THE HIGH COURT

RECORD NO.

In the matter of the Freedom of Information Acts

2020/53 MCA

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "E" referred to in the Affidavit of Maurice D. Landers

Sworn before me by the said

on the 18th day of Feb 2020, at Citibank

Maurice D Landers

in the city/county of New York Dutchess

before me a Commissioner for Oaths / Practicing Solicitor and the deponent Maurice D Landers
whose identity has been established by reference to a relevant document (N.Y.S. Driver's License
containing a photograph

[Signature]

Commissioner for Oaths/Practicing Solicitor

Janet Gerena
Notary Public, State of New York
No. 01GE6223275
Qualified in Dutchess County
Commission Expires 11/21/2022

ATTACHMENT A

Derek Dee
Senior Complaints Case Manager, Professional Standards

Chartered Accountants Ireland

Chartered Accountants House | 47-49 Pearse St, Dublin 2, Ireland

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(2)

Decision letter from Head of Professional Conduct:

<http://www.failte32.org/wp-content/uploads/2019/07/180904-Letter-to-Mr-M-Landers.pdf>

Complainants (author's) replies:

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Wed, Sep 5, 2018 at 1:27 AM
Subject: Re: File Ref: 17/058
To: Marie Byrne <Marie.Byrne@charteredaccountants.ie>

Dear Ms. Mawe,

In accordance with Disciplinary Regulation 18.6, I request that my complaint be referred to the Conduct Committee for final decision as to whether or not the complaint concerns a disciplinary matter.

I request that I receive a reply from the Conduct Committee prior to December 31, 2018. Based on the date of your reply (9/4/18) to my additional representations submitted on June 6, 2018, I believe this is a reasonable time frame.

You state in part under the heading Decision and Reasons:

"In my view liability to disciplinary action cannot arise in such circumstances and accordingly my decision is that the complaint does not concern a disciplinary matter."

This is not good enough. The part sentence "In my view..." is just nonsense. We can all have many different viewpoints. I'm not looking for your viewpoint, I can get viewpoints all day long on CNN.

I respectfully ask that you do your job and stop playing word games. This is a clear case of a disciplinary matter.

Kind regards,
Maurice D. Landers

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Wed, Sep 5, 2018 at 3:42 AM
Subject: Re: File Ref: 17/058
To: Marie Byrne <Marie.Byrne@charteredaccountants.ie>,
<professionalstandards@charteredaccountants.ie>

Dear Ms. Mawe,

I would like to add to my email/representation earlier (Sep 5).

You state in part under the heading Decision and Reasons:

"In this case the scope of the work carried out by the member firm for the year ended 31 December 2010 was agreed with the Audit Committee in advance and the identification of the matters set out above was beyond the agreed scope of work."

I would like to see proof of this in the audit plan i.e. when you state further down under the same heading "A query has been raised as to whether the audit plan provided to the Executive by the member firm related to the correct period and in this regards I am satisfied."

Kind regards,
Maurice D. Landers



**CHARTERED
ACCOUNTANTS
IRELAND**

Chartered Accountants House
47-49 Pearse Street
Dublin 2, D02 YN40

Tel +353 1 637 7200
Fax +353 1 637 7369

Email professionalstandards@charteredaccountants.ie
www.charteredaccountants.ie

Strictly Private and Confidential
Mr Maurice D. Landers

By email: failte32@gmail.com

4 September 2018

File Ref: 17/058

Dear Mr Landers

I refer to the above matter.

Please note that this is a confidential process and correspondence with Professional Standards may not be disclosed to or discussed with third parties.

As required under disciplinary Regulation 18.4 I have considered your complaint in light of your additional representations, submitted on 6 June 2018.

In summary it is alleged that the work carried out by the member firm as internal auditor to the National Pension Reserve Fund Commission was deficient in that it failed to identify:

- (a) that funds were awarded from Innovation Fund Ireland (IFI) and by the NPRFC without following the correct tendering and evaluation procedures
- (b) misrepresentation by NPRFC in its Annual Report and Financial Statements 2010 of a transfer of funds from the NPRF to IFI as being an investment in a private entity under the NPRF's private equity mandate
- (c) that NPRFC unethically and illegally awarded funding under IFI to a number of private entities

Decision and Reasons

A disciplinary matter is defined to mean one or more events which appear to give rise to liability to disciplinary action. In this case the scope of the work carried out by the member firm for the year ended 31 December 2010 was agreed with the Audit Committee in advance and the identification of the matters set out above was beyond the agreed scope of work. As such it is alleged that the member firm failed to do something it had not been engaged to do. In my view liability to disciplinary action cannot arise in such circumstances and accordingly my decision is that the complaint does not concern a disciplinary matter.

A query has been raised as to whether the audit plan provided to the Executive by the member firm related to the correct period and in this regard I am satisfied. Complainants are not entitled to receive copies of materials generated or obtained in the course of case handling.

Next Steps

In accordance with Disciplinary Regulation 18.6, you may within **14 days**, from the date of this letter request that your complaint be referred to the Conduct Committee for final decision as to whether or not the Complaint concerns a disciplinary matter. If no such request is received I will proceed to close our file.

Barry Dempsey | Chief Executive Heather Briers, FCA | Secretary



Belfast Office The Linenhall, 32-38 Linenhall Street, Belfast BT2 8BG
(from NI) Tel 028 9043 5858 Fax 028 9031 9320
(from ROI) Tel 048 9043 5858 Fax 048 9031 9320
Email professionalstandards@charteredaccountants.ie

The regulatory and disciplinary functions of the Institute are overseen independently by the Chartered Accountants Regulatory Board
Chartered Accountants Ireland is the operating title for The Institute of Chartered Accountants in Ireland

Yours sincerely

Sent by email, bears no signature

Aideen Mawe
Head of Professional Conduct
Chartered Accountants Ireland

A True Copy of the Original

THE HIGH COURT

RECORD NO.

In the matter of the Freedom of Information Acts

2020/53 MCA

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "F" referred to in the Affidavit of Maurice D. Landers

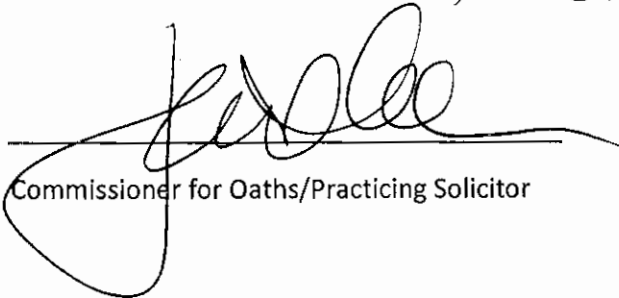
Sworn before me by the said

on the 18th day of Feb 2020, at Coldbank



in the city/county of New York Dutchess

before me a Commissioner for Oaths / Practicing Solicitor and the deponent Maurice D Landers
whose identity has been established by reference to a relevant document (p. 3 of Swerker
containing a photograph



Commissioner for Oaths/Practicing Solicitor

Janet Gerena
Notary Public, State of New York
No. 01GE6223275
Qualified in Dutchess County
Commission Expires 11/21/20 22

ATTACHMENT A

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Thu, Sep 20, 2018 at 2:08 AM
Subject: Re: Case ref 18/058
To: <Aideen.Mawe@charteredaccountants.ie>

Dear Aideen,

Just fyi, the case reference in the subject line of your email below is incorrect. It should be 17/058, not 18/058.

The case reference in the attached letter is correct, but should you wish to retrieve it in future by searching your email box, you won't be able to find it.

As you know, it's very important to be able to retrieve these documents in future should they be required by other authorities.

Kind regards,
Maurice D. Landers

(4)

Decision letter from Conduct Committee (final decision):

<http://www.failte32.org/wp-content/uploads/2019/07/190220-Letter-to-Complainant-complaint-does-not-concern-a-DM.pdf>

Complainants (author's) reply:

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Fri, Mar 15, 2019 at 2:16 PM
Subject: Re: File Ref: 17/058
To: Deborah Ray <Deborah.Ray@charteredaccountants.ie>

Dear Conduct Committee,

I strongly disagree with your decision and believe it to be potentially fraudulent, by possibly covering up for PwC and the Irish Government.

The reason I state this is because this will be the second time that I've had to inform ICAI that its summary of my allegations in its decisions relating to my case is incorrect. Based on my experience, this seems to be common practice among many oversight bodies in Ireland. Omitting material information in a final and binding decision is fraudulent I believe.

I had corrected ICAI on June 6, 2018 when I replied in part to its initial decision on May 29, 2018 as follows:

"Dear Derek,

In reply to your email of May 29, 2018, there are a number of items that concern me.

First, regarding your summary of my complaint below:

"I have reviewed your complaint that the member firm, whilst providing internal audit services to the National Pension Reserve Fund (NPRF) Commission, failed to identify that funds were awarded from Innovation Fund Ireland and by the NPRF Commission without following correct tendering and evaluation procedures and determined that your complaint does not concern a disciplinary matter. The reason for the determination is as follows:"

This is not accurate as it relates only to my first complaint to SIPO and not to my more important second complaint to SIPO. I refer you to pages 8 - 11 of my update Report (attached).

Specifically, as per my update Report, p. 68, my second complaint, in the context of my complaint against PwC, alleges "that the member firm, whilst providing internal audit services to the National Pension Reserve Fund (NPRF) Commission, failed to identify that" the NPRF Commission (NPRFC):

- a. misrepresented a transfer of funds from the NPRF to IFI (i.e. from one public entity to another) in the NPRFC Annual Report and Financial Statements 2010 as being an investment in a private entity under the NPRF's private equity mandate,
- b. and subsequently at least unethically (and illegally) awarded funding under IFI to a number of private entities (see 1. above). Therefore, the awarding of funding by the NPRFC under IFI to private entities was at least unethical (and illegal) in that this funding was awarded to these entities by circumventing the NPRF's mandate by misrepresenting a transfer of funds from the NPRF to IFI as being an investment, and which funding the NPRFC was not authorized to award to these entities under the NPRF's own separate mandate (if he could have awarded funding to these private entities directly i.e. "separately" and on an "independent basis" under the NPRF's own mandate, then there would have been no reason for the NPRFC to award this funding under IFI).

Additionally, I refer you to my specific request to you and the other PAB's which was sent to you in an email on August 12, 2017 and stated in part "The complaints I submitted to SIPO (inc. subsequent email communications), although structured according to SIPO's requirements, clearly describe my case and evidence, and I submit them, in addition to my Report, to you for your consideration (and investigation/enforcement if that is something you do)." and "Since PricewaterhouseCoopers was the internal auditor of the National Pensions Reserve Fund Commission's Annual Report and Financial Statements 2010, and is clearly referred to in the 'Oversight' and 'Key Control Procedures' sections (p.29/30 & 42), I would also like to find out if PwC adhered to all applicable and appropriate accounting/auditing standards (ethics, good governance etc.)?"

I'm at a loss as to why, in your above summary, you would exclude the more serious crime I alleged i.e. that detailed in my second complaint to SIPO. Why is it that at least two PAB's I've dealt with including your own organization, and Irish Government oversight bodies, always incorrectly summarize my case when providing a decision."

Why would ICAI incorrectly state my allegations a second time, this time in its final and binding decision? Perhaps it thought I'd forgotten the first time?

I will give ICAI (Conduct Committee) a second chance (in fact, this will be your fourth chance) to provide an honest decision on my case, starting by accurately summarizing my allegations in its decision on Feb. 20, 2019.

Kind regards,
Maurice D. Landers

To reader:

This is the remainder of above email (original) FYI not included in email above to conduct committee:

"Second, you state in same email of May 29, 2018 below:

"The scope of the internal audit work undertaken by the member firm was specific scope and the scope was agreed with and approved by the Audit Committee of the National Treasury Management Agency (NTMA) and the National Pension Reserve Fund (NPRF) Commission each year. The member firm provided us with a copy of internal audit plan for the NPRF as presented to, and subsequently agreed with, the NPRF Commission and the NTMA and the matter complained of appears to have been outside the scope of the internal audit work undertaken by the member firm. I therefore have concluded that this complaint does not concern a disciplinary matter in relation to the member firm."

How you can conclude that my complaint does not concern a disciplinary matter in relation to PwC based upon your statement above that " the matter complained of appears to have been outside the scope of the internal audit work undertaken by the member firm" is completely mind boggling. You arrived at this conclusion based upon "...the matter complained of appears to have been outside...". When something "appears" to be something, this means that further investigation is required

in order to arrive at a definitive and accurate conclusion. One of the definitions of "appears" is 'give the impression of being' i.e. not conclusive. I have used such words in my Reports as part of the basis of my requests for further investigation.

Otherwise, if hypothetically I were to state that your email of May 29, 2018, "appears" to be bogus and part of a cover-up based upon its disregard for that which I've exposed in my two lengthy Reports, can everyone now conclude that this is in fact the case? Perhaps you chose the word "appears" to CYA legally in that you can always claim later on that you never actually said the matter complained of was outside the scope of the internal audit work undertaken by the member firm, you only said it "appears" to be?

I hope you're not playing games with me and the Irish people in your emails (it's the Irish people's money we're talking about here). You have a very important role to play in honestly and impartially overseeing firms such as PwC.

What I would like from you is confirmation that you verified that the copy of the internal audit plan for the NPRF that you received from PwC is legitimate i.e. time stamped for 2010/2011. I assume you did this, it goes without saying.

I would also like a copy of this audit plan to verify its contents.

I don't know why it has taken 6 months since my last email to you (Dec. 5, 2017) for you to respond per your email below (in addition to the few months prior to December 5, 2017 that you were aware of my complaint). It has taken me just under 4 hours to prepare and write this email reply to you (and it's more comprehensive than your simplistic response), and approx. a week to reply, and I have a full-time job and many other activities to attend to. Additionally, I addressed the 'scope' excuse that you are using in my update Report (Reply F, starting on p. 157), a copy of which your organization received on Feb. 24, 2018, so why would it take so long for PwC to provide you with a copy of the internal audit plan? And even earlier, on Nov. 3, 2017, PwC referred to the scope of its services in its reply to me when it stated in part "Our work was performed in accordance with the Auditing Practices Board's Auditing Guideline - "Guidance for Internal Auditors", and with the terms of reference as set out in our engagement letter." (Reply H, starting p. 81 update Report)

Have you verified that this audit copy is not fraudulent and was not written or doctored (with or without your knowledge) during this 6-month period? Since your role is to protect the public interest (the Irish people), you have a responsibility to verify the authenticity of this audit plan.

Should you claim confidentiality (we all know how confidentiality agreements potentially can be used to cover-up), I offer you the option of having a reputable independent body of my choosing verify its authenticity while preserving its 'confidentiality'. Anyhow, it being only a technical document describing "scope" areas, and therefore not confidential in the normal sense of the word, I can't imagine you refusing me a copy. However, if this is still not acceptable to you, I give you the flexibility to redact the 'confidential' information as this should still leave enough technical information available for a reputable independent oversight body or anyone else for that matter to determine whether the audit copy is legit. Surely, ICAI, PwC and the NPRF have nothing to hide.

If I'm satisfied that the audit plan is legitimate, I will drop my case/complaint against PwC.

If, on the other hand, I do not receive the above from you, I will assume you are possibly trying to hide something (and therefore not willing to hold those responsible accountable), and will interpret your actions as possibly suggesting your part in the Irish Government's cover up. I realize there would be a domino effect should ICAI at this stage rule in favor of my complaint in that those oversight bodies who have already ruled against it would now be seen to be compromised, but that's no reason for ICAI to tarnish its reputation by following suit if by doing so would be contrary to the correct and honest course of action. Of course, I may be wrong but we'll let everyone else determine that.

I believe you also have to provide me with a decision on the complaint you opened against your member, Mr. Paul Carty, as a Commissioner of the NPRF Commission.

Apart from this email, I do not have any further representations that I wish to make in relation to my complaint."

(4.1)

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Tue, Apr 23, 2019 at 11:51 AM
Subject: Re: File Ref: 17/058
To: Deborah Ray <Deborah.Ray@charteredaccountants.ie>

Dear Conduct Committee,

I would now like a copy of the audit plan given to you by PwC.

You state in your decision:

"A query has been raised as to whether the audit plan provided to the Executive by the member firm related to the correct period and in this regard I am satisfied. Complainants are not entitled to receive copies of materials generated or obtained in the course of case handling"

Since my case is now closed, and no longer being handled, I would like a copy of this material.

Kind regards,
Maurice D. Landers



**CHARTERED
ACCOUNTANTS
IRELAND**

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Email professionalstandards@charteredaccountants.ie
www.charteredaccountants.ie

**Strictly Private and Confidential
Addressee Only**
Mr Maurice D. Landers

By email: fallte32@gmail.com

20 February 2019

File Ref: 17/058

Member Firm: PwC

Complainant: Mr Maurice Landers

Dear Mr Landers

The Conduct Committee of the Institute of Chartered Accountants in Ireland (the "Institute") considered the above matter at its meeting of 5 February 2019. Its findings are set out in the enclosed notice.

This decision is final and we will now proceed to close our file.

Thank you for your co-operation.

Yours sincerely,

Carine Pessers
Secretary to the Conduct Committee
Chartered Accountants Ireland

Encls.

Barry Dempsey | Chief Executive Heather Briers, FCA | Secretary



Belfast Office The Linenhall, 32-38 Linenhall Street, Belfast BT2 8BG

(from NI) Tel 028 9043 5858 Fax 028 9031 9320

(from ROI) Tel 048 9043 5858 Fax 048 9031 9320

Email professionalstandards@charteredaccountants.ie

The regulatory and disciplinary functions of the Institute are overseen independently by the Chartered Accountants Regulatory Board

Decision of the Conduct Committee

File Reference:	17/058
Member Firm:	PwC
Complainant:	Mr. Maurice D. Landers
Allegations:	That the member firm, whilst providing internal audit services to the National Pension Reserve Fund (NPRF) Commission, failed to identify that funds were awarded from Innovation Fund Ireland and by the NPRF Commission without following correct tendering and evaluation procedures.
Conduct Committee Decision and Reasons:	<p>The Conduct Committee considered the complaint in accordance with the Disciplinary Regulations and concurred with the decision of the HoPC as set out in her decision of 4 September 2018. The Conduct Committee, in accordance with Disciplinary Regulation 18.7, decided that the complaint does not concern a Disciplinary Matter. The Conduct Committee, in arriving at its decision, concurred with the reasons previously given by the HoPC.</p> <p><i>"A disciplinary matter is defined to mean one or more events which appear to give rise to liability to disciplinary action. In this case the scope of the work carried out by the member firm for the year ended 31 December 2010 was agreed with the Audit Committee in advance and the identification of the matters set out above was beyond the agreed scope of work. As such it is alleged that the member firm failed to do something it had not been engaged to do. In my view liability to disciplinary action cannot arise in such circumstances and accordingly my decision is that the complaint does not concern a disciplinary matter.</i></p> <p><i>A query has been raised as to whether the audit plan provided to the Executive by the member firm related to the correct period and in this regard I am satisfied. Complainants are not entitled to receive</i></p>

	<i>copies of materials generated or obtained in the course of case handling."</i>
Action taken / proposed:	File to be closed.
Date of Conduct Committee meeting / decision:	5 February 2019

A True Copy of the Original

THE HIGH COURT

RECORD NO.

In the matter of the Freedom of Information Acts

2020/53 MCA

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "G" referred to in the Affidavit of Maurice D. Landers

Sworn before me by the said

on the 18th day of Feb 2020, at

Citibank

Maurice D Landers

in the city/county of

New York / Dutchess

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

Maurice D Landers

whose identity has been established by reference to a relevant document (

N.Y.S. Driver Lic

containing a photograph

Janet Gerena

Commissioner for Oaths/Practicing Solicitor

Janet Gerena
Notary Public, State of New York
No. 01GE6223275
Qualified in Dutchess County
Commission Expires 11/21/2022

Introduction

This is my final communication on my case (aside from a one pager in December - keep reading), and while it pushes the envelope in certain areas including by hypothesizing broader consequences when a government is involved in criminal activity, I believe my prior Reports have established a credible basis for any extrapolations I have made.

Why a third Report you ask? To prove that nothing has changed since the publication of my first summary document in 2014, not even at the highest levels, the Irish Prime Minister, Garda Commissioner etc. That is, the culture the former Prime Minister stated (2014) we were never going back to has never changed. I'd like to reassure you that this Report is not anti-Irish Government as I hope the issues I raise will go towards improving the Irish Government and ultimately the quality of life of the Irish people.

Following are the links to my first and update Reports (first Report includes summary docs):

First Report:

<http://www.eoi.at/d/EOI%20-%20Jahresberichte/Irland/Report%20-%20A%20Case%20of%20Mismanagement%20of%20Irish%20Government%20Funds.pdf>

Update Report:

<http://www.eoi.at/d/EOI%20-%20Jahresberichte/Irland/Irl-update%20Report%20February%202018.pdf>

I'd like to again thank whichever nation/s also uploaded my update Report onto the European Ombudsman Institute (EOI) website. Now, both my first and update Reports can be accessed on this great website. See 'Popularity of the Ombudsman' at:

<http://www.eoi.at/?Historiae%20-%20Begr%C3%BCnder>

Although my prior Report ([update Report](#)) completed my investigation into the disbursement of funds under Innovation Fund Ireland (IFI), and by extension a profile of the Irish Government and Ireland's oversight system, using my test case as a basis, there were still some outstanding items to address. Fortunately, by addressing these items, I was able to focus proof of my case on just one audit document.

Therefore, **first**, I can now finally prove my case in its entirety through the release of **just one audit document** ([Attachment 1](#)). Unfortunately, all the organizations that have access to, or can access, the document have refused to provide it (NTMA/NPRF, PwC, ICAI, Comptroller and Auditor General. The Irish Prime Minister and the Irish Police Force have effectively refused to provide it by not responding to my request for an investigation wherein the release of this document could be compelled). And ICAEW, ICAI and PwC I believe **lied about its scope of services**.

Second, I believe I have proven **fraud on the part of ICAI** (Chartered Accountants Ireland) which corroborates the above and the evidence I've provided in my Reports ([Attachment 1](#)).

Therefore, I have done all the work for anyone who has the power to compel the release of this document, and I've no doubt there are a few of you on my mailing list who can do this. This might be important for the relevant **EU** body/s who may have a case/jurisdiction now that the crime is a current one (Irish Government's subsequent cover up and likely cover up by oversight bodies/Prescribed Accountancy Bodies (PAB's) and others) and based on the fact that the Irish Government was stealing taxpayer funds while at the same time begging for, and receiving, money from the EU to bail it out of the financial crisis.

Do any of you reading this find it unusual that I would be told by all of the above bodies that I have no case, and yet when I make a request for a copy of a document in their possession which I inform them I believe will

ATTACHMENT 1

Dear Taoiseach, Garda Commissioner Drew Harris, and DPP,

I chose to send this communication collectively so that you're all on the same page regarding this matter.

All of you should be well aware of my case, as I've received replies from each of your organizations over the course of the many years I've been seeking justice and accountability. In the case of Commissioner Harris, you might not be fully informed due to your relatively new position as Garda Commissioner.

Below is the link to my most recent Report which includes a link to my first Report (and summary documents that form the basis of both Reports). These will bring you up to date.

<http://www.eoi.at/d/EOI%20-%20Jahresberichte/Irland/iri-update%20Report%20February%202018.pdf>

The three main areas of investigation (original complaint (a) and further complaint (b)) I requested are:

a. My complaint alleges that the NPRF Commissioners, in their individual roles as decision makers at the NPRF, awarded \$50 million from Innovation Fund Ireland (IFI) to one of the applicants to IFI (2 weeks or earlier after the closing date for applications), a U.S. Venture Capital Firm named (name of US VC firm), by sidestepping competitive tender/bid rules, and not investing alongside EI (therefore before all other applications were fairly evaluated (approx. 32)) under the IFI competitive tender/bid call for expressions of interest in late 2010. (Note: by investing alongside EI, the NPRF would in effect be subject to the same evaluation process as EI, since it would have to wait until this evaluation is complete before it could co-invest with EI in the same opportunity under IFI)

b. The NPRF Commission misrepresented a transfer of funds from the NPRF to IFI (i.e. from one public entity to another) in the NPRFC Annual Report and Financial Statements 2010 as being an investment in a private entity under the NPRF's private equity mandate,

c. and subsequently at least unethically (and illegally) awarded funding under IFI to a number of private entities. Therefore, the awarding of funding by the Commission under IFI to private entities was at least unethical (and illegal) in that this funding was awarded to these entities by circumventing the NPRF's mandate by misrepresenting a transfer of funds from the NPRF to IFI as being an investment, and which funding the NPRF Commission was not authorized to award to these entities under the NPRF's own separate mandate (if the NPRF Commission could have awarded funding to these private entities directly i.e. "separately" and on an "independent basis" under the NPRF's own mandate as was claimed, then there would have been no reason for the Commission to award this funding under IFI).

This will be my last communication with Irish Government bodies, and therefore want it to be at the highest level. You have the authority to initiate an investigation any time you want, so please don't pass the buck in this case by having your private secretaries refer me to somebody else. I've gone down this road already and you've seen the indifferent replies I've received. **This was a crime of theft of at least \$50M from the Irish taxpayer** - if that's not worth investigating then I don't know what is.

I have subsequently tried to get justice via ICAI and SIPO (newer complaint) but have been told that my case does not concern a disciplinary matter (Attachment A), and that I have not provided evidence, respectively. Incidentally, they're the only ones (inc. those detailed in my Reports) who believe this. Everyone else I've spoken to particularly those outside of Ireland have expressed some concern (indeed frustration in some cases) that an investigation hasn't begun by this stage.

What I subsequently show however (outside of my Reports) is that **ICAI** committed fraud in its final binding decision (Attachment A, (4)) to me when it intentionally omitted the more serious part of my complaint against PwC (above (b)) in its statement of my allegations. I say intentional because I have proven **intent** to omit material information on the part of ICAI because ICAI did the same thing in their earlier initial decision (same case) on May 29, 2018 (Attachment A, (1)) and I brought it to their attention on June 6, 2018 (Attachment A, (4)). And after my appeal, in its final binding decision eight months later (Feb. 2019), ICAI again omitted my more serious complaint relating to PwC. When I challenged them on it, they refused to make the correction,

Instead just giving a recap of who at ICAI assessed my case ([Attachment A, \(4.1.\)](#), Conduct Committee reply link).

Further corroborating ICAI's intent to omit, as stated above I informed ICAI that they had omitted the more serious part of my complaint (above (b)) in its statement of my allegations in its initial decision to me re. PwC on May 29, 2018. But ICAI included '(b)' above, two days after I brought to their attention the above omission relating to PwC, in their initial decision (statement of my allegation) relating to the **Paul Carty** complaint I had submitted to them, against whom the exact same allegations were made ([Attachment A, Part B, \(1\)](#)), and **again** after my appeal, provided the correct statement of my allegation in its final binding decision ([Attachment A, Part B, \(3\)](#)) relating to Paul Carty six months later (Dec. 2018) by including '(b)' above (by the way, ICAI's initial decision - and their subsequent decisions on my appeals effectively say the same thing - regarding Paul Carty was, surprise surprise, "I do not believe this complaint concerns a disciplinary matter in relation to the member as an individual Commissioner." [See Attachment A, Part B](#))

Therefore, ICAI was well aware that it was intentionally omitting this material information when it issued its final decision relating to PwC (Feb. 2019), two months after its final decision relating to Paul Carty, having had been informed by me of the omission earlier on June 6, 2018 and having correctly included '(b)' in its initial and final decisions relating to Paul Carty. **In summary**, ICAI intentionally left out '(b)' above in both their initial and final decisions relating to PwC, but left it in in their initial and final decisions relating to Paul Carty, cases where the exact same allegations were made. This clearly proves that ICAI knew that part '(b)' of my complaints above applied to PwC, and decided not to hold them accountable. Why. Because everyone before them has covered up for the Irish Government, and if ICAI were to act the way it should by giving an honest decision, think of the domino effect this would have. This is a big problem in the Irish Government, and Irish oversight bodies (the proverbial Den of Thieves), as you well know.

ICAI **did** include '(b)' in its decision (Sept. 2018) by the Head of Professional Conduct on my **appeal of its initial decision** on May 29, 2018 ([Attachment A, \(2\)](#)). It was after my second appeal this time to the Conduct Committee, in ICAI's final decision, that '(b)' was removed ([Attachment A, \(4\)](#)). I believe the decision by the Head of Professional Conduct (first appeal) tried to 'throw me off the track' by including '(b)', and then ICAI subsequently excluded it from their final binding decision after my second appeal, thinking that I wouldn't notice. Fraud by people who need Freud! (Incidentally, the response/acknowledgement I received from ICAI relating to PwC after I requested an appeal of their second decision by the Head of Professional Conduct was referenced in the email subject line as "Case ref 18/058 ([Attachment A, \(3\)](#)). All other communications relating to PwC (inc. subsequent ones) were referenced as "File Ref: 17/058 or just 17/058". I'll assume they just get their number mixed up from time to time like the Irish Government - or as we say in Ireland, sure it could happen to a Bishop!)

SIPO sent me a reply that I could only describe as insulting to the Irish people (and all my efforts over the years) and Ireland's oversight system. They didn't even have the respect to give an explanation or any type of reason based upon my comprehensive submissions. All I could do was politely tell them what I thought of them, which I did, as I hope I'll never have to communicate with these people ever again. Their decision/reply was a few lines, summarized in last line: "As it is the view of the Commission that you have not provided evidence of this in your complaints, the Commission deems the matters closed and will not give them further consideration. "

I then requested a copy of the internal audit plan from **PwC** ([Attachment D](#)), **ICAEW** ([Attachment E](#)), **ICAI** ([Attachment A, \(4.1\)](#)), **the Comptroller and Auditor General** ([Attachment B](#)), and the **NTMA/NPRF** ([Attachment C](#)). All **refused** to provide me with a copy. I'm claiming that the document either never existed or that ICAEW, ICAI and PwC **lied about its scope of services** (most likely the latter).

The only reason I'm being refused a copy is because these bodies know that my claim is correct and that this document will definitively prove my entire case. After many years, I have finally been able to distill the proof of my case down to just one document, hence **everyone's** effort to stop me getting my hands on it. Therefore, I need someone to **compel the release of this document** in full.

The Comptroller and Auditor General's response to my bringing to their attention the fact that the above mentioned bodies lied about the scope of services of the internal audit plan referenced in the financial statements of the National Pension Reserve Fund for the year ended 31 December 2010 under the

National Pension Reserve Fund Act 2000, **which they signed off on**, was incredulous. I also let them know what I thought of them. I'm not mincing words anymore (but will still keep it professional), I have to start referring to these people for what they are.

Whatever about whose responsibility it was back in 2010/2011, now that I informed them of the serious risk not identified in 2010/2011 under the section titled 'Risk, Oversight and Controls' in the financial statements of the National Pension Reserve Fund for the year ended 31 December 2010 under the National Pension Reserve Fund Act 2000 which they signed off on, and corroborated by the fact that ICAI, ICAEW and PwC lied about the audit plan's scope of services, they should not have responded to me the way they did, rather replied something to the effect of: "Thank you for bringing this serious matter to our attention. We will review and **verify** the internal audit plan and revert in due course etc." A very simple thing to do. Instead, I receive evasive replies (see Attachment B). That's not what auditing is about, particularly by the Comptroller and **Auditor General!** That's what covering up is about. I can't believe they even replied: "The annual report of the NTPF is the responsibility of the Commission."

What occurred in 2010/2011 was a crime. **This crime is now a current one** based upon the subsequent cover up as detailed in my Reports and my subsequent efforts described above including where I have proven fraud on the part of ICAI. Everyone who has given me feedback re. my Reports (and most others I'm sure who have read it) knows that a crime has been committed. I just hope you won't follow suit and tell the Irish and international community, after an Irish citizen (for now anyhow) has put in so much effort (research/investigation over many years) culminating in very credible evidence that a crime has been committed, that a formal investigation is not warranted. If this is the message you want to send, then that's on all of you.

Speaking to you personally Taoiseach, you are Ireland's first, and world's fourth, openly gay head of government. Whether one is for, against, or undecided, those in the gay community have suffered much down through the years and many have had the courage to be themselves when many of those who discriminated against them will never have the courage of their convictions, whatever they may be. That has to earn the respect of many. That said, I just hope this won't be your only claim to fame.

While every leader owes something to the old guard that helped get them elected (including to the former Minister for Justice and Equality, Francis Fitzgerald, who had to resign over her role in the Garda McCabe case), this does not extend to the covering up of crimes the old guard has committed regardless of what dirt the other party (FF) has on your party. This can't be the basis under which the Irish Government operates. This is where you should draw the line and show the world that the courage of your convictions extends to other very important areas that matter to the lives of the Irish people. In other words, is there any difference in someone who is openly gay aside from their sexual orientation? You recently stated:

"I lived in a country where if I'd tried to be myself at the time, it would have ended up breaking laws," he said. "But today, that is all changed. I stand here, leader of my country, flawed and human, but judged by my political actions, and not by my sexual orientation, my skin tone, gender or religious beliefs."

Shouldn't someone who has experienced such discrimination have **a greater sense of justice** and of the importance of holding those in authoritative positions accountable?

And that never-ending game the Irish Government plays where they cover up the crime and promise they'll never ever again be 'naughty' (they just privately give a slap on the hand to those directly involved) is not acceptable. Nothing changes by taking this approach, nothing whatsoever, as evidenced by the continual blatant theft of taxpayer funds and corresponding cover ups by Irish Government officials (I said this in my update Report, link above, p.220, heading 'End'). The Irish public has to be involved if these oversight bodies

claim to be working in the public interest. This is one of the reasons why I refuse to lodge a complaint with IAASA whose letter to me is a complete joke when it stated:

"Please note that The Authority is subject to stringent statutory confidentiality requirements as provided for by Section 940 of the Companies Act, 2014. Consequently, the Authority is not always in a position to update complainants on actions, if any, taken by it arising from any information provided to it."

This organization is meaningless in that it can legitimately cover up any complaint it receives. Again, **the public has to be involved** when any organization claims to be acting in the public interest (and gets funding for it!). The Public has to be allowed make its own decisions and choices and be allowed to provide input/feedback. The outcome of any public oversight case should never be hidden from the Public. How an organization can say that's it's working in the public interest while at the same time state that it cannot inform the public of the outcome of an investigation is beyond me. Only in Ireland! (I also decided not to lodge a complaint with ICAEW, I can't waste another year or two of my time with these orgs. - see [Attach..E](#))

Speaking to you personally Commissioner Harris, you were hired to clean up corruption within the ranks (and if it's of any help to you, corruption is most definitely within the senior ranks of the Gardai, including regarding their treatment of women in the force, so I respectfully ask that you please focus your efforts where the Irish Government has its oftentimes ugly influence by leaving the rank and file alone and taking a top-down approach, which will save the Irish taxpayer a lot of money at the end of the day). I assume this means holding the senior Gardai who have ignored my case in order to protect Irish Government members? Or do you draw the line here like all the other members of Ireland's deplorable oversight system? Or perhaps theft by Government officials and staff is regarded as a low level priority based upon your limited resources, and Government officials use this to their advantage? And what about investigating the PAB's and other oversight bodies, critical to a properly functioning financial system, that are covering up for the Irish Government, in particular ICAI?

I ask the **DPP** if there is some way you can investigate my case including the recent fraudulent act by ICAI? I assume the Taoiseach and Commissioner Harris can refer my case to you?

I'm remaining optimistic that there might be an outside chance that one of the three of you will take action in my case. At the very least, I would like your responses for my Final Report for some in the world to see.

On a broader note (and you can tell from my Reports I like to make some suggestions in a broader context), the responses I've received as detailed in my Reports and based on my subsequent efforts are a spit in the face of honest and effective oversight in that these bodies selectively choose who they are going to investigate, and therefore, as mentioned in my Update Report, discriminate against those they do hold accountable (if any). Even if you just take SIPO's most recent 'scant' reply/decision to my comprehensive submissions, it proves they're not being honest. Oversight and the critical role of holding those responsible accountable has been relegated to word games, which is just deception.

Why do you think I'm doing all of this over many years? Is there something wrong with someone trying to hold those responsible for overseeing taxpayer funds accountable? Do you believe I shouldn't? Do you believe there's nothing in my Reports that represents evidence? Not even circumstantial evidence? Do you believe that other investigations initiated elsewhere have provided more evidence than I've provided, more inconsistencies, contradictions, retractions, fraud, effective shredding of evidence etc. i.e. my Reports don't come up to standard?

Based upon the indifferent replies I've received over the years, and a reaction in some cases which could only be described as hostility among those who received, and had to reply to my very reasonable requests and feedback (it's not like they were even close to being voluminous), it's clear that my efforts to hold many oversight bodies accountable has struck a nerve with many of them. Additionally, it would seem the **U.S. Department of State's Bureau of Economic and Business Affairs** and the **European Ombudsman Institute** find my Reports and investigation credible.

How can anyone take the Irish Government seriously when the Irish Government accuses them of behaving the same way it does? How can the Irish Government have any credibility in Brexit or other talks/negotiations? Why should the UK care about reneging on the **backstop deal** when it knows the Irish Government reneges on its deal with the Irish people all the time to hold its members accountable by what are meant to be Irish democratic institutions, but are nothing more than puppets for the Irish Government that play word games with complainants and cover up for pretty much every crime Irish government officials and staff commit. It's a case of the pot calling the kettle black. If the backstop falls through, it'll be the Irish Government's fault in part at least.

One recent former Taoiseach in particular was not regarded with much respect among senior UK politicians (possibly the Irish Government could care less). They were well aware I'm sure of the many shenanigans he oversaw on his watch. What respect will leaders of other nations have for you if you continue to accept this type of behavior from past Government's, particularly since Brexit talks are at such a critical stage? What credibility will you have?

And do you see the comparison that can be drawn here between the Irish Government and the Church? Members of the clergy abused children. Likewise, members of the Irish Government abused Irish taxpayer funds, and by extension the lives of Irish taxpayers, particularly those less well off (who don't abuse the system) that have little disposable income. Members (all of them) of the clergy stayed very quiet about the abuse of children. Likewise, members (all of them) of the Irish Government stayed very quiet about the abuse of taxpayer funds (as did those under the Irish Government's extended influence, lawyers etc.). It seems to be the same mentality at work here. I'm finally beginning to understand this (ugly) mentality, a concern I posed in my two Reports back in 2015 & 2018. Perhaps this is due to the very close relationship between Church and Irish State down through the decades? So, when is it going to change? Words certainly won't change it.

It's a shame to think that, in the country I grew up in, there are so many of these types of timid people in these critical oversight positions. I just hope you're not one of them. And can you please tell Government members, particularly FF, going forward to keep their grubby little hands off of the hard earned contributions by the Irish taxpayer (individuals and business owners). Tell them that you'll refer them to the DPP the next time, that'll get their attention. Government officials and staff get paid very well (even when compared to other countries), including very generous expense accounts, and even these have been abused. Whatever about ordinary criminals stealing our money, when government officials and staff entrusted with it steal it, and those responsible for holding them accountable timidly renege on their duties, then you've got a problem in Ireland.

Those subjected to this type of behavior by Irish Government officials, with no recourse under Ireland's oversight structure, seem to have no other choice but to compensate by acting the same way. What other option is there when the oversight institutions no longer function? War or revolution? What type of idiot system is this to have? Northern Ireland's powersharing agreement collapsed more than two years ago. Do you think the Republic could face a serious crisis in future where citizens lose faith in its institutions? How easy is it for a nation to fall into revolt? Or do you think that a laughable question, the usual reaction of the masses prior to most every historical crisis? Or has one already begun? How much better would Irish society be without it? History has told us that it certainly doesn't require a nation's support. It only took an organized seven-man Military Council of the Irish Republican Brotherhood to change Ireland's history back in 1916 (marked by many official ceremonies in 2016), and although the executions played a part, I don't fully accept that there would have been no further momentum for the cause had they not occurred.

While I'm just making an 'extreme' analogy here (at this point in time anyhow) such consequences we know can be very real. And although I can't imagine a repeat of the 1916 Rising in the form that it was in (fingers crossed!), what form do you think the next revolt will take? How will the chronic feeling of frustration and disenfranchisement the Irish people continually experience with the Irish Government, as mentioned in my first Report, ultimately manifest itself? Will it be a trigger event like climate change? Will it be mass protests on the scale of recent protests in Puerto Rico? They know who's boss when it comes to issues that cross party lines. They can successfully engage not only those at home but also their Diaspora and oust the Head of Government after only a few weeks (who needs the vote!). That's empowerment for you!

So, how much chipping away of the integrity of our oversight institutions does the Irish Government plan on doing? Is it okay to do so as long as the subject of oversight is the Irish Government and other large firms? They get a free pass? Keep chipping away at something, what'll you have left (isn't this a lesson to be learned in your youth, not as a public servant)? I believe drastic change is required in the Irish Government in order for

it to clean house, and I'm talking about real change, not words of change. Do **you** have what it takes to implement real change? It'll make you very unpopular at times (among your own party), can you handle that?

You have to hold Irish Government officials and staff accountable whether you like it or not. It's time to get over it, and act as a Government and Taoiseach should act. I don't know why in many cases we allow politicians to get away with interpreting such diffidence, or not taking action for the wrong reasons, as politics, as if such behavior should be inherent to politics. You often hear people say, "sure, that's politics for you". Could you imagine the public saying, "sure, that's finance for you" whenever a ponzi scheme is exposed. You're aware of my case, so why aren't you inspiring and promoting (I don't see much on Google!) ethical business practices in Ireland and making people feel proud to be part of an honest transparent business environment led by the example of the Irish Government?

Inspiring ethical behavior, beginning at government level (as per my Reports and earlier summary docs, I firmly believe corruption in Irish business historically has its source in the Irish Government) will attract confidence on a continuous basis in Ireland's economy and indigenous businesses, not just when times are good, and will prevent Ireland from losing companies such as Apple, which as you know recently pulled out of its plans to build its billion dollar data center in Ireland.

Finally, I notice that some oversight bodies have rehailed their websites since the publication of my most recent Report. In the case of SIPO, it's now less transparent vis a vis its older version (my Final Report will detail this). Is this what cleaning up corruption means? Perhaps they thought that cleaning up meant cleaning up any sign of corruption? I exemplified this in my [Update Report](#) regarding the Office of the Information Commissioner's website, which had been rehailed not long after my last communication with them and made less transparent (p.24 link above).

And do you think the EU has a case/jurisdiction now that the crime is a current one based on the fact that the Irish Government was stealing taxpayer funds while at the same time begging for, and receiving, money from the EU to bail it out?

If you require any other communications between myself and the above bodies, please let me know.

Thank you for your attention to this matter.

Kind regards,
Maurice D. Landers

Attachment D

Read from bottom up.

Reply from PwC

http://www.failte32.org/wp-content/uploads/2019/07/PwC_1.pdf

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Thu, May 23, 2019 at 8:45 AM
Subject: Re: Private and Confidential
To: <kate.odowd@ie.pwc.com>

Dear Kate,

Just to be clear, when I state in my email below:

"However, if this is still not acceptable to you, I give you the flexibility to redact the 'confidential' information as this should still leave enough technical information available for a reputable independent oversight body or anyone else for that matter to determine whether the audit plan copy is legitimate."

by legitimate I mean that the date the audit plan was prepared can be verified (time stamped), and the non-redacted content (although I see no reason for you to redact any of it) will verify the decision I received from ICAI, i.e.

"The scope of the internal audit work undertaken by the member firm was specific scope and the scope was agreed with and approved by the Audit Committee of the National Treasury Management Agency (NTMA) and the National Pension Reserve Fund (NPRF) Commission each year. The member firm provided us with a copy of internal audit plan for the NPRF as presented to, and subsequently agreed with, the NPRF Commission and the NTMA and the matter complained of appears to have been outside the scope of the internal audit work undertaken by the member firm."

Kind regards,
Maurice D. Landers

On Wed, May 22, 2019 at 10:01 AM Failte32 Failte32 <failte32@gmail.com> wrote:
Dear Kate,

Could you please provide me with a copy of the internal audit plan for the financial years ending 31 December 2009, 2010 and 2011 as per your engagement with with NTMA/NPRF.

Should you claim confidentiality (we all know how confidentiality agreements potentially can be used to cover-up), I offer you the option of having a reputable independent body of my choosing verify its authenticity while preserving its 'confidentiality'. Anyhow, it being only a technical document describing "scope" areas, and therefore not confidential in the normal sense of the word, I can't imagine you refusing me a copy. However, if this is still not acceptable to you, I give you the flexibility to redact the 'confidential' information as this should still leave enough technical information available for a reputable independent oversight body or anyone else for that matter to determine whether the audit plan copy is legitimate. Surely, PwC has nothing to hide.

If I'm satisfied that the audit plan is legitimate, I will drop my case/complaint against PwC.

If, on the other hand, I do not receive the above from you, I will interpret your actions as possibly suggesting your part in the Irish Government's cover up in this case.

Kind regards,
Maurice D. Landers



Private and confidential

Mr Maurice Landers
(by e-mail to failte32@gmail.com)

3 June 2019

Dear Mr Landers,

I note receipt of your e-mail to my colleague, Ms Kate O'Dowd of 22 May 2019 and 23 May 2019.

I have been advised that this matter has been considered and closed by the professional standards unit of Chartered Accountants Ireland.

We are not in a position to provide client confidential information to any third party, nor to comment on client specific affairs.

Yours sincerely,


PricewaterhouseCoopers

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T: +353 (0) 1 792 6000, F: +353 (0) 1 792 6200, www.pwc.ie*

Feargal O'Rourke (Managing Partner - PricewaterhouseCoopers Ireland)

Olwyn Alexander Paul Barrie Brian Bergin Fidelma Boyce Donal Boyle Damian Byrne Pat Candon John Casey Mary Cleary Eibhlin Collier Thérèse Gregg Richard Day Fiona de Búrca John Dillon Ronan Dwyer John Dunne FCCA Kevin Egan Martin Freyne Ailsa Hayden FCCA Olivia Hayden Garath Hynes Ken Johnson Patricia Johnston Paraid Joyce Andrea Kelly Joanne P. Kelly John Loughlin Gillian Lowth Vincent MacMahon Declan Maunsell Enda McDonagh Shane McDonald John McDonnell Deirdre McGrath Ivan McLoughlin Declan Murphy Damian Neylin Andy O'Callaghan Jonathan O'Connell Aoife O'Connor Denis O'Connor Paul O'Connor Irene O'Keefe Ger O'Mahoney Padraig Osborne Ken Owens Anthony Reidy Mary Ruane Emma Scott Mike Sullivan Billy Sweetman Paul Tuite

Located at Dublin, Cork, Galway, Kilkenny, Limerick, Waterford and Wexford

Chartered Accountants

PricewaterhouseCoopers is authorised by Chartered Accountants Ireland to carry on Investment business.

Attachment E

Read from bottom up.

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Thu, Jun 13, 2019 at 9:30 AM
Subject: Re: Private and confidential: Your complaint against PricewaterhouseCoopers
To: Ian Harmer <Ian.Harmer@icaew.com>

Dear Ian,

I'll address your email reply below by referring to each paragraph:

1st paragraph: Regarding documentation obtained from the firm only to be shared with complainants with the firm's permission, I find this difficult to accept, but I'll leave it to others to decide if this is in fact true in cases such as mine. But it's 'clever' that you inserted this condition at this stage with the benefit of hindsight so that you can later deny my request for the audit plan. ICAI never stated that I needed the firm's permission.

2nd paragraph: Yes, I did get ahead of myself regarding the audit plan, but I know full well that you have already made your decision after many months (indeed years) of being cognizant of my case, and how ICAI and others have handled it. And even I can easily determine that you're at least going to require a copy of the audit plan when you stated below: "As no such conclusion has been reached, I have not yet contacted the firm nor have I determined what, if any, documentation may be required. I am therefore unable to comment on any specific documents." because I questioned you on this, as detailed in my Update Report, in my emails to you on September 29, 2017 and again on September 30, 2017. You subsequently got the hell out of dodge in your reply letter to me dated October 18, 2017 by passing the buck to ICAI (see Update Report link, pages 159-167, <http://www.eoi.at/d/EOI%20-%20Jahresberichte/Irland/Irl-update%20Report%20February%202018.pdf>)

You then state: "The sharing, or otherwise, of documentation by any organisation or firm other than ICAEW is not for me to comment on." What does this mean? You already stated in part earlier: "...but it would be the firm's decision whether to give their permission to share their documentation with complainants, whether redacted or otherwise." ? So you've already commented on it?

3rd paragraph: It seems very selective what you can and cannot comment on. I notice you didn't reply to my question below when I asked you: "So why did it take you until **June 3, 2019** to get back to me? Coincidentally, not long after I accused ICAI of fraud." I assume this is also "...a legal matter and is not for me to comment on."?

4th paragraph: No, I have not yet taken legal action against ICAI. I'm hoping, once my Final Report is complete, that I will have sufficiently demonstrated/evidenced fraud on the part of ICAI for one of my suitably qualified readers to pursue a case against them.

After your most recent email below, I was going to ask you, during your assessment (whatever assessment means, it seems to be never ending nonsense), to verify whether the audit plan is legitimate (I believe it either never existed or ICAEW, ICAI and PwC lied about its scope of services), and then once your decision was made, take my email below (June 11, 2019) as my formal request for a copy of the plan with the generous confidentiality provisions I granted in effect. Unfortunately for me, as stated above, you cleverly 'front-runned' me by inserting PwC's permission condition (likely with PwC's blessing).

Therefore, I do not wish to continue to pursue my complaint through ICAEW as I have no confidence whatsoever in your process. I believe your intention is to put a band-aid on ICAI's fraudulent reply and/or other reason/motivation as per my email below. Your recent communications (and those of ICAI) only confirm my concerns about you in my Update Report, and reflect an organization which, although tasked with a critical Public oversight function, seems to make no effort to protect the Public interest, rather acts to support the defendant at all costs. It would have been nice to have heard you (and ICAI) just once show some fight on behalf of the Irish Public in your emails. Read them!

I hope I will find a legitimate and ethical body that will in future hold all of you accountable.

Please do not communicate with me further on this matter unless legal proceedings require you to do so in future.

Kind regards,
Maurice D. Landers

From: **Ian Harmer** <Ian.Harmer@icaew.com>
Date: Wed, Jun 12, 2019 at 10:01 AM
Subject: RE: Private and confidential: Your complaint against PricewaterhouseCoopers
To: Failte32 Failte32 <failte32@gmail.com>

Dear Mr Landers,

Thank you for your email.

As stated in my email yesterday, documentation obtained from the firm is confidential and so could only be shared with complainants with the firm's permission. It would therefore not be ICAEW's decision

whether the firm's documentation can be shared, but it would be the firm's decision whether to give their permission to share their documentation with complainants, whether redacted or otherwise.

Your email below refers to an audit plan. As I have not yet completed my assessment of your complaint, I have not yet concluded on whether there may be grounds for a complaint under ICAEW's bye-laws, whether it can be supported by evidence and whether the firm may have to be disciplined. As no such conclusion has been reached, I have not yet contacted the firm nor have I determined what, if any, documentation may be required. I am therefore unable to comment on any specific documents. The sharing, or otherwise, of documentation by any organisation or firm other than ICAEW is not for me to comment on.

Whether our disciplinary process would affect any documentation retention period required under law is a legal matter and is not for me to comment on.

I note in your email below that you refer to an accusation of fraud against ICAI. Please confirm whether there are any legal proceedings in relation to this matter.

As requested in my email yesterday, please confirm by 9 July 2019 whether you wish to continue to pursue your complaint through ICAEW.

Kind regards

Ian Harmer

Ian Harmer
Case Manager Professional Standards

T +44 (0)1908 546 338
E Ian.Harmer@icaew.com

ICAEW
Metropolitan House 321 Avebury Boulevard Milton Keynes MK9 2FZ
United Kingdom
icaew.com

From: Failte32 Failte32 [mailto:failte32@gmail.com]
Sent: 11 June 2019 14:13
To: Ian Harmer
Subject: Re: Private and confidential: Your complaint against PricewaterhouseCoopers

Dear Ian,

Thank you for your reply.

I'm curious as to why your didn't state in your original emails that which you stated in part below (I highlighted the word 'open'): "..our case remained **open** but our process was placed on hold..." ?

You originally stated: "It is customary in these cases that the regulatory body with primary jurisdiction conclude their process prior to any other regulatory body proceeding their own complaints process. As such we will now place our consideration of this matter on hold until Chartered Accountants Ireland have concluded their assessment."

Why wouldn't you just have stated that which you stated below: "Since Chartered Accountants Ireland has primary jurisdiction in disciplinary matters related to PwC Ireland, our case remained **open** but our process was placed on hold until the conclusion of their process."?

When you state in part below: "We cannot keep cases open indefinitely and so please inform me by 9 July 2019,..." XXXXXXXXXXXXXXXXXXXXredactedXXXXXXXXXXXXXXXXXXXX (personal comment not relevant)

When you state in part: "I have only been informed that this matter was considered by the Conduct Committee at its meeting on 5 February 2019 and.."

So why did it take you until **June 3, 2019** to get back to me? Coincidentally, not long after I accused ICAI of fraud.

When you state below: "Documentation obtained from the firm is confidential and..."

I'll remove any confidentiality concerns from the equation by stating: Should you claim confidentiality (we all know how confidentiality agreements potentially can be, and very often are, used to cover-up), I offer you the option of having a reputable independent body of my choosing verify its authenticity while preserving its 'confidentiality'. Anyhow, it being only a technical document describing "scope" areas, and therefore not confidential in the normal sense of the word, I can't imagine you refusing me a copy. However, if this is still not acceptable to you, I give you the flexibility to redact the 'confidential' information as this should still leave enough technical information available for a reputable independent oversight body or anyone else for that matter to determine whether the audit plan copy is legitimate, and by legitimate I mean that the date the audit plan was prepared can be verified (time stamped), and the non-redacted content (although I see no reason for you to redact any of it) will verify the decision I received from Chartered Accountants Ireland (ICAI), i.e.

"The scope of the internal audit work undertaken by the member firm was specific scope and the scope was agreed with and approved by the Audit Committee of the National Treasury Management Agency (NTMA) and the National Pension Reserve Fund (NPRF) Commission each year. The member firm provided us with a copy of internal audit plan for the NPRF as presented to, and subsequently agreed with, the NPRF Commission and the NTMA and the matter complained of appears to have been outside the scope of the internal audit work undertaken by the member firm."

Regarding your second last sentence below, where you state: "In terms of our complaints process, bye-laws and regulations, these are all available on our website icaew.com." in response to my request that you reassure me that you will provide a complete and ethical analysis, this sentence certainly says it all. Please don't refer me to bye-law links where I have to connect all the dots and figure out your 'analysis'.

Please provide me with a complete, legitimate and ethical analysis as I requested in my email below: "Anyhow, short of ICAEW providing me with a detailed explanation why it came to its conclusion/decision to reject my case (which we both know will be the outcome here), including not just providing references to particular Disciplinary Regulations (which is all ICAI provided) but providing me with a copy of these Regulations and how your decision directly relates to them. i.e. a legitimate and and ethical analysis, then please don't waste my time, I've more important things to do than entertain the continuation of this appalling behavior and cover up instead of PAB's doing the right thing by the Irish people like they're meant to. ICAI's 'analysis' effectively was one line or a very small paragraph, similar to those of Irish Government oversight bodies, but they put it in nice little square boxes to fluff it out and make it look all official. Please give me a complete and ethical analysis, not something from elementary school level."

Finally, I'll assume from your reply below (unless I hear otherwise, in which case I do not want ICAEW to continue its assessment of my case) that you have confirmed that no organization or firm will refuse release of the audit plan I requested of them on the basis that ICAEW is now assessing my case and that your assessment period will have no bearing on the document record retention period under law for the audit plan.

I look forward to your 'decision'.

Kind regards,
Maurice D. Landers

On Tue, Jun 11, 2019 at 5:16 AM Ian Harmer <Ian.Harmer@icaew.com> wrote:

Dear Mr Landers,

Thank you for your email.

Following receipt of your complaint in August 2017, we opened a case under our reference 040714/MATT. My initial role is to establish the subject of the complaint and whether ICAEW have jurisdiction over the individual and/or firm. Accordingly I confirmed that none of the individuals subject to your complaint were ICAEW members and that PwC were the internal auditors. You kindly informed me that the firm involved was PwC Ireland. Since Chartered Accountants Ireland has primary jurisdiction in disciplinary matters related to PwC Ireland, our case remained open but our process was placed on hold until the conclusion of their process.

As this has now concluded, I am in a position to continue my assessment of your complaint. My email to you dated 3 June 2019 was to establish whether you wished me to continue with our process or not. Your email below indicates that you have not yet decided whether you wish to continue with your complaint against PwC Ireland through ICAEW.

We cannot keep cases open indefinitely and so please inform me by 9 July 2019, being 28 days from today, whether you wish to pursue your complaint. If we do not receive confirmation by this date, the current case will be closed. We will, however, consider reopening the matter should you decide you wish us to consider the matter in the future. If you do wish me to continue with my assessment of your complaint, it is my role to determine whether there may be grounds for a complaint under ICAEW's bye-laws, whether it can be supported by evidence and whether the firm may have to be disciplined. If there are grounds for a complaint under ICAEW's bye-laws that can be evidenced, it would be at that point we would formally investigate the matter.

In relation to my contact with Chartered Accountants Ireland, I have only been informed that this matter was considered by the Conduct Committee at its meeting on 5 February 2019 and that the Conduct Committee concurred with the Head of Professional Conduct's assessment that the complaint did not concern a disciplinary matter which they should investigate. The member firm and complainant were both notified of the decision and this matter is now closed. We have not been informed of, provided with, or asked for any further details from Chartered Accountants Ireland.

Your email below refers to the fact that 'Complainants are not entitled to receive copies of materials generated or obtained in the course of case handling'. Documentation obtained from the firm is confidential and so could only be shared with complainants with the firm's permission. Please also note that our correspondence with you is private and confidential and should not be published without our consent. No such consent has been given.

In terms of our complaints process, bye-laws and regulations, these are all available on our website icaew.com.

As I have not yet completed my assessment of your complaint, I have not yet reached any conclusion or decision however you would be informed of our decision.

Kind regards

Ian Harmer

Ian Harmer
Case Manager Professional Standards

From: Failte32 Failte32 [mailto:failte32@gmail.com]
Sent: 10 June 2019 14:42
To: Ian Harmer <Ian.Harmer@icaew.com>
Subject: Re: Private and confidential: Your complaint against PricewaterhouseCoopers

Dear Ian,

I find your communication unusual in that sets an arbitrary date of June 17, 2019 for me to respond, otherwise my case will be closed? It's my prerogative to get back in touch with you re. my case, not for you to act on my behalf. If I decide to get back in touch with you, you can then set such a date, but you can't force it on me by unilaterally deciding to reply as if your complaints process was already initiated in my case. For example, suppose I was to state in a communication to you: "Please confirm by 17 June 2019 whether you wish me to continue to consider your refusal to investigate my complaint, otherwise the case will be opened." You have to admit, this would sound pretty ridiculous. I can't act on ICAEW's behalf. Your statement is similar to that which I have received after a PAB has already initiated its complaints process, made its decision (always a refusal in my case), and then offered me the (pretend) opportunity to appeal.

I had requested that you investigate my complaint but you effectively told me (2017) that it was 'customary' for ICAEW to hold off until ICAI completed their investigation (p. 159 Update Report). In your email below you state: "As such, ICAEW are now in a position to continue with our consideration of the matter if you wish to continue to pursue your complaint." I haven't yet made the decision as to whether "you wish to continue to pursue your complaint.", so how can I be held to an arbitrary date imposed upon me? And how can you say in the same sentence "...whether you wish us to continue to consider your complaint" AND ", otherwise the case will be closed." ? i.e. when you stated: "Please confirm by 17 June 2019 whether you wish us to continue to consider your complaint, otherwise the case will be closed.". How can it be closed if it hasn't yet been opened? (Remember, as above, you effectively told me (2017) that it was 'customary' for ICAEW to hold off until ICAI completed their investigation (p. 159 Update Report, link below)).

I can only assume that you've been pressured by ICAI to distract from their fraudulent reply/final decision, hence your need to act unilaterally on my behalf, in and of itself a possible fraudulent intention. In fact, ICAI omitted material information in its final and binding decision, and wouldn't answer my follow-up questions in this regard. Or perhaps by forcing me into a 'pretend' complaints process, you can reassure ICAI (and possibly PwC and others) that they can't be compelled by me (or a Judge) to hand over a copy of the audit plan, which I informed them (ICAI) I would try to do when, in response to their rejecting my request for a copy, I stated: "I will however try to compel ICAI one way or another to release this document which I believe will prove my case against the Irish Government, and now you." No doubt they've informed you of this.

ICAI stated in part in its decision: "A query has been raised as to whether the audit plan provided to the Executive by the member firm related to the correct period and in this regard I am satisfied. Complainants are not entitled to receive copies of materials generated or obtained in the course of case handling"

Therefore, if you open a case at my request or unilaterally try to force open a complaints process on my behalf, ICAI or anyone else for that matter can state at a later date that "Complainants are not entitled to receive copies of materials generated or obtained in the course of case handling". In this case, it would now be ICAEW doing the "case handling". Is this what you're trying to achieve by unilaterally acting on my behalf? Please confirm this is not the case. You could delay a decision on my case for many months, and later have IAASA do likewise, by which time PwC, ICAI, ICAEW and IAASA could all claim that the document record retention period under law for the audit plan has expired and the document no longer exists.

And perhaps by initiating a 'pretend' ICAEW investigation/complaints process (and lets be clear here, we both know that ICAEW has no intention of doing any type of investigation, nor saying anything that would contradict ICAI or the other oversight bodies that have covered up my case) it will add more credibility to their (PwC, ICAI etc.) decisions against me so as to give the impression that 'we can't all be wrong'? But I don't think those reading my Reports will buy it and I just hope some day that my Reports will act in a way to hold PAB's accountable, ideally by being disbanded as meaningless (oversight) and dangerous organizations that will magnify the next financial crisis.

Anyway, short of ICAEW providing me with a detailed explanation why it came to its conclusion/decision to reject my case (which we both know will be the outcome here), including not just providing references to particular Disciplinary Regulations (which is all ICAI provided) but providing me with a copy of these Regulations and how your decision directly relates to them. i.e. a legitimate and and ethical analysis, then please don't waste my time, I've more important things to do than entertain the continuation of this appalling behavior and cover up instead of PAB's doing the right thing by the Irish people like they're meant to. ICAI's 'analysis' effectively was one line or a very small paragraph, similar to those of Irish Government oversight bodies, but they put it in nice

little square boxes to fluff it out and make it look all official. Please give me a complete and ethical analysis, not something from elementary school level.

If you can't provide me with (or confirm) the above, please let me know. I'll decide at another time whether I want you to consider my complaint with your organization, not you.

<http://www.eoi.at/d/EOI%20-%20Jahresberichte/Irland/Irl-update%20Report%20February%202018.pdf>

Kind regards,
Maurice D. Landers

On Mon, Jun 3, 2019 at 8:24 AM Ian Harmer <ian.harmer@icaew.com> wrote:

Dear Mr Landers,

I write further to your complaint against PwC Ireland under our reference 040714/MATT.

I am aware that the Conduct Committee of Chartered Accountants Ireland concluded that the complaint did not concern a disciplinary matter which they should investigate and have now closed their case. As such, ICAEW are now in a position to continue with our consideration of the matter if you wish to continue to pursue your complaint.

Please confirm by 17 June 2019 whether you wish us to continue to consider your complaint, otherwise the case will be closed.

Kind regards

Ian Harmer

Ian Harmer
Case Manager, Professional Standards

T +44 (0)1908 546 338
E ian.harmer@icaew.com

ICAEW
Metropolitan House 321 Avebury Boulevard Milton Keynes MK9 2FZ
United Kingdom
icaew.com

ATTACHMENT A

If I'm satisfied that the audit plan is legitimate, I will drop my case/complaint against PwC.

If, on the other hand, I do not receive the above from you, I will assume you are possibly trying to hide something (and therefore not willing to hold those responsible accountable), and will interpret your actions as possibly suggesting your part in the Irish Government's cover up. I realize there would be a domino effect should ICAI at this stage rule in favor of my complaint in that those oversight bodies who have already ruled against it would now be seen to be compromised, but that's no reason for ICAI to tarnish its reputation by following suit if by doing so would be contrary to the correct and honest course of action. Of course, I may be wrong but we'll let everyone else determine that.

I believe you also have to provide me with a decision on the complaint you opened against your member, Mr. Paul Carty, as a Commissioner of the NPRF Commission.

Apart from this email, I do not have any further representations that I wish to make in relation to my complaint."

(4.1)

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Tue, Apr 23, 2019 at 11:51 AM
Subject: Re: File Ref: 17/058
To: Deborah Ray <Deborah.Ray@charteredaccountants.ie>

Dear Conduct Committee,

I would now like a copy of the audit plan given to you by PwC.

You state in your decision:

"A query has been raised as to whether the audit plan provided to the Executive by the member firm related to the correct period and in this regard I am satisfied. Complainants are not entitled to receive copies of materials generated or obtained in the course of case handling"

Since my case is now closed, and no longer being handled, I would like a copy of this material.

Kind regards,
Maurice D. Landers

From: **Aideen Mawe** <Aideen.Mawe@charteredaccountants.ie>
Date: Mon, Apr 29, 2019 at 11:37 AM
Subject: RE: File Ref: 17/058
To: failte32@gmail.com <failte32@gmail.com>
Cc: Marie Byrne <Marie.Byrne@charteredaccountants.ie>

Dear Mr Landers

I refer to previous correspondence in relation to Case Reference 17/058.

It is important to note firstly that this matter has been addressed in accordance with Chartered Accountants Ireland's disciplinary process and the Conduct Committee's decision of 5 February 2019 is final; accordingly this matter is at an end. A Complainant has no entitlement to the information / documentation you are seeking and it will not be provided.

Thank you for your co-operation.

Regards

Aideen Mawe
Professional Standards

Chartered Accountants Ireland

Chartered Accountants House | 47 Pearse St, Dublin 2, Ireland
Android: [NewsDesk App](#) | Apple: [NewsDesk App](#)
Phone: +353 1 637 7336 | Reception: +353 1 637 7200

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Mon, May 20, 2019 at 8:35 AM
Subject: Re: File Ref: 17/058
To: Deborah Ray <Deborah.Ray@charteredaccountants.ie>, Marie Byrne <Marie.Byrne@charteredaccountants.ie>, <carine.pessers@charteredaccountants.ie>, Aideen Mawe <Aideen.Mawe@charteredaccountants.ie>

Dear Conduct Committee,

You have not replied to my email below dated March 15, 2019.

You did however reply to my subsequent email dated April 23, 2019.

Is there a reason why you haven't replied? Are you unable to reply because you have indeed committed a fraudulent act?

Kind regards,
Maurice D. Landers

Reply of Conduct Committee to above email:

<http://www.failte32.org/wp-content/uploads/2019/07/190522-letter-to-complainant.pdf>

I repeated my request but heard nothing back.

Part B

Read from top down.

(1)

Initial decision by ICAI:

From: **Derek Dee** <Derek.Dee@charteredaccountants.ie>
Date: Fri, Jun 8, 2018 at 8:58 AM
Subject: RE: 17/081 Mr Paul Carty - National Pensions Reserve Fund Commission
To: Failte32 Failte32 <failte32@gmail.com>

Dear Mr Landers,

I refer to previous correspondence in relation to the above matter resting with your email dated 25 October 2017.

Please note, the Institute's disciplinary process is private and confidential, correspondence and documentation sent by Professional Standards to you may not be disclosed to or discussed with third parties.

I have reviewed your complaint that the member as a Commissioner of the National Pension Reserve Fund (NPRF) Commission was a party to the misrepresentation of the transfer of funds between entities and the awarding of funds from Innovation Fund Ireland without following correct tendering and evaluation procedures and determined that your complaint does not concern a disciplinary matter in relation to the member. The reason for the determination is as follows:



**CHARTERED
ACCOUNTANTS
IRELAND**

Strictly Private and Confidential

By email only to: failte32@gmail.com

Chartered Accountants House
47-49 Pearse Street
Dublin 2, D02 YN40

Tel +353 1 637 7200
Fax +353 1 637 7369

Email professionalstandards@charteredaccountants.ie
www.charteredaccountants.ie

22 May 2019

File Ref: 17/058

Dear Mr Landers

I refer to your email of 20 May 2019.

As previously advised, your complaint has been assessed and it has been determined that it does not concern a disciplinary matter. The Case Manager, the Head of Professional Conduct and the Conduct Committee were each provided with copies of all correspondence relating to this matter at the time they carried out their assessments. As a complainant you have been provided with all the information, documentation and rights to which you are entitled under the process. That process has concluded and our file is closed.

Yours sincerely,

Carine Pessers
Secretary to the Conduct Committee
Professional Standards

Barry Dempsey | Chief Executive Heather Briers, FCA | Secretary



Belfast Office The Linenhall, 32-38 Linenhall Street, Belfast BT2 8BG

(from NI) Tel 028 9043 5858 Fax 028 9031 9320

(from ROI) Tel 048 9043 5858 Fax 048 9031 9320

Email professionalstandards@charteredaccountants.ie

The regulatory and disciplinary function of the Institute are overseen independently by the Chartered Accountants Regulatory Board

A True Copy of the Original

THE HIGH COURT

RECORD NO.

In the matter of the Freedom of Information Acts

2020/53 MCA

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "H" referred to in the Affidavit of Maurice D. Landers

Sworn before me by the said

on the 18th day of Feb 2020, at Citibank

Maurice D Landers

in the city/county of New York / Dutchess

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

Maurice D Landers

whose identity has been established by reference to a relevant document (

N.Y.S. Driver Lic

containing a photograph

[Signature]

Commissioner for Oaths/Practicing Solicitor

Janet Gerena
Notary Public, State of New York
No. 01GE6223275
Qualified in Dutchess County
Commission Expires 11/21/2022

find out that ICAI has jurisdiction over my case per its third letter to me (quote in paragraph immediately above) from the time they wrote their first letter to me to when they wrote their third letter to me? The only conclusion I can draw is that they read the response I sent to ACCA as ACCA were the only ones to whom I confirmed ICAI's jurisdiction over PwC.

This supports my postulation above that there was collusion between both ACCA and ICAEW.

Note: In ICAEW's third letter to me, you might get the impression that they 'indirectly' confirmed their jurisdiction over PwC after I had confirmed that it was the PwC Dublin branch. No, it was my prior responses to them (below) that left them with no other choice.

I also find the first sentence of the last paragraph of ICAEW's first letter to me very unusual. It states: "If you have any evidence to demonstrate that the individuals named above were in fact ICAEW members at the time to which your complaint refers, or were holding themselves out to be ICAEW members, please provide me with this evidence by 2 October 2017."

I'm not ICAEW, they are, so why would they ask me to provide evidence "to demonstrate that the individuals named above were in fact ICAEW members at the time to which your complaint refers..." Wouldn't they know this? Aren't they meant to know who their members are or were?

Some other points on sequence of events above

a) Once I subsequently challenged ICAEW on what seems like their defense of PwC in their first letter (Exhibit 24) to me (my email responses below beginning September 19th, 2017, after receiving ICAEW's first letter), they then seemingly proceeded to cover their tracks in their second letter to me on September 28th, 2017 (Exhibit 14) by effectively offering me a chance to make a specific allegation against PwC.

That is, in ICAEW's second letter to me they still argue that PwC was the internal auditor but this time they give me a chance to "..., we would need a specific allegation of what you believe PwC has done wrong in their role as Internal Auditor and provide evidence of this."

As if I hadn't already provided this in all of the emails and the complaint form they received from me above (Section 2), but instead they make out that all of this information/evidence and my request for an investigation was just "We are unable to make inquiries as to whether PwC has adhered to applicable standards nor make general inquiries."

b) In addition, ICAEW asked me to confirm whether my complaint is against "PwC Ireland or another PwC member firm" so that it could establish whether it has jurisdiction over the firm. Am I meant to believe that ICAEW didn't know (or couldn't check) that PwC Ireland was 1. a member firm of ICAEW and 2. most likely the PwC firm in question here? What other firm could it be, PwC China? (see Reply H beginning narrative where I address this)

c) ICAEW's second letter stated in part:

"It only covers the areas which have been agreed as part of their scope of services and so does not necessarily cover all areas of the organization."

I replied (email below dated September 30, 2017):

“Regarding 'selective scope' below, if PwC is claiming (or being prompted to claim) some sort of limited scope of services, I would like to see this agreement, time stamped (2010/2011), and how it might exclude my allegations which I assume might be the effort here.”

Note: My reference to 'selective scope' above pertains to my email reply a day earlier to ICAEW (Ian) on September 29, 2017.

PwC, in its only letter/response to me on November 3, 2017, effectively made the same statement (Reply H) as that made by ICAEW above. Therefore, before I had even received PwC's letter/response, I got the impression (quote above - “if PwC is claiming (or being prompted to claim)”) that ICAEW was somehow stating (or crafting) PwC's position of, as I have referred to it in my email replies to ICAEW, 'selective scope'.

d) After I responded to their second letter to me (emails September 29 and 30 below), it would seem ICAEW decided to try to find some way to deflect me away from them, and upon likely receipt of my response to ACCA (sent to ACCA on October 13th, 2017, [Exhibit 19](#)) they found the perfect 'out,' ICAI, as evinced in their third letter to me on October 18th, 2017 ([Exhibit 23](#)).

e) Finally, ICAEW's third letter states: “It is customary in these cases that the regulatory body with primary jurisdiction conclude their process prior to any other regulatory body proceeding their own complaints process. As such we will now place our consideration of this matter on hold until Chartered Accountants Ireland have concluded their assessment.”

Note the use of the words “It is customary...” above. ICAEW is a 'standards' body whose practices should go beyond just custom and result in excellent independent and impartial opinion, instead of passing the buck to another PAB. Do they just make this 'customary' stuff up as they go along?

Perhaps my responses to ACCA on October 13th, 2017 ([Exhibit 19](#)) and to ICAEW on September 29 and 30 (emails below) were indisputable such that both bodies decided to follow the Irish Government's example and run for the hills to avoid possibly having to hold PwC accountable? Further down (Reply G), you will see that ICAI also seems to 'deflect' responsibility away from itself.

You can read all three letters yourself and draw your own conclusions.

Please start reading from email dated Sep 18, 2017 on p.170 back to this page, then move onto Reply G p.171.

From: **Ian Harmer** <ian.harmer@icaew.com>
Date: Wed, Oct 18, 2017 at 7:00 AM
Subject: RE: Your complaint against PricewaterhouseCoopers and others
To: Failte32 Failte32 <failte32@gmail.com>

Dear Mr Landers,

Thank you for your email below. Please find a letter attached in response to your email.

Kind regards

Ian Harmer

Note from the author of this update Report – The attachment in the email communication immediately above is Exhibit 23 in this update Report.

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Mon, Oct 2, 2017 at 11:45 PM
Subject: Re: Your complaint against PricewaterhouseCoopers and others
To: Ian Harmer <Ian.Harmer@icaew.com>

Dear Ian,

I was informed by the NTMA that the PwC branch referenced in the NPRF Commission's Annual Report and Financial Statements 2010 was the Dublin, Ireland branch.

Kind regards,
Maurice D. Landers

On Sat, Sep 30, 2017 at 2:22 AM, Failte32 Failte32 <failte32@gmail.com> wrote:

Dear Ian,

I would just like to expand on a couple of points I made below for clarity and before my Oct. 12th deadline.

Regarding 'selective scope' below, if PwC is claiming (or being prompted to claim) some sort of limited scope of services, I would like to see this agreement, time stamped (2010/2011), and how it might exclude my allegations which I assume might be the effort here.

As I stated in my prior email:

"Since PricewaterhouseCoopers was the internal auditor of the National Pensions Reserve Fund Commission's Annual Report and Financial Statements 2010, and is clearly referred to in the 'Oversight' and 'Key Control Procedures' sections (p.29/30 & 42), I would also like to find out if PwC adhered to all applicable and appropriate accounting/auditing standards (ethics, good governance etc.)?"

Specifically, on p. 29 of the NPRF Commission's Annual Report and Financial Statements 2010, it states:

"Operational Risk

Operational risk is the risk that inadequate or failed internal processes and controls, people, systems or external events may give rise to losses. The Commission's aim is to minimise operational risk.



28 September 2017

Our Ref: 040714/MATT

Private and confidential

Mr M Landers

XXXXX XXXXX

USA

By Email Only: failte32@gmail.com

Dear Mr Landers

Your complaint against PricewaterhouseCoopers (PwC).

Thank you for your email dated 20 September 2017.

I understand that the role of PwC in this matter was that of the Internal Auditor. The Chartered Institute of Internal Auditors (www.iaa.org.uk) states that the role of internal audit is 'to provide independent assurance that an organisation's risk management, governance and internal control processes are operating effectively.'

The Internal Auditor reports to the board and senior management who are within the organisation's governance structure. Their objective is to evaluate and improve the effectiveness of governance, risk management and control processes to provide members of the boards and senior management with assurance that helps them fulfil their duties to the organisation and its stakeholders. It only covers the areas which have been agreed as part of their scope of services and so does not necessarily cover all areas of the organisation. The responsibility for improvement is the responsibility of management and not of the Internal Auditor.

This is in contrast to the External Auditor who reports to shareholders or members who are outside the organisation's governance structure. Their objective is to provide assurance to the financial reports of the organisation to its stakeholders by giving their opinion on the report.

In order for us to assess whether there is potential liability to disciplinary action under the ICAEW bye-laws, we would need a specific allegation of what you believe PwC has done wrong in their role as Internal Auditor and provide evidence of this. We are unable to make enquiries as to whether PwC has adhered to applicable standards nor make general enquiries.

If you are able to make a specific complaint, you would also need to confirm whether this is against PwC Ireland or another PwC member firm so that we can establish whether we have jurisdiction over the firm.

If you have any comments or additional evidence, please send them to me by 12 October 2017. If I do not hear from you by this date, I will assume that there is nothing you wish to add and I will close the file. If, during that time, someone makes further relevant information available, we may reconsider the matter.

Yours sincerely

Ian Harmer

Case Manager, Professional Conduct, Professional Standards

T +44 (0)1908 546 338 E Ian.Harmer@icaew.com

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Private and confidential

Mr Maurice Landers
(by e-mail to failte32@gmail.com)

3 November 2017

Dear Mr Landers

As referred in your correspondence, PwC Ireland was appointed by the National Treasury Management Agency (the "Agency") as internal auditors for the financial years ending 31 December 2009, 2010 and 2011. The National Pension Reserve Fund ("NPRF") was among a number of entities which were included under the overall engagement letter with the Agency.

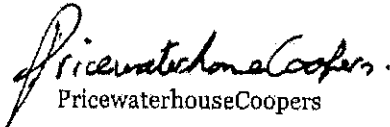
Our work was performed in accordance with the Auditing Practices Board's Auditing Guideline – "Guidance for Internal Auditors", and with the terms of reference as set out in our engagement letter. In performing our work we had regard to the professional statements issued by the Institute of Internal Auditors, UK & Ireland and the Institute of Chartered Accountants in Ireland.

We complied with all relevant standards in the course of carrying out this work

We were not engaged to prepare or review the financial statements of the NPRF for the year ended 31 December 2010.

For reasons of client confidentiality, we are not in a position to comment further.

Yours sincerely



PricewaterhouseCoopers

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T: +353 (0) 1 792 6000, F: +353 (0) 1 792 6200, www.pwc.ie

Feargal O'Rourke (Managing Partner - PricewaterhouseCoopers Ireland)

Oliwyn Alexander Paul Barria Brian Bergin Fideima Boyce Damian Byrne Pat Candon John Casey Mary Cleary Slobhán Collier Thérèse Cregg Richard Day Fiona de Búrca John Dillon Ronan Doyle John Dunne FCCA Kevin Egan Martin Freyne Aisla Hayden FCCA Olivia Hayden Paul Hennessy Gareth Hynes Ken Johnson Patricia Johnston Paralc Joyce Andrea Kelly Joanne P. Kelly John Loughlin Gillian Lowth Vincent MacMahon Declan Maunsell Enda McDonagh John McDonnell Dairdra McGrath Ivan McLoughlin Declan Murphy Damian Neylin Andy O'Callaghan Jonathan O'Connell Denis O'Connor Paul O'Connor Irene O'Keefe Ger O'Mahoney Padraig Osborne Ken Owens Anthony Reidy Mary Ruane Emma Scott Mike Sullivan Eilily Sweetman Paul Tuite

Located at Dublin, Cork, Galway, Kilkenny, Limerick, Waterford and Wexford

Chartered Accountants

PricewaterhouseCoopers is authorised by Chartered Accountants Ireland to carry on investment business.

A True Copy of the Original

THE HIGH COURT

RECORD NO.

In the matter of the Freedom of Information Acts

2020/53 MCA

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "1" referred to in the Affidavit of Maurice D. Landers

Sworn before me by the said

on the 18th day of Feb 2020, at

atibank *Maurice D Landers*

in the city/county of

New York Dutchess

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

Maurice D Landers

whose identity has been established by reference to a relevant document (containing a photograph

N.Y.S. Driver Lic

Janet Gerena

Commissioner for Oaths/Practicing Solicitor

Janet Gerena
Notary Public, State of New York
No. 01GE6223275
Qualified in Dutchess County
Commission Expires 11/21/20 22

Our Reference OIC-58612-G9F7Z0

Mr Maurice Landers
By email: mauricelanders@yahoo.com

17 January 2020

Dear Mr Landers

I refer to a review by this Office of the decision of National Treasury Management Agency (NTMA) on your FOI request for access to records. In particular you requested internal audit plans for the financial years ending 31 December 2009, 2010 and 2011 as per your engagement with PwC”.

This case has been assigned to me for investigation and recommendation. The purpose of this email is to provide you with a summary of NTMA’s submissions in this case and to give you the opportunity to make any final comments, if you so wish.

Section 15(1)(a) – Adequacy of Search

This case involves a search issue under Section 15(1)(a) of the FOI Act. Section 15(1)(a) provides that an FOI body may refuse to grant a request where the records sought either do not exist or cannot be found after all reasonable steps to ascertain their whereabouts have been taken. The Commissioner’s role in such cases is to review the decision of the FOI body and to decide whether the decision was justified. This means that the Commissioner must have regard to the evidence available to the decision maker in arriving at his/her decision. The evidence in “search” cases generally consists of the steps actually taken to search for the records along with miscellaneous and other information about the record management practices of the FOI body, insofar as those practices relate to the records in question.

It is important to note that the FOI Act does not require absolute certainty as to the existence or location of records, as situations arise where records are lost or simply cannot be found. Furthermore, this Office can find that an FOI body has satisfied the requirements of Section 15(1)(a), even where records that an applicant believes ought to exist have not been located.

Please also be advised, that this Office does not examine the manner in which public bodies carry out their functions generally, nor does it investigate complaints.

National Treasury Management Agency’s Submission

In conducting this review, I sought a submission from National Treasury Management Agency ("NTMA") in relation to the details of searches undertaken to locate the records relevant to your request. Provided below is a summary of NTMA's submissions:

- By way of background, the NTMA outlined that The National Pensions Reserve Fund ("NPRF") was established pursuant to the National Pensions Reserve Fund Act, 2000 (as amended) and the NTMA was appointed as the manager of the NPRF and acts as the agent of the National Pensions Reserve Fund Commission in the performance of its statutory function.
- You made a general inquiry to NTMA on 5 June 2019 and on foot of this, enquiries were made in order to establish what records were held relating to the scope of audit work undertaken by PwC during the relevant years. The staff member who performed the role of NPRF Commission Secretary was contacted and asked to locate any relevant records held in relation to audit plans of National Pension Reserve Fund. Electronic searches for these records were carried out and no records categorised as internal audit plans were located. NTMA understands that PwC did not submit final or formal audit plans once an audit plan was agreed at Audit Committee level.
- Following your FOI request to NTMA on 6 September 2019, NTMA was satisfied that the searches previously conducted for your general query had located all records held by NTMA within the scope of your request, i.e., *"internal audit plans for the financial years ending 31 December 2009, 2010 and 2011 as per your engagement with PwC"*.
- This decision was appealed by way of Internal Review on 15 October 2019 and further enquiries were undertaken to identify and locate any records entitled or comprising the final agreed 'internal audit plans'. Staff members considered most likely to have had involvement in the NPRF internal audit process were requested to undertake manual and electronic searches (using key words) for any relevant records. These further searches did not identify any additional records entitled or comprising internal audit plans for the NPRF for the years in question. The internal reviewer decided to vary the original decision and administratively refuse access on the basis that the requested internal audit plans, as sought by you, did not exist.
- It is NTMA's position, based on the appropriate and adequate searches carried out, the knowledge of former NPRF Commission Secretary, relevant staff members and the content of the applicable Audit Committee minutes that no internal audit plans were ever received or subsequently destroyed. Therefore, NTMA is satisfied that no PwC internal audit plans exist for the years in question and that the only records located relating to the scope of the internal audit work carried out by PwC have already been provided to you.

Conclusion

Having carefully examined NTMA's submissions, it would appear that no records exist or can be found in relation to your FOI request. Presently, I am of the view that NTMA has conducted all reasonable searches to locate the relevant records and that Section 15(1)(a) of the FOI Act applies. Therefore, should this case proceed to a formal legally binding decision, I intend to recommend to the Senior Investigator that he affirm the decision of the NTMA under Section 15(1)(a).

Having considered my view above, you may wish to consider withdrawing your application for review at this time. If you choose to do so, this case will be treated as closed. This offer does not affect your rights and if you do not wish to withdraw, this case will progress to a formal, legally binding decision, which will be anonymised and published on our website. This should not in any way be interpreted as an attempt to persuade you to withdraw your application for review. Rather, I am merely ensuring that you are fully informed of all relevant matters before deciding as to how best to proceed.

If you have any further comments in relation to the above or if you wish to withdraw your application for review, please forward your response to this Office at your earliest convenience and by no later than **31 January 2020**.

Please note, that should I not hear from you by **31 January 2020**, this Office may proceed to issue a formal, legally binding decision without further reference to you. Feel free to contact me should you require any clarification on the above.

Yours sincerely

Anne Greenalgh
Office of the Information Commissioner



An Coimisinéir Faisnéise
Information Commissioner

Review Application to the Information Commissioner under the
Freedom of Information Act 2014 (the FOI Act)

- Case Number:** OIC-58612-G9F7Z0
- Applicant:** Mr Maurice Landers
- Public Body:** National Treasury Management Agency (NTMA)
- Issue:** Whether the NTMA was justified in refusing access to internal audit plans for the National Pensions Reserve Fund for the years ending 31 December 2009, 2010 and 2011, under Section 15(1)(a) on the basis that the records do not exist.
- Review:** Conducted in accordance with section 22(2) of the FOI Act by Stephen Rafferty, Senior Investigator, who is authorised by the Information Commissioner to conduct this review
- Decision:** The Senior Investigator affirmed the NTMA's decision.
- Right of Appeal:** Section 24 of the FOI Act sets out detailed provisions for an appeal to the High Court by a party to a review, or any other person affected by the decision. In summary, such an appeal, normally on a point of law, must be initiated not later than four weeks after notice of the decision was given to the person bringing the appeal.

Background

On 5 June 2019, the applicant submitted a request to the NTMA for copies of the internal audit plans for the National Pensions Reserve Fund (NPRF) for financial years ending 31 December 2009, 2010 and 2011 as per NTMA's engagement with PwC. Following correspondence between the parties, it was subsequently agreed to process the applicant's request under FOI.

In a decision dated 24 September 2019, the NTMA stated that it had conducted searches and located three audit plan presentations dated 2009, 2010, and 2011, copies of which were released. The applicant sought an internal review of the NTMA's decision on the ground that he wanted access to the audit plans. On 6 November 2019, the applicant sought a review by this Office of the deemed refusal of his request. On 8 November 2019, the NTMA issued its internal review decision in which it refused the request on the basis that the requested internal audit plans did not exist and that the records of most relevance to the request had been released to the applicant in full.

I have now completed my review in accordance with section 22(2) of the FOI Act. During the course of the review, this Office provided the applicant with details of NTMA's submissions regarding the searches it had conducted in response to his request. Ms Greenalgh of this Office informed the applicant of her view that NTMA had carried out all reasonable steps in an effort to ascertain the whereabouts of the records sought and that it was justified in refusing the request on the ground that the records sought did not exist. She invited the applicant to make a further submission on the matter. In response, the applicant said he did not wish to withdraw his application for review.

I have decided to conclude this review by way of a formal, binding decision. In conducting the review, I have had regard to the correspondence between the applicant and NTMA and to the communications between this Office and both NTMA and the applicant on the matter.

Scope of Review

This review is concerned solely with the question of whether the NTMA was justified in refusing access to the internal audit plans for the NPRF for the years ending 31 December 2009, 2010 and 2011.

Analysis and Findings

Section 15(1)(a) of the FOI Act provides that access to records may be refused if the records concerned do not exist or cannot be found after all reasonable steps to ascertain their whereabouts have been taken. The role of the Commissioner in a case involving section 15(1)(a) is to decide whether the decision maker has had regard to all of the relevant evidence and, if so, whether the decision maker was justified in coming to the decision that the records do not exist or cannot be found, after all reasonable steps to ascertain their whereabouts have been taken. The evidence in such cases includes the steps actually taken to search for records. It also comprises miscellaneous other evidence about the record management practices of the FOI Body, on the

basis of which the decision maker concluded that the steps taken to search for records were reasonable.

In submissions to this Office, the NTMA provided details of searches conducted to identify and locate any records entitled or comprising the final agreed 'internal audit plans'. As this Office has already provided the applicant with those details, I do not propose to repeat them in full here.

In summary, the NTMA said that on foot of the request, the staff member who performed the role of NPRF Commission Secretary was asked to search for relevant records and no relevant internal audit plans were located. It said it understands that PwC did not submit final or formal audit plans once an audit plan was agreed at Audit Committee level. It said further searches were conducted at internal review stage. Staff members considered most likely to have had involvement in the NPRF internal audit process were requested to undertake manual and electronic searches (using key words) for any relevant records. These searches did not identify any additional records entitled or comprising internal audit plans for the NPRF for the years in question.

It is the NTMA's position that based on the searches it carried out, the knowledge of the former NPRF Commission Secretary, relevant staff members and the content of the applicable Audit Committee minutes, that no PwC internal audit plans exist for the years in question. The only records located relating to the scope of the internal audit work carried out by PwC have already been provided to the applicant.

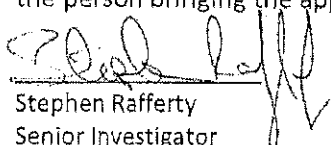
Having considered the NTMA's description of the searches undertaken and of the consultations that took place with members of staff, I am satisfied that it has carried out all reasonable steps in an effort to locate the audit plans sought by the applicant. I find, therefore, that the NTMA was justified in refusing access to the records sought on the grounds that the records cannot be found or do not exist.

Decision

Having carried out a review under section 22(2) of the FOI Act, I hereby affirm the decision of the NTMA to refuse access to the internal audit plans for the National Pensions Reserve Fund for the years ending 31 December 2009, 2010 and 2011 on the grounds that the records sought do not exist.

Right of Appeal

Section 24 of the FOI Act sets out detailed provisions for an Appeal to the High Court by a party to a review, or any other person affected by the decision. In summary, such an appeal, normally on a point of law, must be initiated not later than four weeks after notice of the decision was given to the person bringing the appeal.


Stephen Rafferty
Senior Investigator
24 January 2020

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:



MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

I Maurice D. Landers a Fire Safety Director of 3 Talbot Court, Millview Road, Malahide, Co. Dublin and 3080 33rd St., Astoria, New York 11102, aged eighteen years and upwards MAKE OATH and say as follows:

I'm unable to respond to the Information Commissioner's Points of Opposition and Affidavit of Stephen Rafferty received on May 2, 2020, with the benefit of legal guidance as I cannot find one solicitor/lawyer in Ireland, including those who are meant to take cases against the state, who will take my case (see Exhibit 1). Therefore, I have to represent myself not out of choice but rather out of necessity.

Included in Exhibit 1(A) is a sample (a few hundred) of the approx. 1000 emails I sent to Irish solicitors back in 2014/2015 wherein I requested from them an expert opinion on my case. I received about 10 replies, none of which accepted my case. If this Honorable Court wants to see all 1000 emails, I can provide them either in print form or this Honorable Court can access my Gmail account to view them.

Additionally, as recent as the second part of last year (2019) I made another request to some of the 10 Irish solicitors above, including those that, according to Transparency International Ireland, are listed as solicitors who take actions against the State, for an expert opinion on my case, and none got back to me. (Exhibit 1(B))

I also sent my request for assistance to Irish law organizations including repeatedly to the Bar Council and the Law Society of Ireland. I didn't receive a response from either.

I ask this Honorable Court to consider not only the technical merits of my argument below but to also equally consider and invoke the spirit of the law in this case (the spirit of the law unfortunately seems to have been relegated to word games today by Ireland's oversight bodies) to compensate for my lack of the requisite legal knowledge and support necessary to fully defend my case. I'm just asking for the release of a document that's very pertinent to my case, that's easily accessible and is critical to getting

to the bottom of this case, and either giving the Public confidence in our oversight system if I'm wrong, or if I'm right, justice for what I believe has been fraud and deception on the part of the Irish Government and others in this case.

Having been fortunate enough to have come from an Irish family that instilled in me the importance of doing the right thing in life, which ultimately led me to firmly believe in the importance of ethical practice in life and in business, not just from the standpoint of doing the right thing and the importance of ethical practice in the process of lawmaking, but also from the standpoint of the value that ethical practice can provide companies in terms of 'currency' by being seen by investors, financiers and others as a good risk (possibly even a transformative model for some businesses if they're smart enough to incorporate ethics into their strategic plans), I'm now beginning to believe that my efforts over all these years trying to hold the Irish Government accountable have been a senseless pursuit, a fool's errand, to try and change something that can never be changed. The 'oversight' institutions in Ireland seem to practice the very opposite of what they were originally intended to practice when it comes to holding the Irish Government accountable.

What's mind-boggling to me is that the Information Commissioner argues against doing everything possible to get this document in his public interest role. Why wouldn't he just request this document in the normal course of business? His job is certainly not to protect the PwC's and ICAI's of this world or any specific corporations or organizations, so any type of argument against getting this document is moot in my opinion. There is no defense to not releasing this document. If the Information Commissioner's defense is such that it puts the Irish Government and two other organizations (PwC and ICAI) above the public interest, then his defense is inappropriate. If his defense was because it was supporting the public interest, then that's fine, but it's not. The Information Commissioner's role is a public interest role, not a 'point of law' role.

Anything that is in the public's interest in the context of this case is the job of the Information Commissioner, and that is why he has "significant powers". (See 'Powers of the Information Commissioner' under Re. Point 9 below, Appellant's Response to Affidavit of Stephen Rafferty)

The question therefore that needs to be asked and answered is, "How is the Information Commissioner's defense in the public interest? If he was acting in the public interest, I believe he would not be putting up this defense. This question has to be answered first before the Information Commissioner's defense is to be given any credibility, as ultimately, if he wins this case, the only beneficiaries here will be PwC, ICAI (who I have proven acted at least deceptively in this case - See Exhibit 2) and certain members of the Irish Government. How is this in the public interest? The public is completely left out of the picture. How does the public benefit from this? I'm just asking for the release of a document that's very pertinent my case.

Additionally, I believe if there is any case where a merits-based appeal is applicable, it's in the case of the Information Commissioner and his public interest role, although I believe my responses to the Points of Opposition and Affidavit of Stephen Rafferty subscribe to an appeal on a point of law.

I believe it's important that I mention the following for some additional context. I found the Information Commissioner's representative's interaction with me outside of the court room inappropriate in that it seemed to be harassing in nature. I understand that generally what happens outside the court room is not relevant here, but I assume this does not apply to a situation where one is being harassed. Having flown over from New York earlier in 2020 for a few days in order to attend this Honorable Court, I

believe I had a right to follow the legal process/procedure of the Court and attend the 'for mention' in person, particularly since it was my first time attending the High Court. I had made it very clear in prior emails to Mr. Fitzgerald that I did not want to consent to an adjournment instead of attending this Honorable Court in person (Exhibit 3).

However, when I was outside the court room awaiting the 'for mention', I was approached by Mr. Fitzgerald who again asked for my consent. I found it unusual that, since we were both right outside the court room anyway and about to enter it, he felt an urgent need to again make this request. He was not happy that I again declined. I just told him that since I was new to all of this, I would prefer to follow the established procedure and respectfully that I did not want to discuss it further until we were in the presence of the Honorable Judge.

Why would he not want me to attend this Honorable Court particularly after having traveled from the US a few days earlier, of which he was aware?

About ten minutes later, I was again approached by Mr. Fitzgerald outside the court room who again asked for my consent. When I again declined, he proceeded to inform me that the Information Commissioner was going to fight this case on a point of law, and that he was going to get me to pay all of the costs for this case. I responded accordingly.

After the 'for mention' was adjourned by the Honorable Court, just outside the court house I made a request of Mr. Fitzgerald to agree to my not having to attend the next 'for mention' on April 27, 2020 since I had already attended the first one and it would require that I fly over again in six weeks time and that the spread of Covid-19 seemed to be getting worse. His reply was that he would have discuss it with the Information Commissioner but that I had effectively depleted "any goodwill" that I might have had.

This is why I mention this 'outside the court room' interaction as I do not believe it appropriate that the Information Commissioner's representative can potentially penalize, or threaten to penalize, Appellants based upon his disappointment that the Appellant legally and rightfully decided to choose to practice that which is their constitutional right to follow established court procedure. While I understand that goodwill is not an obligation of the Information Commissioner, neither should it be used to penalize somebody for availing of their constitutional rights. Indeed, neither should it ever be used to entice somebody into waiving their constitutional rights.

That said, Mr. Fitzgerald did in fairness subsequently agree to my not attending this Honorable Court six weeks later saving me another trip from New York (Exhibit 4).

Mr. Fitzgerald's behavior reminded me in part of when I was asked by some Irish Government oversight bodies, including the Information Commissioner (Exhibit 5, Exhibit "SR 2"), if I would like to withdraw my FOI requests. In the case of the Information Commissioner, had I done so, I would not have been able to appeal to this Honorable Court. Was there some ulterior motive on the part of the Information Commissioner to get Mr. Fitzgerald to repeatedly ask me to consent to an adjournment? Not having been able to access legal representation for my case, I'm somewhat ignorant as to the use by those well versed in Irish law of 'tricks of the trade' that can work against me and the public interest, and I just want to make sure that this was not the case here (Exhibit 6).

Note: I reached out to the Citizens Information Board on January 23, 2015, regarding my case (Exhibit 7). I received a reply via email that was helpful to supporting my case. I recently (Feb. 11, 2020) contacted

the Board with some questions pertaining to my appeal to this Honorable Court. I received an automatic reply that stated in part, "Please note that we are not in a position to provide information or advice by email at present."

I sent another email on Aug. 28, 2020, wherein I asked, "Are you presently replying to questions via email, or has this service been eliminated?"

I received a reply the same day that stated in part, "Thank you for your feedback on citizensinformation.ie. Please note that we do not provide information and advice from this email address."

The Citizens Information Board did however offer the assistance of call-in or phone service. I was fortunate back in 2015 in that I could get some on the record corroborating evidence for my case from this Board, which email service today seems to have been removed. Ireland certainly seems to be going in the 'right' direction as regards the influences that are being brought to bear on these valuable citizens organizations.

I will now address each of the points in both the Points of Opposition and the Affidavit of Stephen Rafferty.

Although I respond to each point (those I've responded to) individually, my responses to each point can also be applied, where relevant, to any other point made by the Information Commissioner in either the Points of Opposition or the Affidavit of Stephen Rafferty. Any point not addressed just means that I have nothing to add at this time, and does not mean I agree with it.

This is my final submission or response to the Information Commissioner (exchange of affidavits), however this does not mean that I agree with any further submissions made by the Information Commissioner. Although the Information Commissioner's Points of Opposition and Affidavit of Stephen Rafferty were sent via email, he (Gary Fitzgerald) stated in the accompanying email, "We are happy to receive any replying affidavit from you in the same format – finalized but unsworn and unfiled with an undertaking that you will comply with the formal requirements as soon as possible."

I declined this option (Exhibit 8).

In the title of the Points of Opposition and Affidavit of Stephen Rafferty the Information Commissioner states, "In the matter of the Freedom of Information Act 2014 and in the matter of an appeal pursuant to section 42 of that Act"

The title in my Notice of Motion and Affidavit was, "In the matter of the Freedom of Information Acts"

Therefore, my appeal was for the release of an internal audit plan and not necessarily limited to section 42 of the 2014 Act.

I will be in Ireland from the 21st to the 25th of December. While I will be glad to attend this Honorable Court at any time, I just inform this Honorable Court of this availability should it be convenient.

Applicant's/Appellant's Response to Points of Opposition (Exhibit 9)

Re. Point 5:

The Information Commissioner states, in part, "The Act does not allow for a merits-based appeal."

I would like clarification that this is the case. Does it state this in the Act? Or is this another of the Information Commissioner's convenient interpretations? Is there no case or example in Irish law, or brought before this Court, where a merits-based appeal was made under the 2014 or similar Act?

Notwithstanding the above, I believe my responses to these Points of Opposition and the Affidavit of Stephen Rafferty subscribe to an appeal on a point of law.

Re. Point 6:

See following responses (both mine and the Information Commissioner's).

Re. Point 7:

The title page of the Notice of Motion states that it is between Maurice D. Landers and the Information Commissioner.

The notice of motion seeks four orders. They are all directed at the information commissioner. The second order is directed at the Information commissioner and specifies the two organizations from which he should compel the release of the audit plan stated in the first order.

The third order, while requesting the supervision of this honorable Court, directs the Information Commissioner to ensure that both PwC and ICAI provide him with a copy of the plan of which the date they received it can be verified to avoid any possibility that he receives a forged copy.

The fourth order/s directed at the IC are those potential orders this honorable court finds necessary to impose in this case due to the fact that no solicitor in Ireland would take my case and provide me with the requisite knowledge to fully defend my case.

Re. Point 8:

The Information Commissioner states in part, "It appears to be the Appellant's case that the Commissioner should have used his powers under s.45 of the 2014 Act to..."

Correction: "...the Commissioner should have used his **"significant powers"** under the 2014 Act to...."

Re. Point 9:

Why is it "...denied that it was necessary for the Commissioner to have used those powers in this case in the manner suggested."

It can only be denied it was necessary if the Information Commissioner was able to gain access to the internal audit plan. Since he was unable to gain access to the document, he had the option to use his "significant powers" under the Act to further try and gain access to the plan via the NTMA under section 45. (2) of the 2014 Act, and certainly compel the release of the plan from PwC and ICAI under Section 45. (1) of the 2014 Act. So why didn't he use these "significant powers"?

Re. Point 10:

The Information Commissioner states in part, "The right of access under the 2014 Act is limited to documents held by public bodies as defined in the Act."

This is incorrect. The Act clearly states in section 45. (1):

45. (1) The Commissioner may, for the purposes of a review under <u>section 22</u> or an investigation under <u>section 44</u> —		
		(a) require any person who, in the opinion of the Commissioner, is in possession of information, or has a record in his or her power or control, that, in the opinion of the Commissioner, is relevant to the purposes aforesaid to furnish to the Commissioner any such information or record that is in his or her possession or, as the case may be, power or control and, where appropriate, require the person to attend before him or her for that purpose, and
		(b) examine and take copies in any form of, or of extracts from any record that, in the opinion of the Commissioner, is relevant to the review or investigation and for those

		purposes take possession of any such record, remove it from the premises and retain it in his or her possession for a reasonable period.
--	--	--

Clearly, the right of access is not limited to documents held just by public bodies. That is, the Commissioner may "- require any person..."

It is under section 45. (2), not section 45. (1), where the Act specifically refers to public bodies (FOI) by stating that the Commissioner may "...enter any premises occupied by an FOI body" and there "- require any person..."

2) The Commissioner may for the purposes of such a review or investigation as aforesaid enter any premises occupied by an FOI body and there—		
		(a) require any person found on the premises to furnish him or her with such information in the possession of the person as he or she may reasonably require for the purposes aforesaid and to make available to him or her any record in his or her power or control that, in the opinion of the Commissioner, is relevant to those purposes, and
		(b) examine and take copies of, or of extracts from, any record made available to

		him or her as aforesaid or found on the premises.
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This is why there is a 45. (1) and a 45. (2) under this section. The Information Commissioner inaccurately at least defines section 45, in particular 45. (1), in a way that is convenient to his case.

Even if the 2014 Act applies to all public bodies, the fact that there is a section 45. (1) and section 45. (2) is a clear delineation between accessing records at FOI bodies and accessing records anywhere else (private bodies) that pertain to a public body. Otherwise there would only have been a need for either section 45. (1) or section 45. (2), particularly if you compare section 45. (1)(b) and section 45. (2)(b), effectively the same statement, meaning that one is referring to a private body and the other to a public body, that is, respectively, "take copies in any form of...any record...remove it from the premises..." and "...take copies of...any record...found on the premises."

What would be the point of making the same statement twice if it were referring to the same type of body?

The Information Commissioner states in part, "His powers under s.45 do not extend to compelling third parties to provide him with...."

Yes, they do. He has "significant powers" according to the Information Commissioner's website. How can you claim that you have "significant powers" under the 2014 Act and then when it suits you define them in a way that is so narrow?

The Information Commissioner states in part, "In this case the Commissioner was conducting a review under s.22 of the 2014 Act into a refusal of an FOI body of a request for information under s. 15(1)(a) of the 2014 Act on the ground that the records sought do not exist or cannot be found."

The 2014 Act states in part:

"45. (1) The Commissioner may, for the purposes of a review under section 22 or an investigation under section 44 —"

It does not state, "The Commissioner may, for the purposes of a review under section 15(1)(a) or an...."

He can't just decide to limit his review under section 22 to section 15(1)(a). Otherwise the Act would have stated this.

The Information Commissioner states in part, last sentence, "...that the records sought do not exist or cannot be found."

If there is a situation where records cannot be found, it is incumbent upon the Information Commissioner in his public interest role to use his "significant powers" to both search for them at the NTMA and compel any other body that he knows has access to the documents to immediately provide him with them.

According to my first Report, p. 34/35 (Exhibit 16), "the NTMA is not a 'public body' for purposes of the FOI Act as regards this information." ('this information' is detailed in Exhibit 17 i.e. it's a request for important information related to my case)

Therefore, the NTMA declined my FOI request on the grounds that it was not in this case a public body.

After I appealed to the Information Commissioner, the NTMA/NPRF's decision was amended in that the NTMA was compelled by the Information Commissioner to, "...set out some details which should hopefully address your request." (Exhibit 17). Incidentally, this document/details then formed the basis of my appeal to SIPO (Exhibit 18).

The point I'm making is that the Information Commissioner could compel the release of details/documents from the NTMA when that body was acting as a private body (for purposes of the FOI Act), which means that the Information Commissioner can indeed request documents from private bodies such as PwC that too have access to important/relevant information related to my case.

Exhibit 17 is the response I received from the NTMA after the Information Commissioner asked it to address my request. Per the Information Commissioner's email to me on December 15, 2015 (Exhibit 19), the information Commissioner did not compel this information from the NTMA on the grounds that the NTMA was instead a public body in this case, but rather on the basis:

"At this stage, the Commissioner has accepted your application solely on the basis of non-reply by the NTMA to your request for an internal review. Consequently, to settle the matter at this stage, this Office has asked the NTMA to send you a letter which will provide you with a decision on your internal review request. This Office has asked the NTMA to forward a copy of that letter to this Office. The request was made to the NTMA on the with reference to a 'Guidance Note No. 23' issued by the Central Policy Unit (CPU) at the Department of Public Expenditure and Reform which states that review rights do apply in such circumstances. The guidance note can also be viewed online at: <http://foi.gov.ie/guidance/cpu-guidance-notices/?cp=3>"

Therefore, the Information Commissioner effectively accepted the NTMA's assertion that it was a private entity in this case since it accepted my application "...solely on the basis of non-reply by the NTMA to your request for an internal review." and not on the basis that the NTMA was not a private entity in this case.

Re. Point 11:

The Information Commissioner states in part, "It is settled law that it is not generally the role of the Commissioner in such an appeal to search for records."

So, 'generally' applies in this case or any other case the Information Commissioner deems it appropriate? How does settled law, and why does 'generally', apply here? Aside, how is settled law that the Information Commissioner generally should not have to search for records in this case is beyond me. His title is Information Commissioner, which includes the words 'Information' and 'Commissioner'. What is it about Irish law that it would allow such nonsense to be settled law?

First, where in the Information Commissioner's decision (Exhibit 14) does he show/prove that, "The Commissioner was required to review the decision of the public body and in so doing to have regard to the evidence which was available to the decision-maker and to the reasoning used by the decision-maker in arriving or failing to arrive at a decision."

Second, where does it say that this (Exhibit 9, no. 11) is all the Information Commissioner has to do in my case? This is in direct contrast to, according to his website, his "significant powers" under the 2014 Act. The Information Commissioner seems to be believing whatever the other side tells him. Where's the objectivity in that? Is this the standard by which the Information Commissioner concludes "...the records sought do not exist or cannot be found." (Exhibit 9, no. 10)

Did he go to the location and do a search as per his "significant powers". According to the Information Commissioner's website, "He can enter any premises occupied by an FOI body and require any person found on the premises to provide him with records (documents) which he may copy and retain for a reasonable period."

You would think in a case where it is claimed that a document cannot be found or doesn't exist that it would be incumbent upon the Information Commissioner to use his "significant powers" to come to a 'more' definitive conclusion. Unfortunately, I do not now trust the Information Commissioner were he told by this Honorable Court to now use such significant powers, however I do respectfully ask this Honorable Court as part of the orders I applied for in my Notice of Motion to insist that the Information Commissioner compel the release of a copy of the internal audit plan from PwC and ICAI (time stamped and verified by this Honorable Court), since the plan they have in their possession relates to an internal audit (by PwC) of a public body (NTMA) and is therefore "relevant" information/record as per section 45. (1) of the 2014 Act.

In addition, although as mentioned I no longer trust the Information Commissioner, I nevertheless ask this Honorable Court to still insist that he do a search, under the supervision of this Honorable Court, at the NTMA in accordance with such "significant powers" as I believe the NTMA may still have this plan in their possession or they have since destroyed it as part of their involvement in the cover up of fraud and deception I have alleged against the Irish Government and others in this case, and there may still be a trace of its existence in their software files that an expert in IT can uncover.

Re. Point 12:

The Information Commissioner states, in part, "Order two is directed at two bodies that are not covered by the 2014 Act. Even if they were covered by the 2014 Act, the Appellant has not made a request to those bodies and the Commissioner has not made any decision in relation to them."

This is completely incorrect and untrue. Order two is directed, through the Information Commissioner, at two bodies that are covered by the 2014 Act under section 45. (1). These bodies (PwC and ICAI) are in

possession of a document (internal audit plan) that pertains to an audit by PwC of the NTMA, an Irish Government body, and therefore the Information Commissioner should have made a request of them to provide him with this document in his public interest role.

And, contrary to what the Information Commissioner stated above, he knows very well that the Appellant did indeed make a request to those bodies (Exhibit 12 & Exhibit 2, Attachment A (4.1)). Why is the Information Commissioner being untruthful?

Re. Point 13:

I believe the Honorable Court will decide this.

Re. Point 14:

The Information Commissioner states, "The Appellant has not identified any error on the part of the NTMA in how it dealt with his request, or any deficiency in how it searched for the documents requested."

See (Exhibit 20). This is an email I sent the Information Commissioner wherein I refer to deficiencies on the part of the NTMA in their decision letter. Why is the Information Commissioner again being untruthful?

Additionally, the Information Commissioner received submissions from the NTMA in response to "specific questions" it asked the NTMA regarding their decision on my FOI request (Exhibit 5, Exhibits "SR 1" & "SR 2"). Is there any responsibility on the part of the NTMA to provide the Information Commissioner with complete, relevant information i.e. my email communications with the NTMA or at least deficiencies within them that I brought to their attention? (Exhibit 21).

Or is there any responsibility on the part of the Information Commissioner when posing specific questions to the NTMA to at least determine if I had expressed any deficiencies in any communications I had with them that would be pertinent to the Information Commissioner's review? Bringing these deficiencies to the Information Commissioner's attention in the NTMA's submissions would certainly be important since the Information Commissioner himself states as per above, "The Appellant has not identified any error on the part of the NTMA in how it dealt with his request, or any deficiency in how it searched for the documents requested."

Finally, the Information Commissioner states in part, "The Appellant has not joined the NTMA as a Notice Party to these proceedings."

Should I have done this!? It would have been nice if I had a lawyer/solicitor to tell me this, or even the Information Commissioner in his public interest role. Perhaps I can do so now if it will help my case?

Re. Point 15:

The Information Commissioner states, "It is denied that the Appellant is entitled to any further orders, or the costs of this appeal."

So, the Information Commissioner would prefer that I, the Appellant, pay the costs for his likely cover-up and that of the other bodies involved in my case, as opposed to the Irish taxpayer footing the bill, which they have done so up to now.

Apparent Authority

I believe I have made my case above, on a point of law at least, for this Honorable Court to require the Information Commissioner to compel the release of the internal audit plan from PwC and ICAI.

However, should my argument be deemed insufficient on some grounds determined by this Honorable Court, heretofore unbeknown to me due to the fact that not one Irish law firm would take my case, which, had even one law firm taken it, might have informed me of such grounds as to be able to find some legal precedent to counter them, I take the liberty of offering a hypothetical (unless of course it has some merit in this case under current Irish law - wishful thinking I know) argument relating to the doctrines of the law of agency.

Let's apply 'apparent authority' precedent here.

See Allied Pharmaceutical Distributors v. Walsh:

<https://www.casemine.com/judgement/uk/5da048c54653d07dedfd49f4>

<https://books.google.com/books?id=hAA8dgieR3IC&pg=PA204&lpg=PA204&dq=ALLIED+PHARMACEUTICAL+DISTRIBUTORS+LTD.+VERSUS+JOHN+WALSH++IRELAND&source=bl&ots=4V41BkawnQ&sig=ACfU3U3fRG3qhJFYxHW3zj4U5rkHqd8Rw&hl=en&sa=X&ved=2ahUKEwiTgcnLsZmAhWkuVvKHbZmBIMQ6AEwAHoECAcQAQ#v=onepage&q=ALLIED%20PHARMACEUTICAL%20DISTRIBUTORS%20LTD.%20VERSUS%20JOHN%20WALSH%20%20IRELAND&f=false>

While I understand that apparent authority is not currently enshrined in Irish law as regards holding the Irish Government accountable, perhaps the above makes the case that it, or perhaps even implied authority, should be.

There is some legal precedent in the US as regards using implied authority strategy to bind the government, for example:

<https://blog.theodoretatson.com/apparent-authority-in-government-contracts/>

According to Investopedia:

"The principal-agent relationship is an arrangement in which one entity legally appoints another to act on its behalf. In a principal-agent relationship, the agent acts on behalf of the principal and should not

have a conflict of interest in carrying out the act. The relationship between the principal and the agent is called the "agency," and the law of agency establishes guidelines for such a relationship."

There is a principal/agency relationship between the Irish Government and the Information Commissioner respectively in that the Information Commissioner is accountable to the Irish Government/Oireachtas.

On the Office of the Information Commissioner's website for example, it states in its 2018 Corporate Governance Framework Review, under Annual Reports, "Annual Reports are prepared by each office, under the appropriate legislation, and laid before the Houses of the Oireachtas." (Exhibit 22)

It is also clear throughout the Information Commissioner's website that a principal/agency relationship exists. The Oireachtas legally appoints the Information Commissioner to act on its behalf in an independent manner as regards FOI requests i.e. review decisions which public bodies make on freedom of information requests (Exhibit 23)

According to the Legal Information Institute, the definition of apparent authority is, in part:

"Apparent authority is the power of an agent to act on behalf of a principal, even though not expressly or impliedly granted. This power arises only if a third party reasonably infers, from the principal's conduct, that the principal granted such power to the agent."

https://www.law.cornell.edu/wex/apparent_authority

If you take a look at Exhibit 10, it is clear that I, a member of the public (third party - Information Commissioner's public interest role) in this case, reasonably inferred from the Irish Government's conduct, that it had granted such enforcement power to the Information Commissioner as to enable him to compel the release of any document critical to a case from any organization that has it in their possession.

I state in my application, "I'm appealing because a review decision was not made within the time permitted.", in the hopes that the Information Commissioner would also compel the release of the audit plan from PwC and ICAI.

I subsequently state further down, "Although I know that such powers will allow you to compel the release of the audit plan unredacted, I've no doubt you will find some excuse not to provide it...", which clearly shows that I had reasonably inferred, from the principal's conduct, that the principal had granted such power to the Information Commissioner.

As demonstrated in my Reports over many years (complete Reports on www.Failte32.org, see News/Events, Scroll down to for example my first Report, "Report: A Case of Mismanagement of Irish Government Funds?"), ultimately I have had to approach the FOI process (2014 Act) of Irish Government Departments and Agencies as a final attempt to resolve my requests. In the case of the NTMA, I was actually directed by them to their FOI process in order to access the internal audit plan document. (Exhibit 24)

Therefore, due to the many FOI applications I have made over the years (according to Citizens Information, "A Bill may be commenced in either the Dáil or the Seanad but it must be passed by both Houses to become law. Usually, Bills are commenced in Dáil Eireann. Before it is introduced to the Dáil, the contents of the Bill are approved by the Government." i.e. the 2014 FOI Act was approved by the principal, the Irish Government), in particular my most recent application requesting the release of the internal audit plan from the NTMA, PwC and ICAI (Exhibit 10), and the "significant powers" of the Information Commissioner (as stated on the Office of the Information Commissioner's website) granted to him by the Irish Government (Irish Statute Book, FOI Act 2014), it is clear that I have reasonably inferred from the Government's (principal) conduct that the Information Commissioner has such enforcement power as to compel the release of this document.

Therefore, I believe I have established all the elements required for apparent, or perhaps even implied authority, to apply in this case were such legal doctrine to be enshrined in Irish statute, meaning that the Irish Government (principal) might in future be held liable for the actions, or lack thereof, of the Information Commissioner (agent) and its other agencies. The Irish Government could for example be ordered by the Court to access this document through the enforcement action of the Gardai.

The doctrine of apparent authority has proven itself in the commercial arena as an effective way of holding those in a principal-agent relationship accountable, so why not extend its use to holding the Irish Government accountable.

If I have made the above argument correctly in the context of a commercial scenario, under the law of agency, then I believe this Honorable Court should set a precedent for how future similar cases relating to the Irish Government are decided. This will only be good for Ireland by reducing the ability of oversight institutions such as the Office of the Information Commissioner to relegate their oversight function to that of word games.

Applicant's/Appellant's Response to Affidavit of Stephen Rafferty (Exhibit 5)

Re. Point 3:

"One of the functions of the Commissioner is to carry out an independent review of decisions made by public bodies of requests for information made under the 2014 Act and, where necessary, make binding new decisions."

While I believe this is correct ("One of the functions..."), this does not preclude the Information Commissioner from requesting documents pertinent to a case from those in private bodies, contrary to what the Commissioner stated in point 10 of Points of Opposition (Exhibit 9), that is, "The right of access under the 2014 Act is limited to documents held by public bodies as defined in the Act. "

Point 10 of Points of Opposition clearly is not true, and a clever attempt by the Commissioner to redefine and misinterpret the Act. The Act clearly states in section 45. (1):

Powers of Commissioner		
		45. (1) The Commissioner may, for the purposes of a review under <u>section 22</u> or an investigation under <u>section 44</u> —
		(a) require any person who, in the opinion of the Commissioner, is in possession of information, or has a record in his or her power or control, that, in the opinion of the Commissioner, is relevant to the purposes aforesaid to furnish to the Commissioner any such information or record that is in his or her possession or, as the case may be, power or control and, where appropriate, require the person to attend before him or her for that purpose, and
		(b) examine and take copies in any form of, or of extracts from any record that, in the opinion of the Commissioner, is relevant to the review or investigation and for those purposes take possession of any such record, remove it from the premises and retain it in his or her possession for a reasonable period.

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It clearly states above, "require any person". It does not state "require any person at a public body". Section 45. (1) has to include persons in private bodies, otherwise one may never be able to access documents held at public bodies if they claim them to be inaccessible for whatever reason.

Additionally, the Commissioner states in point 10 of the Points of Opposition (Exhibit 9), "As a creature of statute, the Commissioner can only do what he is permitted to do under the 2014 Act."

Therefore, as a "creature of statute", it must I assume strictly abide by what is stated in the statute. It does not state above in section 45. (1) (a) "require any person at a public body".

Section 45. (2) on the other hand deals specifically with FOI bodies (public). This is why the statute has a section 45. (1) and a section 45. (2) in that section 45. (1) refers to "any person" whether in a public body or elsewhere, while section 45. (2) refers to "any person" specifically at a FOI body (public body).

<p>(2) The Commissioner may for the purposes of such a review or investigation as aforesaid enter any premises occupied by an FOI body and there—</p>		
		<p>(a) require any person found on the premises to furnish him or her with such information in the possession of the person as he or she may reasonably require for the purposes aforesaid and to make available to him or her any record in his or her power or control that, in the opinion of the Commissioner, is relevant to those purposes, and</p>
		<p>(b) examine and take copies of, or of extracts from, any record made available to him or her as aforesaid or found on the premises.</p>

If as the Information Commissioner claims section 45. (1) applies only to public bodies, then the Act would have stated this in section 45. (1) and not waited until section 45. (2) to specifically refer to an "FOI body" (public body).

The Information Commissioner also states, "the Commissioner may also consult any third parties whom he considers might be affected by his decision." This would seem to contradict that which the Commissioner stated in point 10 of Points of Opposition. What other reason would you have to consult any third parties whom you consider might be affected by your decision if this doesn't include requesting from them a copy of a document, critical to a case, that you have been informed by the Appellant they have in their possession (Exhibit 10 - my Final Report is included in my 'Application for review' by the information Commissioner - & Exhibit 2, Attachment A (1) in my Final Report).

In fact, according to Attachment A (1), ICAI stated in part, "The member firm provided us with a copy of internal audit plan for the NPRF as presented to, and subsequently agreed with, the NPRF Commission and the NTMA..."

i.e. "...as presented to, and subsequently agreed with, the NPRF Commission and the NTMA...", which means that the audit plan does indeed exist and is or 'was' in the NTMA's possession, effectively contradicting that which the NPRF/NTMA has claimed and which was subsequently affirmed (Exhibit 14, under the heading 'Decision', the Information Commissioner states, "I hereby affirm the decision of the NTMA...") by the Information Commissioner.

Therefore, I see no reason why ICAI and PwC would not come under this consultation and be compelled to provide a copy of this document, the internal audit plan relating to the Annual Report and Financial Statements 2010 for the National Pensions Reserve Fund (NPRF).

Re. Point 7:

Regarding Exhibit 5, under the heading 'Internal Review' of Exhibit "SR 1" provided by the Information Commissioner, no. 2, last paragraph, why not search key words like 'PwC Audits'; 'PwC internal audit plan'; 'PwC internal audit 2010' etc. Nowhere in the search key words did the NTMA include PwC, which you would think would be the first key word used to make a search in this case. And if the NTMA now claims they did after reading this response, we will know they're not being truthful as if they did they would have included such critical search key words in the examples they gave in "SR 1".

Why is the most critical key word missing i.e. PwC. The NTMA must have had a plethora of auditing work done over the years not including PwC, so one would think that PwC would have been the first key word to be chosen to make a specific search.

It seems incredulous that ICAI would have a copy of PwC's internal audit plan for the NTMA during the relevant time period, while the very organization (NTMA) on whose behalf PwC did the actual internal audit plan, does not have a copy, indeed claims that it never existed (or cannot be found). Wouldn't this make it even more important for the Information Commissioner to do a comprehensive onsite (NTMA) search to definitively verify this is the case.

How can one organization (NTMA) say, "the NTMA's understanding is that PwC did not submit 'final' or 'formal' audit plans once an audit plan presentation was agreed at Audit Committee level." (Exhibit 5, Exhibit "SR 1", no. 4) while another (ICAI) can state that it has a copy of said audit plan (immediately above "Re. Point 3"). One of these organizations is not being truthful, and it doesn't make sense that it would be ICAI, as who in their right mind would claim to have something they do not have.

Also, I notice that the question ("SR 1", no. 4) the Information Commissioner poses, "Did PwC submit audit plans following the audit presentations?"

Shouldn't this have been stated, "Did PwC submit audit plans **before** the audit presentations?" Surely you have to have a plan before you make a presentation based on that plan. Why did the Information Commissioner ask the question the other way around?

Regarding Exhibit 5, Exhibit "SR 1", no. 5, the NTMA's response effectively plays word games in that it does not answer the question asked of it. Instead it states in part that it contacted PwC notifying it of its intention to release the audit plan presentations in full, which is something it was not asked. Question no. 5 is clear, "Can the NTMA confirm if PwC were consulted about the records sought in this case?" The record being sought in this case is the internal audit plan.

In light of the fact that PwC does indeed have a copy of the internal audit plan (Exhibit 11) which they could have easily provided the NTMA, it is clear that this is deception on the part of the NTMA who instead chose to give PwC an out by not asking them for the plan and instead getting around the question by stating, "As mentioned at number 4 above the NTMA's understanding is that PwC did not submit 'final' or 'formal' audit plans once an audit plan presentation was agreed at Audit Committee level".

Therefore, the answer the NTMA gave to the Information Commissioner in response to its question in "SR 1", no.5, is 'NO'.

The Information Commissioner knew that PwC had a copy of the internal audit plan as he received a copy of my update and Final Reports back on November 6, 2019 (See Exhibit 10, Exhibit 11, and Exhibit 12) as part of my Application for Review (appeal of NTMA's decision on my request for a copy of PwC's internal audit plan for 2010). Therefore, the answer he received from the NTMA was clearly unacceptable and should not have been accepted by the him.

It poses another question: why would PwC have a copy of the internal audit plan ('engagement letter') and not originally provide it to the NTMA (instead the NTMA claims it never existed or cannot be found, only the audit plan presentations were provided to me - how you can have audit plan presentations without an accompanying audit plan is beyond me), and then upon being notified by the NTMA that it was going to release the presentations, not offer to provide a copy of the audit plan that accompanies them as you would expect any ethical accounting/auditing firm to do?

But again, this is why the NTMA cleverly and deceptively tries to misdirect the reader in its response to the question in Exhibit 5, "SR 1", no. 5, so that PwC by not having been asked by the NTMA does not technically have to inform the NTMA that it can provide it with the actual audit plan. And anyhow, why would the NTMA have to notify PwC that it was going to release audit plan presentations, which was the NTMA's answer to the question in "SR 1", no. 5 (i.e. "Can the NTMA confirm if PwC were consulted

about the records sought in this case?")? It seems at the very least a very stupid response to the question asked.

The answer to the question ("SR 1", no.5) the Information Commissioner asked the NTMA should have been something to the effect of, "The NTMA contacted PwC via email/phone, prior to issuing its original decision on 25 September 2019, notifying PwC that it would like a copy of the internal audit plan relevant to my case."

This is the first, and only, question that should have been asked of PwC by the NTMA, and the only response that should have been accepted by the Information Commissioner to "SR 1", no.5.

Why would the NTMA, with all its experience, answer this question by instead just informing PwC that it was going to release audit plan presentations?

It is blatantly obvious that something is very amiss here in how both the NTMA and Information Commissioner are treating my case.

It was, and is, the Information Commissioner's obligation to compel the release of the audit plan from PwC, and it is PwC's obligation to hand it over immediately. PwC should have been part of the search key words when the NTMA did its search for the audit plan, and the Information Commissioner should know this, and as per 'Re. Point 3' above, the Information Commissioner stated, "the Commissioner may also consult any third parties whom he considers might be affected by his decision."

Since the NTMA did not ask PwC for a copy of the audit plan, why didn't the Information Commissioner require the NTMA to do so, or just ask PwC for a copy of the internal audit plan which is what the question in "SR 1", no. 5, posed (i.e. "Can the NTMA confirm if PwC were consulted about the records sought in this case?")? This is critical to my case. This is all the Information Commissioner had to do, a very simple request, and PwC would then have had no other choice but to provide them with a copy.

Instead, I have to go through what's going on now for a long time and what I believe is deception by the NTMA and Information Commissioner. One phone call is all that was required here by the NTMA or Information Commissioner to PwC, and then a simple fax or mail copy of the audit plan sent by PwC to either one, which would have only cost the Irish tax payer the price of a phone call and a stamp or fax charge instead of the deployment of significant resources by the NTMA and Information Commissioner (at the taxpayer expense) to in my opinion cover up for this crime.

Re. Point 8:

The Information Commissioner states, "As stated in the Decision, the Appellant was provided with details of the steps taken by the NTMA to find the documents requested."

Regarding the Information Commissioner's decision (Exhibit 14), under the heading 'Background', he states in part, "During the course of the review, this Office provided the applicant with details of NTMA's submissions regarding the searches it had conducted in response to his request."

I did receive a letter from the Information Commissioner re. the NTMA's submissions (Exhibit 15), but this was just parroting what the NTMA had told the Information Commissioner. Show me the electronic

searches that were done by the NTMA. Who were the staff members who conducted the search? Did the Information Commissioner verify that these searches were actually done, etc.? That's his job, otherwise his role is meaningless, as anyone can pull the wool over his eyes.

I responded in part as follows:

"You state, " In particular you requested internal audit plans for the financial years ending 31 December 2009, 2010 and 2011 as per your engagement with PwC".

First, I requested a copy of the internal audit plan between the NPRF/NTMA and PwC for the year ending 2010.

Second, it was not "...as per your engagement with PwC". I had no engagement with PwC as you very well know. "

I continued:

"Under no circumstances do I wish to withdraw my application for review.

I would like the case to progress to a formal, legally binding decision, which will be published on your website, but I do not want it anonymised. Why you people have to do everything to cover up for these organizations and people by blindly accepting their response/submissions is beyond me, with all the powers the Office of the Information Commissioner has at its disposal as I detailed in my FOI request and Reports based on your own words on your own website. You must have no shame whatsoever. And now you want to anonymise the names of those involved? You guys are some piece of work!"

Note: Part of my response above was incorrect in that I did actually request a copy of the internal audit plan for 2009, 2010 and 2011. I must have included 2009 and 2011 just to be on the safe side and forgotten that I did.

In fact, the Office of the Information Commissioner (Ms Greenalgh) went as far as to say in this letter (Exhibit 15), under the heading 'Conclusion', "Presently, I am of the view that NTMA has conducted all reasonable searches to locate the relevant records and that section 15(1)(a) of the FOI Act applies. Therefore, should this case proceed to a formal legally binding decision, I intend to recommend to the senior investigator that he affirm the decision of NTMA under section 15(1)(a)."

This seems to diminish the credibility of the appeals process, and corroborates that which I've said above that the Information Commissioner seems to just accept what he is told without any type of verification process of his own. It also seems to be a way that potentially enables the Office of the Information Commissioner to direct the Appellant away from a formal legally binding decision, within which includes mention of the Appellant's right, and opportunity, to subsequently make an appeal to the High Court.

And if the Office of the Information Commissioner (Ms Greenalgh) claims her statement was not intended to influence the Information Commissioner's final decision, then why would she find it necessary to make such a statement in the first place?

The Information Commissioner states, "He has not identified any deficiency in the searches undertaken by the NTMA."

See Re. Point 14 (my response to Points of Opposition, no. 14, Exhibit 9) for my response.

Regarding Exhibit 5, Exhibit "SR 2", under the heading 'Section 15(1)(a) - Adequacy of Search', it seems that the way this section is written, it gives amazing flexibility to any FOI body (and by extension the Information Commissioner) in that they can claim any document anywhere as non-existent or not found, which seems ridiculous to me.

A document either exists or it does not exist when it comes to FOI requests. There can be no 'cannot be found' option as organizations such as libraries and the like have been categorizing documents now for centuries and have very efficient and effective ways of accessing any document. It's not rocket science. Particularly now with the processing power of computers, it seems laughable that an important, very relevant document, cannot be found. Section 15(1)(a) should be defined very strictly to provide credibility to the Act, and 'cannot be found' should not be an option. But this is neither here nor there in my case as I can't do anything about this now.

Anyhow, I have addressed my concerns with the NTMA's search process above in 'Re. Point 7' above. Suffice it to say, in Exhibit 5, Exhibit "SR 2", under the heading 'National Treasury Management Agency's Submission', last bullet point, end of first sentence, I find it amazing that the NTMA could conclude (and the Information Commissioner accept), "...that no internal audit plans were ever received or subsequently destroyed.",

And the Information Commissioner subsequently conclude in same document ("SR 2"), "Having carefully examined NTMA's submissions, it would appear that no records exist or can be found in relation to your FOI request."

First, the Information Commissioner can't state that the plan never existed, or indeed was not received by the NTMA, as PwC and ICAI both have a copy of the plan. Why would PwC give a copy of the plan to ICAI and not to the NTMA, the organization for which it was prepared? This is just nonsense.

And second, the Information Commissioner can't state that the plan wasn't destroyed, as then you can't also claim the option that it cannot be found because the reason many documents cannot be found is because they were destroyed. Therefore, the Information Commissioner's alternate claim that it cannot be found is also nonsense.

His agreement with the NTMA's submissions at the very least attests to his propensity to make inaccurate statements in his decisions.

Incidentally, when the Information Commissioner states that the internal audit plan either never existed or cannot be found, I believe he might have taken his cue from what I had stated in my final Report (Exhibit 2, Attachment 1), that is, "I'm claiming that the document either never existed or that ICAEW, ICAI and PwC lied about its scope of services (most likely the latter)."

Does the Irish Government use this trick where it takes advantage of a statement you made in order to give itself an 'out'? I just gave this "never existed" option as a reference point to emphasize that it was "most likely" ICAEW, ICAI and PwC who lied about the plan's scope of services.

Re. Point 9:

How is it difficult to misunderstand "significant powers" (definition on Information Commissioner's website - text below)? You can't call them "significant powers" and then define "significant" as meaning "in certain circumstances". This is fantasy world. I'm guessing the same or other Commissioners have used their "significant powers" in other cases where it was convenient to do so without any type of specificity.

Because the powers of the Information Commissioner are defined so broadly, indeed you can argue such broadness is inherent in his public interest role, one can only conclude that should he be unable to access a document from one organization, he has an obligation to access it from another organization/s who he has been informed has it in their possession whether that organization/s is a public or a private body. Otherwise, his powers would be defined more specifically. The Information Commissioner's job is not to narrowly define his role when it suits him.

As per my update Report, p. 24, under the heading "Powers of the Information Commissioner" (Exhibit 13), the Information Commissioner himself on his own website stated (which now seems to have been removed - see also Gmail wherein I copied and pasted Powers of the Information Commissioner from his own website prior to it being removed):

"Powers of the Information Commissioner

The FOI Act 2014 provides the Information Commissioner with significant powers to allow him to carry out his function of reviewing the decisions of FOI bodies. If he considers a decision to be inadequate, he may, under Section 23, require that a new one be issued.

Under Section 45, he may also require any person who he considers has information relevant to a case or investigation to provide it to him. Furthermore, he may require the person to attend before him to present the information. He can enter any premises occupied by an FOI body and require any person found on the premises to provide him with records (documents) which he may copy and retain for a reasonable period.

Anyone who hinders the Commissioner in the performance of his review or investigative functions is guilty of an offence and, in accordance with Section 45, may have a fine imposed or be imprisoned for a term not more than 6 months."

As you can see, the Information Commissioner himself declared he has "significant powers".

In addition, under the 2014 Act, according to his website, he is responsible for, "fostering of an attitude of openness among FOI bodies by encouraging the voluntary publication of information above and beyond the minimum requirements of the Act" (Exhibit 13 - copied and pasted from Office of the Information Commissioner's website into Gmail)

Why is he not practicing what he himself states on his own website?

Re. Point 10:

The Information Commissioner states in part, "In the opinion of the Commissioner in this dispute, it was not necessary for him to use the powers in s.45."

This is very convenient. Why wouldn't he use the powers in s.45 if it will further the public interest? In fact, the Information Commissioner in his public interest role should use all of his powers to compel the release of this audit plan from whichever organization possesses it.

The Information Commissioner states, "The question before the Commissioner in this review was whether the NTMA was justified in saying that it took all reasonable steps to find the documents requested."

No it wasn't.

If you read my appeal to the Information Commissioner (Exhibit 10), it was not necessarily regarding the NTMA alone as I assumed the NTMA was likely not going to provide the audit plan document. I included within my appeal the 'Powers of the Information Commissioner' and my Final Report which details the other organizations that possess the audit plan, in the hopes that the Information Commissioner would compel these organizations to release the audit plan to me. See also heading 'Apparent Authority' under my responses to Points of Opposition.

This is the Information Commissioner's job, in the public interest. The Information Commissioner cannot choose, whenever it suits him, to act like other 'lower level' FOI bodies whose roles are defined more narrowly and whose powers are nowhere near those of the Information Commissioner. The audit plan that I'm seeking relates to an Irish Government body (NTMA), and therefore the Information Commissioner is obligated in his public interest role to compel the release of this document, even if from organizations (PwC and ICAI) which although themselves not public bodies, possess evidentiary documents related to a case involving a public body, in this case the NTMA.

He has to be! There is no other way for the public (Inc. myself) to compel the release of this document without the powers the Information Commissioner has at his disposal as all other organizations that possess it (PwC and ICAI) can decline, and have declined, my request for its release.

Re. Point 11:

See 'Re. Point 10' above.

Re. Point 12:

The Information Commissioner states in part, "At paragraph 7 in the grounding affidavit, Mr Landers averred that the Commissioner concurred with the NTMA that the documents never existed. This is not correct."

In the Information Commissioner's final decision under the heading 'Background' (Exhibit 14), he states in part, "Ms Greenalgh of this Office informed the applicant of her view that NTMA had carried out all reasonable steps in an effort to ascertain the whereabouts of the records sought and that it was justified in refusing the request on the ground that the records sought did not exist."

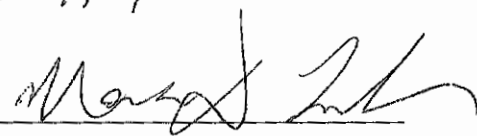
Further down (same Exhibit), the Information Commissioner's ultimate decision states, "Having carried out a review under section 22(2) of the FOI Act, I hereby affirm the decision of the NTMA to refuse access to the internal audit plans for the National Pensions Reserve Fund for the years ending 31 December 2009, 2010, and 2011 on the grounds that the records sought do not exist."

If this isn't concurrence, then I don't know what is.

Finally, the Information Commissioner states, "This is outside the scope of the 2014 Act and therefore outside the jurisdiction of the Commissioner and this Court on appeal."

Again with the 'outside the scope of' nonsense. The Information Commissioner must be taking his cues from PwC.

Dated the 9/8/2020

Signed: 

Signed MAURICE D. LANDERS

3 Talbot Court, Millview Road, Malahide, Co. Dublin (Irish address)

3080 33rd St., Astoria, New York 11102 (US address)

To: Chief Registrar

Central Office

High Court

Four Courts

Dublin 7

To: _____

The Information Commissioner

The Office of the Information Commissioner

6 Earlsfort Terrace, Dublin 2, D02 W773

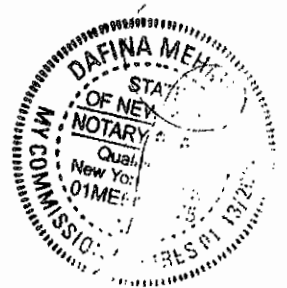
Maura J. L...

Sworn before me by the said *Maurice D. Landers*
on the *8th* day of *September* 2020, at *CitiBank*
in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent
whose identity has been established by reference to a relevant document (*NYS ID*
containing a photograph *560 566 696*)

[Handwritten Signature]

Commissioner for Oaths/Practicing Solicitor



THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "1" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

Sworn before me by the said Maurice D. Landers

on the 8th day of September 2020, at Citibank

in the city/county of NY

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (NYS DL 560 566 698) containing a photograph



Commissioner for Oaths/Practicing Solicitor

Section 5

I would like to describe my experience reaching out to Irish law firms and asking them for an expert opinion on my case. I use the words lawyer and solicitor interchangeably. A request for an expert opinion is just a basic legal service request, and one where the Irish law firm would be compensated in accordance with their fee schedule. The intent was to reinforce my allegations by confirming their validity in a legal context. Therefore, all I had to do was secure an opinion from an Irish law firm, which I firmly believed they would be more than willing to provide. After all, what reason would they have not to do so? Most of my requests for an expert opinion were sent to Irish Law firms between the end of 2014, and the first quarter of 2015.

Based upon membership of the law society of Ireland, there are approx. 2400 law firms in Ireland. I sent my documents to just over 1000 of these. I received about 10 replies, none of which accepted my case. I can reasonably assume that many of those that didn't reply have declined my request, and the remainder must not consider themselves specialized enough to handle it. Therefore, if my recollection of my University of Limerick engineering class in probability and statistics is correct, based upon the population size I used (1000), I can say with 99% certainty (and a low margin of error) that the other approx. 1400 Irish law firms also will not take my case.

I sent my case to Irish law firms of different sizes, including many of the larger ones, and to firms in every county of Ireland. I also contacted most of the mediators on the Law Society of Ireland website.

Now I'm not saying that the legal system in Ireland is necessarily broken. If you need to sue somebody for something besides alleged mismanagement of funds, I'm sure there are approx. 2400 law firms out there who will take your case. However, if you wish to take a case against the Government based on these allegations, that's where the Irish legal system seems to draw the line. Justice falls short at this juncture.

Why do Irish law firms refuse to provide an expert opinion on my case? When you make a request to a law firm for an expert legal opinion, their job very simply is to endeavor to determine whether your allegations are valid or not. Since statistically every Irish law firm has declined my request, does this mean they already know the outcome of such an opinion, and they're unwilling be part of an opinion that provides strong grounds of mismanagement of funds on the part of Irish Government officials?

Following are replies I received from Irish law firms to my requests for an expert opinion.

I'm not going to mention the names of the law firms, as I would prefer not to have these pillars of justice sue me instead of the people they ought to be suing, namely the Irish Government.

(a)

Below is the first reply (and decline) I received from one of Ireland's largest law firms.

"I wish to acknowledge your email.

Thank you for reaching out to XXXXXXXX however we cannot assist you with this matter."

Why would one of Ireland's leading Irish corporate law firms decline this basic service request? I don't believe a full-service law firm of this size has any excuse to decline such a request.

The reason I ask this is because I received a reply (text below) from another Irish law firm that informed me I may need the services of a more specialized firm.

(b)

"We do not believe we could provide you the expert opinion you require in this matter, you may need a more specialist firm to enable them advise you in detail on your attachment and e-mail."

However, the first law firm above is specialized in many different areas including that pertaining to my case, so why then would this 'more specialized firm' decline my request?

(c)

I received a reply from another Irish law firm that stated in part:

"After a period in excess of 35 years practicing as a Lawyer in Ireland we are neither surprised or astonished with your unsatisfactory experiences of dealing with Government Bodies or Agencies thereof within Ireland."

Additionally they stated:

"It is nice to know that someone else like you, besides ourselves are interested in reforming this "closed shop system" and seeking a level playing pitch within this State so that business can be transacted in accordance with the principle of natural justice, due process and fair procedures."

This was a positive development. Finally, a law firm that acknowledged my case, and was going to do something about it, or so I thought.

The reply continued:

"We will be in further contact with you within the next 7 days or earlier when we have had an opportunity of perusing your attachment and the referrals therein."

And ended:

"You might briefly acknowledge receipt of this so that we know our lines of communication are in order."

I acknowledged receipt as requested, but never heard back from them.

Could it possibly be that this law firm decided to instead contact the Irish Government, and use my case as a bargaining chip i.e. leverage their position? (I'll discuss further down an email I received alluding to this type of practice)

(d)

Another reply I received from another Irish law firm stated:

"Go fuck yourself"

I'm not sure why an Irish law firm upon receipt of a polite email communication (see below) offering them business would react so unusually:

Dear Solicitors,

I would be grateful if you would provide me with an expert opinion on the matter below and attached (I can furnish additional information on this matter upon request). Please send me your fee schedule and retainer agreement so that we can begin the process.

Innovation Fund Ireland: Enterprise Ireland and National Pensions Reserve Fund competitive tender - Attached is my final communication on this matter.

Included within are some direct and indirect observations of Enterprise Ireland, some information on the project/companies we were proposing to bring into Ireland, and some general recommendations and advice.

Since international investors, including U.S. VC firms and companies, were invited to apply to Innovation Fund Ireland, this is important intelligence for those considering investing in Ireland/Europe, and hopefully will inspire the inclusion of precautions against these types of Irish Government practices occurring again in all types of international transactions, including FDI, Private Equity, and future trade agreements.

Thank you in advance for your attention to this matter.

Kind regards

Maurice D. Landers

What's even more unusual is that this lawyer in a follow-up email three minutes later played the victim of spam mail:

"For future reference, if you want your query to be treated appropriately, don't send a generic mail to an entire group with wording that shouldn't have gotten passed my spam box."

My email got by his spam box, not because of any ingenuity on my part, but because the email I used was the email he placed on the Law Society of Ireland website under 'Find a solicitor/firm,' and is the same email he uses on his website to advertise his services to everyone. Additionally, I've been sending my community newsletters to many people (email addresses) in the Irish and Irish American community over the years, just like the Irish Consulate and other organizations do, and I'm generally quite good at avoiding the spam boxes of recipients. And anyhow, many people including professionals regularly do a quick check of their spam boxes just in case an important email (e.g. business referral) misses their inbox.

Real spam is generally email **advertising** for some product sent to a mailing list or newsgroup. My email to this lawyer did not advertise any product or service, rather it responded to his advertising by asking him (and approx. 29 other Irish law firms in the County Cork region Bcc'd on same email) if he could provide me with an expert opinion on my case, for which he would receive consideration/payment in accordance with his fee schedule. I thought this was why law firms advertised their business in the first place?

When a law firm advertises its services via its website and provides a contact email address, the person who responds to this advertising is not sending an unsolicited email. However, if a law firm sent me an email promoting its services, this could be construed as unsolicited and spam.

And after all, the Irish Government replied to one of my email communications that they had been bcc'd on back in May/June 2014, so the Irish Government certainly doesn't view my communications as spam mail.

The above reply from a 'professional' Irish law firm, and member of the Law Society of Ireland, indicates how threatened Irish law firms seem to be towards taking a case against the Irish Government regarding mismanagement of funds.

(e)

During my efforts reaching out to over 1,000 Irish law firms, one firm replied to my request identifying itself effectively as having to some extent represented the U.S. VC Firm (that had received the \$50M) in the context of IFI, and was therefore unable to provide me with an expert opinion. I'll outline why in more details below.

I'm not going to exhibit all nine email communication I've had with this law firm, but I'll cite pertinent communications below.

The first reply I received from this law firms stated in part:

“Can you clarify exactly the nature of the services that you are seeking? Is it a view as to the fairness (or otherwise) of the funding selection process conducted by Enterprise Ireland/NPRF on behalf of Innovation Fund Ireland?”

Once this is clear, we would need to run conflict and KYC checks before accepting any instructions and, with this in mind, you might advise as to who we should treat as our client in any potential engagement.”

I replied in part:

“Yes, generally speaking, it is as you put it below i.e. a view as to the fairness (or otherwise) of the funding selection process conducted by Enterprise Ireland/NPRF on behalf of Innovation Fund Ireland?”

More specifically, as per the first link below ([Part 1](#)), my concern is based on [Email 2](#) from Enterprise Ireland, particularly the extract from it:

“The NPRF and EI intend to invest alongside each other following the call for expressions of interest however both have the authority under their respective mandates to invest separately.”

My understanding, and that of many others I have spoken to.....”

The law firm replied:

“Maurice

Thanks for your response and for clarifying your requirements.

Unfortunately, we acted for the VC fund in question in establishing its joint venture with the NPRF so would have a clear conflict of interest in challenging the award of funding to it.

Sorry that we couldn't be of assistance on this occasion. “

They obviously knew this when they sent their first email above, as my reply email did not provide any additional information that would have enabled them to determine the name of the U.S. VC firm in question.

Did I stupidly let this law firm put words in my mouth and define from the beginning the nature of the services I am seeking? i.e. when they stated above *“Is it a view as to the fairness (or otherwise) of the funding selection process conducted by Enterprise Ireland/NPRF on behalf of Innovation Fund Ireland?”*

The reason I say this is because when I questioned their reply, I was told:

“Your specific focus on the award to the fund raised the concern – we may have been in a position to act if the instruction was to challenge the process more generally or the manner in which your particular case was handled. We have a clear conflict of interest in challenging the award to a fund where we acted on the fund's establishment.”

I replied in part:

“.....my instruction would include to challenge the process more generally, and in the context of the manner in which my particular case was handled, based upon the documents and emails I have provided. I assume therefore that this is something you can do?”

i.e. I stated effectively exactly what the law firm had stated was a scenario within which they may have been in a position to act i.e. *“we may have been in a position to act if the instruction was to challenge the process more generally or the manner in which your particular case was handled”*

But was told:

“Your e-mail below states that you would like us to consider the fairness of the award to the fund and this is not something that we can undertake.

No it didn't. Their first email above stated that I would like them to consider the fairness of the award to the fund.

Is this law firm not also saying, sorry but we heard you say something else so you can't change your mind now.

And regarding the last sentence:

“There are no doubt other firms that would be prepared to act”

I have yet to find one, so unfortunately I would have to disagree and say that in practice, not rhetoric, there is considerable doubt.

Obviously, this law firm had no intention of taking my case from the beginning, but lesson learned.

Personally, I don't believe conflict of interest is a valid argument to refuse taking my case, as the above law firm had represented the U.S VC firm in question in the past. Conflicts of interest don't last in perpetuity. Are law firms allowed to argue conflict of interest 5, 10, 50 etc. years later? This makes no sense, particularly in cases of alleged corruption or fraud. In the U.S. financial services industry for example, certain securities and transactions can be exempt from registration, however none are ever exempt from the anti-fraud provisions of the law. Although just an example, it conveys the important

point that law firms should not be able to use conflict of interest as a precedent to exempt themselves from involvement in cases such as mine. Corruption (and fraud) should never be protected by any type of legal precedent.

But regardless of the validity of my argument above, if Irish law is such that an Irish law firm can refuse on conflict of interest grounds a case alleging possible mismanagement of Irish Government funds, then I'm 'outnumbered.'

(f)

I sent a request for an opinion to another law firm on March 28, 2015. I received a reply requesting a telephone conversation to further discuss my case. Although this law firm, like some of the others I was in contact with, initially seemed to give the impression that they were going to take my case, when I spoke with them on April 7 (providing them with further information on my intentions), I received a letter from them approx. a month and a half later declining my request. See below.

"Dear Maurice,

We appreciate your enquiry of 23 March 2015.

Having considered the initial indications delivered by you, we are not in a position to accept instructions from you in this particular matter.

Obviously, we are expressing no professional opinion upon the content of the indications delivered by you.

We apologise for this and hope that you will keep us in mind in relation to any future legal matters. You will note from our website at www.xxxxxx.ie that we are a team of dedicated professionals providing a wide range of legal services who can be easily contacted by phone or email.

In those circumstances, we wish to express our gratitude for your intention to instruct ourselves in relation to this matter.

If we can be of any assistance in relation to any other matter at any other time, please do not hesitate to contact us.

Kind regards.

Yours sincerely..."

So even these "dedicated professionals" declined my case?

(g)

I had a conversation over the phone with another Irish law firm around the same time as my conversation with the law firm immediately above, around mid-April, and provided them with much the same information as that provided to the above law firm. I received an email from them on June 9, 2015, telling me in part:

“Maurice

My apologies for the delay in reverting to you. I have been considering your issue and am at a loss as to how we can move this forward. Of concern is what it is that you would like as a result here.

This is the only law firm that got back to me after almost two months to tell me they are *“at a loss as to how we can move this forward. Of concern is what it is that you would like as a result here.”*

Every other lawyer above, although they declined my request for an expert opinion, did not express any difficulty understanding *“what it is that you would like as a result here.”*

In fact, the preceding law firm (f) was provided with the exact same information as that provided to this law firm, and never communicated that they were *“at a loss as to how we can move this forward. Of concern is what it is that you would like as a result here.”*

I made it very clear to this law firm, both verbally and via my email communications, that I wanted an expert legal opinion on my case. It’s a very straightforward request.

The email continues:

“Obviously a claim could end up being extremely expensive to bring without an guarantee of success and while its good business for us, it is not something that I can recommend without a clear idea of what we are trying to achieve.”

Why two months earlier, after receiving my written communications and hearing my request over the phone, did they not indicate that they were *“without a clear idea of what we are trying to achieve?”* They had a very clear idea after we had spoken over the phone two months earlier.

The email ends:

“I wonder if you have had any further thoughts on the matter since we spoke?”

I’m somewhat confused – I had contacted them two months earlier, asked them for a legal opinion, and they now ask me if I have had any further thoughts on the matter since we spoke?

(h)

If you recall earlier, I had contacted the Citizens Information Board on January 23, 2015, which is the statutory body that supports the provision of information, advice and advocacy on a broad range of public and social services, to help me find anyone who could provide me with an expert opinion on my case. I was told in part:

"Regarding the issue you raise about legal services in Ireland. The Law Society of Ireland is the professional body for solicitors and exercises statutory functions under the Solicitors Acts 1954 to 2013 in relation to the discipline and regulation of the solicitors' profession in Ireland. You can contact the Law Society for advice on solicitor's services or if you wish to make a complaint."

I also received a reply from the European Ombudsman on February 12, 2015, whom I had contacted earlier, and was told:

"As regards the private law firms, your complaint seems to be about failure to reply to requests for assistance or advice. Law firms in Ireland are regulated by the Law Society of Ireland which deals with complaints from clients. You may visit the Law Society's website and contact them for further information:"

Both of these statutory bodies, one Irish and the other European, referred me to the Law Society of Ireland as the organization responsible for addressing this issue (i.e. Irish law firms unwilling to provide me with an expert opinion). I had already contacted the Law Society of Ireland on December 3, 2014, specifically Mr. Ken Murphy, Director General, Law Society of Ireland, and, not having heard back from him, and on the basis of the feedback I received from the Citizens Information Board and the European Ombudsman, I followed up with him on January 30, 2015 and again on March 19, 2015, but neither heard back from him nor from the Law Society of Ireland. Why would the Director General of the Law Society of Ireland, whose organization I was referred to by two statutory bodies, ignore my requests for assistance? This is obviously a concern.

Furthermore, I received a reply from an Irish solicitor and member of the Law Society of Ireland, who told me:

"Please contact the Law Society for the name of another solicitor who may be in a position to help you."

So even a member of the Law Society of Ireland referred me to the Law Society of Ireland, so clearly the Law Society of Ireland should have replied to my request.

I also sent my request to the President of the Law Society of Ireland on February 6, 2015 and again on March 19, 2015, just in case the Director General might claim not to have received my emails, but I never heard back from him either.

Incidentally, I also sent my case to the Solicitors Disciplinary Tribunal and Mr. Justice Alan Mahon, Chairperson of The Tribunal of Inquiry into Certain Planning Matters & Payments, as I thought to myself that there may be a glimmer of hope that I will get some guidance from these pertinent and experienced legal bodies and people on this important matter. I was wrong (see replies below).

“Dear Mr Landers

I acknowledge receipt of your email dated 24 January 2015.

The function of the Tribunal is to process applications alleging misconduct against solicitors in accordance the Solicitors Act 1994 to 2011 and the Solicitors Disciplinary Tribunal Rules, 2003.

In the circumstances we are not in a position to assist you in respect of the matters raised in your email.

Yours sincerely

_____”

It was actually signed with no name as above.

Dear Mr. Landers

I acknowledge receipt of your email dated the 4th February, 2015 to Mr. Justice Mahon, Chairperson of the Planning Tribunal.

I am directed by the Tribunal to inform you that the Tribunal has concluded its investigations and published its Fifth and Final Report pursuant to its Terms of Reference and is in the process of winding down.

In these circumstances, I regret the Tribunal cannot be of assistance to you in regard to the matters raised in your email and attachment.

Yours faithfully

(name)

Registrar to the Tribunal

This letter was signed by a person.

(i)

Below is just another reply from an Irish solicitor declining my request:

Maurice

Thank you for this email, but unfortunately we will not be in a position to assist.

Kind regards

(name)

Suffice it to say, it's been a very revealing exercise analyzing the replies I've received from all the aforementioned law firms, and referencing some of their replies against others. **Bottom line though, not one Irish law firm has offered to provide me with an expert legal opinion on my case**, nor have any of the 'distinguished' bodies and professionals mentioned above, the Law Society of Ireland (not even a response) or most of the mediators listed on its website, provided me with even a referral to someone who can provide me with a legal opinion.

(j)

I had mentioned earlier that I would come back to the possible 'leveraging' practice (sub-section (c) above) among I believe at least some Irish law firms, and by extension, the private sector.

One Irish solicitor it would seem, as opposed to contacting me directly, preferred to have his friend, who is not a lawyer, contact me instead. I received a very nice email from, let's just refer to him as 'the friend of a solicitor,' both of whom I have never met before, stating:

"I received a copy of your request for assistance hereunder from a solicitor friend of mine yesterday for my opinion. Being involved in attracting FDI to Ireland under the Irish Immigration Investor Programme (IIP), he was interested in my experience of same."

He continued:

"I have read your emails and can well understand your frustration but I am not sure as to what you actually want to achieve by future action?"

It would seem in Ireland, they're so used to inappropriate business practices and the lack of accountability on the part of Irish Government Officials, that they're unable to see what future action would achieve. I suppose it's a mindset thing?

Next sentence, same paragraph:

"There appears to be quite a bit of unrest in Ireland by recent Government actions/decisions e.g. water-charges, repayment of junior bond-holders, lack of transparency etc. and quite a lot of separate 'action

groups' are emerging. Couple this with recent concerns over Greece's predicted default end of next month and we live in very volatile/uncertain times indeed."

So in other words, let's not rock the boat lest we overburden the Irish Government from doing what they're paid very handsomely to do?

Next paragraph, he states:

"This aside, I believe in positive action and sometimes it may be more prudent to use negative experiences and convert them to positive proposals by using them as leverage. I hasten to add that this is just my personal opinion and in no way would I suggest that you should not react legally to what seems to be an unfair/unjust treatment of your application for funding. "

And this is the point I'm making. The business culture in Ireland as regards Irish Government-private sector transactions seems to be to 'leverage,' rather than to tackle corruption head-on. I never had any intention of contacting the Irish Government and trying to leverage my allegations of mismanagement of Government funds against them. If I was to do that, I may as well get into the bribing business, not that that was the intention of the friend of a solicitor.

But I don't necessarily blame the friend of a solicitor above, in that I believe unfortunately the effects of corruption spread out from its core, the Irish Government, out into the next layer, the lawyers, and finally out into the private sector. Irish law firms seem to have little choice but to act as a firewall that protects the Irish Government from prosecution on corruption charges by avoiding taking on potential corruption cases such as mine. The many Irish Tribunals, at significant cost to the Irish people, in place of the institution and conducting of legal proceedings, strongly supports this hypothesis. I'm certainly not saying that Irish law firms and those in the Irish private sector are corrupt, or any more corrupt than any other nation, but unfortunately, they have had to learn how to conduct business (Government-private sector transactions) in this type of environment.

The email ends:

"I would be delighted to see any further information you may have regarding your past application and would welcome a proposal from you as to what action you would like to pursue regarding same. Naturally, I would assume you would prefer to channel this sensitive information through the protection of a fully licensed legal practitioner in Ireland and I would assure you of my compliance with any and all confidentiality issues associated with same. I will confirm my assistance to my solicitor friend if you are happy to disclose your intentions."

I replied:

"As per my request in my email to solicitors in Ireland, quite simply I'm looking for an expert opinion on the matter.

I would have to deal directly with a law firm, but I appreciate your offer of assistance. If your solicitor friend is interested in providing this service, I will be glad to discuss it with them."

The friend of a solicitor replied:

"I've passed on your response and my solicitor friend will be in contact with you in due course."

But as was expected, I never heard back from the lawyer/solicitor.

Even at a time when many Irish law firms are finding it very difficult to stay in business, they refuse to take my case. Why, because they don't want the business?

Why wouldn't just ONE of the over 1,000 (and statistically 2,400) lawyers I contacted provide me with an opinion that would effectively say that the Irish Government didn't do anything wrong or unethical, and put this matter to rest?

Is it because they know that this is not the case?

Anecdotally, since I'm on the subject of friends and lawyers, I was told by a friend of mine whose lawyer told them that if an Irish lawyer or law firm were to take my case, they would have to have nothing to lose.

I think that just about sums it up.

Unless you have a willing justice system, not a sheepish one, Irish Government Officials can continue taking advantage of the power bestowed upon them by the people of Ireland, confident that their inappropriate practices will very likely go unpunished.

I'll end this section with a quote from the Declaration of Independence, which states in part:

"But when a long train of abuses and usurpations, pursuing invariable the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security"

Or as paraphrased by Nicholas Cage in one of the National Treasure movies:

"If there's something wrong, those who have the ability to take action have the responsibility to take action."

SOURCE: MY UPDATE REPORT

Section 4

Further observations and recommendations

Law Society of Ireland

As with Report 1, I'd like to take this opportunity to offer some further observations that provide a broader profile of the Irish Government and Ireland's oversight system.

Having had my initial request/complaint (see Email A immediately below) rejected on the basis, for the most part, that Irish "solicitors in private practice have discretion to accept or refuse instructions from a potential client" (okay, so I don't know how to argue with that one, however unusual it is that statistically every lawyer in Ireland refused to take my case), I decided to send a follow-up email to the Law Society of Ireland (see Email B below):

Email A:

Dear Complaints and Client Relations Section, Law Society of Ireland,

I would like to lodge a formal complaint against multiple Irish law firms, by alleging Inadequate Professional Services.

Attached is a report I prepared which includes details of the difficulty I have had getting an expert legal opinion from multiple Irish law firms. My complaint therefore is the reluctance of any Irish law firm to provide me with adequate professional services regarding the matter detailed in my report i.e. the mismanagement of Irish Government funds.

Since I have reached out statistically to every law firm in Ireland, including most if not all mediators listed on the Law Society of Ireland website, it is impractical for me to use the complaints form on your website for each and every law firm/solicitor. Therefore, I assume the Law Society of Ireland has the facility to accommodate complaint requests against hundreds/thousands of Irish law firms without requiring those making the complaint to fill out hundreds of complaint forms?

If necessary, I can certainly provide a list of all the Irish law firms to whom I made a request for an expert legal opinion.

I look forward to hearing from you regarding this matter.

Kind regards,

Maurice D. Landers

Email B:

Dear Linda,

Thank you for your reply.

I have attached a Report I recently prepared, which alleges mismanagement of Irish Government funds relating to Innovation Fund Ireland. I would like to hold those involved in this unlawful act accountable.

I will refer you to p. 59 (h) of this Report.

Surely, the Director General and/or the President of the Law Society of Ireland, if unable to reply directly to my request, would have referred it to someone else within the Law Society of Ireland to address? Is this not a reasonable assumption?

Therefore, I am appealing to the Law Society of Ireland to do everything within its power to assist me, a member of the public, in this matter.

I trust there is substance to your Corporate Social Responsibility Statement on your website, as it applies to my case, particularly parts (2) Marketplace and (4) Community? <https://www.lawsociety.ie/About-Us/Corporate-Responsibility/>

My case alleges mismanagement of \$50M, and potentially Euros 250M, and therefore I would think should receive some serious consideration and action from an organization such as yours.

I look forward to hearing back from you.

Kind regards,

Maurice D. Landers

Their reply was brief and stated for the most part "The role of the Complaints Section is to investigate complaints made against individual solicitors. We do not provide legal representation or legal advice to members of the public."

Is there no action the Law Society of Ireland can take regarding my case that's within its power? After all, I was able to prepare a 164-page report as an individual using my own resources. Does the Law Society of Ireland operate within a bubble where serious cases such as mine cannot be addressed? Why then is it called the Law Society of Ireland, why not call it 'Not the Law Society of Ireland'?

Their reply to my first email above ended "You have also referred to a solicitor who responded with an obscene message. If you wish to make a specific complaint about the nature of the reply you received from the solicitor, Please complete and return the Complaint Form which is available to download from our website."

So, the Law Society had no problem effectively volunteering to throw one of their own members under the bus, but they have no power to hold the Irish Government accountable or assist me with my case? The Law Society completely misses the point (on purpose?). I didn't spend a portion of the past three-plus years of my life focused on trying to hold one solicitor/lawyer accountable for a comment that person made, however unusual.

And does not the above statement offer legal advice, which according to the Law Society's reply to my second email above is not something it can do, when it stated, "*We do not provide legal representation or legal advice to members of the public*"? My recent requests/complaint to the Law Society of Ireland related specifically to 1. "*I would like to lodge a formal complaint against multiple Irish law firms, by alleging Inadequate Professional Services.*" and 2. "*I would like to hold those involved in this unlawful act accountable*" i.e. mismanagement of Irish Government funds.

Why then would the Law Society of Ireland direct/guide me towards making a complaint about the nature of the reply I received from this solicitor, something I never asked for in the complaint/requests I made to them? According to Oxford Dictionaries, the definition of advice is "*Guidance or recommendations offered with regard to prudent future action.*"

"If you wish to make a specific complaint about the nature of the reply you received from the solicitor..."

is clearly a recommendation (advice) by the Law Society that is outside the scope of the requests I made to them in Emails A and B above.

I'm not going to allow the Law Society of Ireland to throw one of their own under the bus while they choose not to hold those accountable who committed the crime I have alleged. In fact, the Law Society of Ireland should actually be called the 'Solicitors Society of Ireland.' Why are they allowed to call themselves something they are not? I realize these elites might want to sound more important than they really are, but they are not a 'Law' Society as per their own statement above, that is "*The role of the Complaints Section is to investigate complaints made against individual solicitors. We do not provide legal representation or legal advice to members of the public.*"

Transparency International

Transparency International Ireland (TI Ireland), like the Law Society of Ireland, is also part of Ireland's oversight system. I sent Report 1 (wherein I referenced TI) to TI Ireland, and although I won't include all of my email communications with this organization, during one email communication I had with one of their representatives, I was told:

"You are correct that TI Ireland does not accept core funding from the government. We are, however, available to accept such funding for projects such as our Speak Up work. This was previously financed by the EU Commission – which is funded by EU governments - and (as mentioned in my last email) we are now accepting the Department's grant to establish an independent law centre."

I think we've all been around long enough to know that there's no difference between accepting funding from the Irish Government, and accepting 'core' funding from the Irish Government. It's all funding! The use of semantics such as the use of the word 'core' is neither here nor there. And if you take the core of the Earth as an analogy, wouldn't this mean that core funding would be less than non-core funding (since



Failte32 Failte32 <failte32@gmail.com>

Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>

Mon, Dec 1, 2014 at 7:41 PM

To: barcouncil@lawlibrary.ie, info@dublinarbitration.com

Dear Mr David Barniville SC, Chairman of the Bar Council,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Is this normal practice for law firms in Ireland?

Can you refer me to an objective law firm who can provide me with an expert opinion on this matter (I can furnish additional information on this matter upon request).

Innovation Fund Ireland: Enterprise Ireland and National Pensions Reserve Fund competitive tender - Attached is my final communication on this matter


Included within are some direct and indirect observations of Enterprise Ireland, some information on the project/companies we were proposing to bring into Ireland, and some general recommendations and advice.

Since international investors, including U.S. VC firms and companies, were invited to apply to Innovation Fund Ireland, this is important intelligence for those considering investing in Ireland/Europe, and hopefully will inspire the inclusion of precautions against these types of Irish Government practices occurring again in all types of international transactions, including FDI and future trade agreements.

Thank you in advance of for your attention to this matter.

Kind regards

Maurice D. Landers

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Failte32 Failte32 <failte32@gmail.com>

Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>
To: dublin@arthurcox.com, newyork@arthurcox.com

Mon, Dec 1, 2014 at 8:58 PM

Dear Arthur Cox Senior Partners,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland?

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Thank you in advance of for your attention to this matter.

Kind regards

Maurice D. Landers

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Failte32 Failte32 <failte32@gmail.com>

Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>
To: dublin@algoodbody.com, newyork@algoodbody.com

Mon, Dec 1, 2014 at 9:05 PM

Dear A & L Goodbody Senior Partners,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland?

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Kind regards

Maurice D. Landers

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Failte32 Failte32 <failte32@gmail.com>

Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>

Mon, Dec 1, 2014 at 9:14 PM

To: John.Cronin@mccannfitzgerald.ie, Fergus.Gillen@mccannfitzgerald.ie, Helen.Kilroy@mccannfitzgerald.ie, inquiries@mccannfitzgerald.ie

Dear Mr. John Cronin and Senior Partners, McCann FitzGerald,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland?

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Thank you in advance of for your attention to this matter.

Kind regards

Maurice D. Landers

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Failte32 Failte32 <failte32@gmail.com>

Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>

Mon, Dec 1, 2014 at 9:18 PM

To: info@williamfry.ie

Cc: newyork@williamfry.com, london@williamfry.com, mountainview@williamfry.com

Dear William Fry Senior Partners,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland?

Can you provide me with an expert opinion on this matter (I can furnish additional information on this matter upon request). Please send me your fee schedule for this service, so that we can begin the process.

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Thank you in advance of for your attention to this matter.

Kind regards

Maurice D. Landers

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Failte32 Failte32 <failte32@gmail.com>

Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>

Mon, Dec 1, 2014 at 9:20 PM

To: dublin@mhc.ie, london@mhc.ie, newyork@mhc.ie

Dear Mason Hayes and Curran Senior Partners,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland?

Can you provide me with an expert opinion on this matter (I can furnish additional information on this matter upon request). Please send me your fee schedule for this service, so that we can begin the process.

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Thank you in advance of for your attention to this matter.

Kind regards

Maurice D. Landers

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Failte32 Failte32 <failte32@gmail.com>

Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>
To: info@sor.ie, jsherwin@sor.ie

Mon, Dec 1, 2014 at 9:24 PM

Dear Sherwin O'Riordan Senior Partners,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland?

Can you provide me with an expert opinion on this matter (I can furnish additional information on this matter upon request). Please send me your fee schedule for this service, so that we can begin the process.

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Kind regards

Maurice D. Landers

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Failte32 Failte32 <failte32@gmail.com>

Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>
To: lawyer@efc.ie
Cc: stwomey@efc.ie

Mon, Dec 1, 2014 at 9:28 PM

Dear Eugene F. Collins Senior Partners,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland?

Can you provide me with an expert opinion on this matter (I can furnish additional information on this matter upon request). Please send me your fee schedule for this service, so that we can begin the process.

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Thank you in advance of for your attention to this matter.

Kind regards

Maurice D. Landers

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Failte32 Failte32 <failte32@gmail.com>

Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>
To: dublininfo@maplesandcalder.com, ukinfo@maplesandcalder.com

Mon, Dec 1, 2014 at 9:33 PM

Dear Maples and Calder Senior Partners,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland?

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Thank you in advance of for your attention to this matter.

Kind regards

Maurice D. Landers

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Failte32 Failte32 <failte32@gmail.com>

Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

2 messages

Failte32 Failte32 <failte32@gmail.com>

Mon, Dec 1, 2014 at 9:36 PM

To: dublin@matheson.com, newyork@matheson.com, london@matheson.com

Dear Matheson Senior Partners,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland?

Can you provide me with an expert opinion on this matter (I can furnish additional information on this matter upon request). Please send me your fee schedule for this service, so that we can begin the process.

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Thank you in advance of for your attention to this matter.

Kind regards

Maurice D. Landers

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Dunne, Deirdre <Deirdre.Dunne@matheson.com>

Tue, Dec 2, 2014 at 3:33 AM

To: "failte32@gmail.com" <failte32@gmail.com>

Dear Mr. Landers,

I wish to acknowledge your email.

Thank you for reaching out to Matheson however we cannot assist you with this matter.

Kind regards,

Deirdre Dunne

Partner | Head of Business Development

Matheson

70 Sir John Rogerson's Quay

Dublin 2

D: +353 1 232 2111

T: +353 1 232 2000

F: +353 1 232 2010

E: Deirdre.Dunne@Matheson.com

W: www.matheson.com

[Quoted text hidden]

Matheson is the only Irish law firm commended by the Financial Times for innovation in corporate law, finance law, dispute resolution and corporate strategy.

This e-mail is confidential. If you receive it in error, please advise by return e-mail and delete it.
Thank you for your co-operation.

Matheson

70 Sir John Rogerson's Quay, Dublin 2, Ireland.

Tel: +353 1 232 2000 Fax: +353 1 232 3333

Email: postmaster@matheson.com

Web: www.matheson.com

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Failte32 Failte32 <failte32@gmail.com>

Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>
To: solicitor@carmodymoran.ie

Mon, Dec 1, 2014 at 9:39 PM

Dear Carmody Moran Senior Partners,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland?

Can you provide me with an expert opinion on this matter (I can furnish additional information on this matter upon request). Please send me your fee schedule for this service, so that we can begin the process.

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Maurice D. Landers

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Failte32 Failte32 <failte32@gmail.com>

Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>
To: reception@moranryan.com

Mon, Dec 1, 2014 at 9:40 PM

Dear Moran and Ryan Senior Partners,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland?

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Thank you in advance of for your attention to this matter.

Kind regards

Maurice D. Landers

 **My-observations-and-interpretation-of-Enterprise-Ireland.....pdf**
508K



Failte32 Failte32 <failte32@gmail.com>

Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>
To: d.whelan@ucc.ie

Wed, Dec 3, 2014 at 6:43 PM

Dear Dr Darius Whelan,
Faculty of Law,
University College,
Cork,
Ireland,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them (bar one yesterday, which declined my request), not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland?

Can you provide me with an expert opinion on this matter or refer me to a firm that can (I can furnish additional information on this matter upon request). Or alternatively, you might send my documents on my behalf to your list of solicitors to see if anyone is interested.

I have sent my documents to thousands of people/firms inc. international CPA's, law firms, VC firms etc. over the past six months, and will continue to do so for the foreseeable future. I don't believe there will be any sincere change from within the Irish Government, and so I decided to send my case to tens of thousands of influential people/firms with a view to influencing them to insist on change if they are doing, or decide to do, business with the Irish Government/Ireland.

Innovation Fund Ireland: Enterprise Ireland and National Pensions Reserve Fund competitive tender - Attached is my final communication on this matter.

Included within are some direct and indirect observations of Enterprise Ireland, some information on the project/companies we were proposing to bring into Ireland, and some general recommendations and advice.

Since international investors, including U.S. VC firms and companies, were invited to apply to Innovation Fund Ireland, this is important intelligence for those considering investing in Ireland/Europe, and hopefully will inspire the inclusion of precautions against these types of Irish Government practices occurring again in all types of international transactions, including FDI and future trade agreements.

Thank you in advance of for your attention to this matter.

Kind regards

Maurice D. Landers

 **My-observations-and-interpretation-of-Enterprise-Ireland.....pdf**
508K



Failte32 Failte32 <failte32@gmail.com>

Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>
To: info@maurahurleysolicitors.com

Fri, Dec 5, 2014 at 11:51 AM

Dear Maura Hurley Solicitors,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland?

Can you provide me with an expert opinion on this matter (I can furnish additional information on this matter upon request). Please send me your fee schedule for this service.

Innovation Fund Ireland: Enterprise Ireland and National Pensions Reserve Fund competitive tender - Attached is my final communication on this matter.

Included within are some direct and indirect observations of Enterprise Ireland, some information on the project/companies we were proposing to bring into Ireland, and some general recommendations and advice.

Since international investors, including U.S. VC firms and companies, were invited to apply to Innovation Fund Ireland, this is important intelligence for those considering investing in Ireland/Europe, and hopefully will inspire the inclusion of precautions against these types of Irish Government practices occurring again in all types of international transactions, including FDI and future trade agreements.

Thank you in advance of for your attention to this matter.

Kind regards

Maurice D. Landers

 **My-observations-and-interpretation-of-Enterprise-Ireland.....pdf**
508K



Failte32 Failte32 <failte32@gmail.com>

Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>
To: barton.winokur@dechert.com

Fri, Dec 5, 2014 at 12:30 PM

Dear Dechert LLP Senior Partners,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland?

Can you provide me with an expert opinion on this matter (I can furnish additional information on this matter upon request). Please send me your fee schedule for this service.

Innovation Fund Ireland: Enterprise Ireland and National Pensions Reserve Fund competitive tender - Attached is my final communication on this matter.

Included within are some direct and indirect observations of Enterprise Ireland, some information on the project/companies we were proposing to bring into Ireland, and some general recommendations and advice.

Since international investors, including U.S. VC firms and companies, were invited to apply to Innovation Fund Ireland, this is important intelligence for those considering investing in Ireland/Europe, and hopefully will inspire the inclusion of precautions against these types of Irish Government practices occurring again in all types of international transactions, including FDI and future trade agreements.

Thank you in advance of for your attention to this matter.

Kind regards

Maurice D. Landers

 **My-observations-and-interpretation-of-Enterprise-Ireland.....pdf**
508K



Failte32 Failte32 <failte32@gmail.com>

Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

8 messages

Failte32 Failte32 <failte32@gmail.com>

Fri, Dec 5, 2014 at 5:47 PM

To: Failte32 Failte32 <failte32@gmail.com>

Bcc: postmaster@mccannfitzgerald.ie, Hugh.Beattie@mccannfitzgerald.ie, Valerie.Lawlor@mccannfitzgerald.ie, securemail@beauchamps.ie, bsb@bsblake.com, tracy@dhs.ie, ssob@securemail.ie, info@macguill.ie, mop@mop.ie, Michaelcampion@indigo.ie, info@murphygibbons.ie, info@gsandco.ie, ckt@ckt.ie, bolandquirke@eircom.net, info@collinsbrooks.ie, egcarey@eircom.net, fionabrowne@eircom.net, gallagherbrennan@eircom.net, enquirles@gmcclaw.ie, info@odeasolicitors.ie, info@gavinsolicitors.com, lawyer@heneghansolicitors.ie, information@fordsolicitors.com, ocarrollsolicitors@eircom.net, foconnor@dinglelaw.com, brosnanandco@eircom.net, Murphysolicitor@eircom.net, meburke@eircom.net, info@padraigfoleysolicitor.com, info@breenmanning.ie, pmeagher@midlandlegal.ie, solicitor@bgms.ie, infor@michaelglynn.ie, reception@thorntonsolicitors.ie, bridmiller@eircom.net, conleth@eircom.net, info@rdj.ie, info@derryocarroll.com, info@purcellcullen.ie, law@boweobrien.ie, info@nfg.ie

Dear Senior Partners,

Can you provide me with an expert opinion on this matter (I can furnish additional information on this matter upon request). Please send me your fee schedule for this service.

Innovation Fund Ireland: Enterprise Ireland and National Pensions Reserve Fund competitive tender - Attached is my final communication on this matter.

Included within are some direct and indirect observations of Enterprise Ireland, some information on the project/companies we were proposing to bring into Ireland, and some general recommendations and advice.

Since international investors, including U.S. VC firms and companies, were invited to apply to Innovation Fund Ireland, this is important intelligence for those considering investing in Ireland/Europe, and hopefully will inspire the inclusion of precautions against these types of Irish Government practices occurring again in all types of international transactions, including FDI and future trade agreements.

Thank you in advance of for your attention to this matter.

Kind regards

Maurice D. Landers



My-observations-and-interpretation-of-Enterprise-Ireland.....pdf

508K

Mail Delivery Subsystem <mailer-daemon@googlemail.com>
To: failte32@gmail.com

Fri, Dec 5, 2014 at 5:47 PM

Delivery to the following recipient failed permanently:

infor@michaelglynn.ie

Technical details of permanent failure:

DNS Error: Address resolution of michaelglynn.ie. failed: Domain name not found

----- Original message -----

DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed;
d=gmail.com; s=20120113;
h=mime-version:date:message-id:subject:from:to:content-type;
bh=f/gX9f4IUahiaGM9iDRdBO8+1CZqK0O9Uzq0F7Oyf0=;
b=gFle6LjumsmyvZlaXDIQIQdCqOmb+I9BufTpypxzNSZ59PkEEunA+MbEIIStk1M
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2XkA==

MIME-Version: 1.0

X-Received: by 10.194.177.225 with SMTP id ct1mr27003291wjc.75.1417819675836;

Fri, 05 Dec 2014 14:47:55 -0800 (PST)

Received: by 10.194.158.40 with HTTP; Fri, 5 Dec 2014 14:47:55 -0800 (PST)

Date: Fri, 5 Dec 2014 17:47:55 -0500

Message-ID: <CALd8EIAMqHOXibM3uW0buUuSVC9mSsL1bZvYKNG7AELwLuaZ=g@mail.gmail.com>

Subject: Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3
(final part): My experience of bringing new Investor Groups to Ireland, and
Irish Government business practices.

From: Failte32 Failte32 <failte32@gmail.com>

To: Failte32 Failte32 <failte32@gmail.com>

Content-Type: multipart/mixed; boundary=047d7bae43a224d20505097fde77

Bcc: infor@michaelglynn.ie

[Quoted text hidden]

Mail Delivery Subsystem <mailer-daemon@googlemail.com>
To: failte32@gmail.com

Fri, Dec 5, 2014 at 5:48 PM

Delivery to the following recipient failed permanently:

ssob@securemail.ie

Technical details of permanent failure:

Google tried to deliver your message, but it was rejected by the server for the recipient domain securemail.ie by
clustera.tstechnology.net. [91.199.74.13].

The error that the other server returned was:

554 5.1.1 <ssob@securemail.ie>: Recipient address rejected: undeliverable address: host listerine.dublin.tstechnology.
net[10.254.0.187] said: 554 5.1.1 <ssob@securemail.ie>: Recipient address rejected: undeliverable address: host
pop.dublin.tstechnology.net[10.254.2.54] said: 550 5.1.1 <ssob@securemail.ie>: Recipient address rejected: User
unknown in virtual mailbox table (in reply to RCPT TO command) (in reply to RCPT TO command)

----- Original message -----

DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed;
d=gmail.com; s=20120113;
h=mime-version:date:message-id:subject:from:to:content-type;
bh=f/gX9f4IUahiaGM9iDRdBO8+1CZqK0O9Uzq0F7Oyf0=;
b=gFle6LjumsmyvZlaXDIQIQdCqOmb+I9BufTpypxzNSZ59PkEEunA+MbEIIStk1M
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aTtvvjmHYoVz9JI9Lu7OJT5VE5YcyogbWaEU4ov8rdbzxERhXyQKxKgCMBFLVFHXQ7tu
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2XkA==

MIME-Version: 1.0
X-Received: by 10.194.177.225 with SMTP id ct1mr27003291wjc.75.1417819675836;
Fri, 05 Dec 2014 14:47:55 -0800 (PST)
Received: by 10.194.158.40 with HTTP; Fri, 5 Dec 2014 14:47:55 -0800 (PST)
Date: Fri, 5 Dec 2014 17:47:55 -0500
Message-ID: <CALd8EIAMqHOXibM3uW0buUuSVC9mSsL1bZvYKNG7AELwLUAZ=g@mail.gmail.com>
Subject: Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3
(final part): My experience of bringing new Investor Groups to Ireland, and
Irish Government business practices.
From: Failte32 Failte32 <failte32@gmail.com>
To: Failte32 Failte32 <failte32@gmail.com>
Content-Type: multipart/mixed; boundary=047d7bae43a224d20505097fde77
Bcc: ssob@securemail.ie
[Quoted text hidden]

Mail Delivery Subsystem <mailer-daemon@googlemail.com> Fri, Dec 5, 2014 at 5:48 PM
To: failte32@gmail.com

Delivery to the following recipient failed permanently:

solicitor@bgms.ie

Technical details of permanent failure:
Google tried to deliver your message, but it was rejected by the server for the recipient domain bgms.ie by mail.bgms.ie.
[83.70.135.1].

The error that the other server returned was:
550 5.1.1 User unknown

----- Original message -----

DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed;
d=gmail.com; s=20120113;
h=mime-version:date:message-id:subject:from:to:content-type;
bh=f/gX9f4IUahiaGM9IDRdBOr8+1CZqK0O9Uzq0F7Oyf0=;
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2XkA==

MIME-Version: 1.0
X-Received: by 10.194.177.225 with SMTP id ct1mr27003291wjc.75.1417819675836;
Fri, 05 Dec 2014 14:47:55 -0800 (PST)
Received: by 10.194.158.40 with HTTP; Fri, 5 Dec 2014 14:47:55 -0800 (PST)
Date: Fri, 5 Dec 2014 17:47:55 -0500
Message-ID: <CALd8EIAMqHOXibM3uW0buUuSVC9mSsL1bZvYKNG7AELwLUAZ=g@mail.gmail.com>
Subject: Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3
(final part): My experience of bringing new Investor Groups to Ireland, and
Irish Government business practices.
From: Failte32 Failte32 <failte32@gmail.com>
To: Failte32 Failte32 <failte32@gmail.com>
Content-Type: multipart/mixed; boundary=047d7bae43a224d20505097fde77
Bcc: solicitor@bgms.ie
[Quoted text hidden]

Mail Delivery Subsystem <mailer-daemon@googlemail.com> Sat, Dec 6, 2014 at 6:13 PM
To: failte32@gmail.com

This is an automatically generated Delivery Status Notification

THIS IS A WARNING MESSAGE ONLY.

YOU DO NOT NEED TO RESEND YOUR MESSAGE.

Delivery to the following recipient has been delayed:

info@odeasolicitors.ie

Message will be retried for 2 more day(s)

Technical details of temporary failure:

The recipient server did not accept our requests to connect. Learn more at <http://support.google.com/mail/bin/answer.py?answer=7720>

[(10) mailserver.odeasolicitors.ie. [86.43.96.76]:25: socket error]

----- Original message -----

DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed; d=gmail.com; s=20120113; h=mime-version:date:message-id:subject:from:to:content-type; bh=f/gX9f4IUahiaGM9iDRdBOOr8+1CZqK0O9Uzq0F7Oyf0=; b=gFle6LjumsmoyvZlaXDIQIOqdCqOmb+I9BufTpypxzNSZ59PkEEunA+MbEIIStk1M001yW073KiRnjECIQTXf+gzxuX9S3hldNNI9dM8vnsVh7AU2yOF78k0sCdgsRdMTC/F9aTtvvjmHYoVz9Jl9Lu7OJT5VE5YcyogbWaEU4ov8rdbzxERhXyQKxKgCMBFLVFXHQ7tu tFG6MI+bE8O0TMh2eZr1dDEWx+qegI5JHUUITSXMYxZq4/Jemlb7jwHIndpWhps5cGv+ /ga3bigvsCnzjk58YYucuHsH77JKHGqvNBqHFDyPrkYmxUrp47RxbIkQ2dkJJXOGaiC 2XkA==

MIME-Version: 1.0
X-Received: by 10.194.177.225 with SMTP id ct1mr27003291wjc.75.1417819675836; Fri, 05 Dec 2014 14:47:55 -0800 (PST)
Received: by 10.194.158.40 with HTTP; Fri, 5 Dec 2014 14:47:55 -0800 (PST)
Date: Fri, 5 Dec 2014 17:47:55 -0500
Message-ID: <CALd8EiAMqHOXibM3uW0buUuSVC9mSsL1bZvYKNG7AELwLuaZ=g@mail.gmail.com>
Subject: Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.
From: Failte32 Failte32 <failte32@gmail.com>
To: Failte32 Failte32 <failte32@gmail.com>
Content-Type: multipart/mixed; boundary=047d7bae43a224d20505097fde77
Bcc: info@odeasolictors.ie
[Quoted text hidden]

Mail Delivery Subsystem <mailer-daemon@googlemail.com> Sun, Dec 7, 2014 at 6:55 PM
To: failte32@gmail.com

This is an automatically generated Delivery Status Notification

THIS IS A WARNING MESSAGE ONLY.

YOU DO NOT NEED TO RESEND YOUR MESSAGE.

Delivery to the following recipient has been delayed:

info@odeasolicitors.ie

Message will be retried for 1 more day(s)

[Quoted text hidden]
[Quoted text hidden]

Dunne, Deirdre <Deirdre.Dunne@matheson.com> Mon, Dec 8, 2014 at 3:52 AM

8/31/2020 Gmail - Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to...
To: "failte32@gmail.com" <failte32@gmail.com>

Dear Mr. Landers,

I refer to your email below. We cannot assist you in this regard however thank you for reaching out to our firm.

Regards,

Deirdre Dunne

Partner | Head of Business Development

Matheson

70 Sir John Rogerson's Quay

Dublin 2

D: +353 1 232 2111

T: +353 1 232 2000

F: +353 1 232 2010

E: Deirdre.Dunne@Matheson.com

W: www.matheson.com

From: Client Reception

Sent: 08 December 2014 07:18

To: Business_Development

Subject: FW: Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

Client Reception

Matheson

70 Sir John Rogerson's Quay

Dublin 2

Ireland

D: +353 1 232 3600

T: +353 1 232 2000

F: +353 1 232 3333

E: clientreception@matheson.com

W: www.matheson.com

From: Failte32 Failte32 [mailto:failte32@gmail.com]

Sent: 05 December 2014 22:48

To: Failte32 Failte32

Subject: Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

Dear Senior Partners,

[Quoted text hidden]

Matheson is the only Irish law firm commended by the Financial Times for innovation in corporate law, finance law, dispute resolution and corporate strategy.

This e-mail is confidential. If you receive it in error, please advise by return e-mail and delete it.

Thank you for your co-operation.

Matheson

70 Sir John Rogerson's Quay, Dublin 2, Ireland.

Tel: +353 1 232 2000 Fax: +353 1 232 3333

Email: postmaster@matheson.com

Web: www.matheson.com

 **My-observations-and-interpretation-of-Enterprise-Ireland.....pdf**
508K

Mail Delivery Subsystem <maller-daemon@googlemail.com>

Mon, Dec 8, 2014 at 7:47 PM

To: failte32@gmail.com

Delivery to the following recipient failed permanently:

info@odeasolicitors.ie

Technical details of permanent failure:

The recipient server did not accept our requests to connect. Learn more at <http://support.google.com/mail/bin/answer.py?answer=7720>

[(10) mailserv.odeasolicitors.ie. [86.43.96.76]:25: socket error]

----- Original message -----

DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed;

d=gmail.com; s=20120113;

h=mime-version:date:message-id:subject:from:to:content-type;

bh=f/gX9f4IUahiaGM9iDRdBOr8+1CZqK0O9Uzq0F7Oyf0=;
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+/ga3bigvsCnzjk58YYucuHsH77JKHGqvNBqHFDyPrkYmxUrp47RxbkQ2dkJJXOGaiC
2XkA==

MIME-Version: 1.0

X-Received: by 10.194.177.225 with SMTP id ct1mr27003291wjc.75.1417819675836;

Fri, 05 Dec 2014 14:47:55 -0800 (PST)

Received: by 10.194.158.40 with HTTP; Fri, 5 Dec 2014 14:47:55 -0800 (PST)

Date: Fri, 5 Dec 2014 17:47:55 -0500

Message-ID: <CALd8EIAMqHOXibM3uW0buUuSVC9mSsL1bZvYKNG7AELwLuz=g@mail.gmail.com>

Subject: Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3
(final part): My experience of bringing new Investor Groups to Ireland, and
Irish Government business practices.

From: Failte32 Failte32 <failte32@gmail.com>

To: Failte32 Failte32 <failte32@gmail.com>

Content-Type: multipart/mixed; boundary=047d7bae43a224d20505097fde77

Bcc: info@odeasolicitors.ie

[Quoted text hidden]



Failte32 Failte32 <failte32@gmail.com>

Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

2 messages

Failte32 Failte32 <failte32@gmail.com>
To: general@distrib.ie

Fri, Jan 23, 2015 at 8:50 PM

Dear Solicitors Disciplinary Tribunal,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland? I have also been told by all relevant Irish Ombudsman, and the Central Bank of Ireland, that this matter is outside their remit.

Do you know of anyone who can provide me with an expert opinion on this matter? (I can furnish additional information on this matter upon request):

Innovation Fund Ireland: Enterprise Ireland and National Pensions Reserve Fund competitive tender - Attached is my final communication on this matter.

Included within are some direct and indirect observations of Enterprise Ireland, some information on the project/companies we were proposing to bring into Ireland, and some general recommendations and advice.

Since international investors, including U.S. VC firms and companies, were invited to apply to Innovation Fund Ireland, this is important intelligence for those considering investing in Ireland/Europe, and hopefully will inspire the inclusion of precautions against these types of Irish Government practices occurring again in all types of international transactions, including FDI, Private Equity, and future trade agreements.

Thank you in advance for your attention to this matter.

Kind regards

Maurice D. Landers

My-observations-and-interpretation-of-Enterprise-Ireland.....pdf
508K

Bow Street Reception <general@dlstrib.ie>
To: Failte32 Failte32 <failte32@gmail.com>

Fri, Jan 30, 2015 at 10:02 AM

Dear Mr Landers

I acknowledge receipt of your email dated 24 January 2015.

The function of the Tribunal is to process applications alleging misconduct against solicitors in accordance the Solicitors Act 1994 to 2011 and the Solicitors Disciplinary Tribunal Rules, 2003.

In the circumstances we are not in a position to assist you in respect of the matters raised in your email.

Yours sincerely

Solicitors Disciplinary Tribunal, The Friary, Bow Street, Smithfield, Dublin 7, Ireland

Tel: +353 (0) 1 869 0766 | Fax +353 (0) 1 869 0767| Email: general@dlstrib.ie | Web: www.dlstrib.ie

-
Please consider the environment before printing this email

[Quoted text hidden]

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager.

Scanned by the Clearswift SECURE Email Gateway.

www.clearswift.com

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>



Failte32 Failte32 <failte32@gmail.com>

Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>
To: CarolMKelly@courts.ie

Fri, Jan 23, 2015 at 9:10 PM

Dear Carol Kelly, Private Secretary to the Chief Justice,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland? I have also been told by all relevant Irish Ombudsman, and the Central Bank of Ireland, that this matter is outside their remit. So I can only conclude that this matter is outside the remit of each and every oversight institution in Ireland?

Do you know of anyone who can provide me with an expert opinion on this matter? (I can furnish additional information on this matter upon request):

Innovation Fund Ireland: Enterprise Ireland and National Pensions Reserve Fund competitive tender - Attached is my final communication on this matter.


Included within are some direct and indirect observations of Enterprise Ireland, some information on the project/companies we were proposing to bring into Ireland, and some general recommendations and advice.

Since international investors, including U.S. VC firms and companies, were invited to apply to Innovation Fund Ireland, this is important intelligence for those considering investing in Ireland/Europe, and hopefully will inspire the inclusion of precautions against these types of Irish Government practices occurring again in all types of international transactions, including FDI, Private Equity, and future trade agreements.

Thank you in advance for your attention to this matter.

Kind regards

Maurice D. Landers

 **My-observations-and-interpretation-of-Enterprise-Ireland.....pdf**
508K



Failte32 Failte32 <failte32@gmail.com>

Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>

Sun, Jan 25, 2015 at 8:31 PM

To: Failte32 Failte32 <failte32@gmail.com>

Bcc: info@croskerrys.com, law@crowleymillar.com, info@aclsolicitors.ie, info@cullensolicitors.ie, bredacullivan@gmail.com, info@epdaly.ie, office.galvin@gmail.com, info@dhs.ie, law@lawlororeilly.com, info@lawlorpartners.ie, info@leeandsherlock.ie, info@leman.ie, cynthia@lennonsolicitors.ie, doreen@doreenlevins.ie, maireadlittle@eircom.net, info@lksolicitors.ie, thomasloomes@tomloomes.ie, info@lovettodonnell.ie, info@lyonsdermody.ie, info@lyonskenny.ie, llfom@gmail.com, dy@dmlaw.ie, legal@macgtn.ie, susancaffrey@seamusmaguire.ie, info@mot.ie, info@nelson.ie, info@johnnevilleandco.ie, info@polomurchu.ie, briandobrien@bobsolicitors.ie, info@obriensolicitors.com, pobco@indigo.ie, edobriensolicitor@eircom.net, info@ocslegal.ie, solicitor@ocochlain.ie, inquiries@oconnellbrennan.ie, brendandoconnor@eircom.net, frances@conoconnor.ie, joconnorsolicitors@gmail.com, info@johnnoconnorsolicitors.ie, info@walterodlum.com, cathriona2002@yahoo.com, emerodonoghue@gmail.com, reception@odonohoes.com, info@podsols.com, info@fodsolicitors.ie, nhodwyer@eircom.net, anthony.diamond@diamonddlaw.ie

Dear Solicitors,

I would be grateful if you would provide me with an expert opinion on the matter below and attached (I can furnish additional information on this matter upon request). Please send me your fee schedule and retainer agreement so that we can begin the process.

Innovation Fund Ireland: Enterprise Ireland and National Pensions Reserve Fund competitive tender -
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Kind regards

Maurice D. Landers

8/31/2020

Gmail - Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part); My experience of bringing new Investor Groups to...



My-observations-and-interpretation-of-Enterprise-Ireland.....pdf

508K



Failte32 Failte32 <failte32@gmail.com>

Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

2 messages

Failte32 Failte32 <failte32@gmail.com>
To: peadar.kirby@ul.ie

Tue, Jan 27, 2015 at 9:32 AM

Dear Mr. Kirby, Emeritus Professor of International Politics and Public Policy, and director of the Institute for the Study of Knowledge in Society, at the University of Limerick,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland? I have also been told by all relevant Irish Ombudsman, and the Central Bank of Ireland, that this matter is outside their remit. So I can only conclude that this matter is outside the remit of each and every oversight institution in Ireland?

Do you know of anyone who can provide me with an expert opinion on this matter? Is this something you can do? I will gladly compensate you in accordance with your fee schedule (I can furnish additional information on this matter upon request):

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Thank you in advance for your attention to this matter.

Kind regards

Maurice D. Landers

 **My-observations-and-interpretation-of-Enterprise-Ireland.....pdf**
508K

Peadar.Kirby <Peadar.Kirby@ul.ie>
To: Failte32 Failte32 <failte32@gmail.com>

Wed, Jan 28, 2015 at 4:04 AM

Hi Maurice,

Thanks for the e-mail. Sorry I can't help you but I am now retired from UL.

Best regards,

Peadar Kirby

Check out my new website with its Blog from the Ecovillage/Blag ón Eiceaphobal at peadarkirby.ie and my tweets on @KirbyPeadar

Professor Peadar Kirby
Professor Emeritus of International Politics and Public Policy,
University of Limerick
Adjunct Professor, Network of Power, Politics and Society, NUI Maynooth
Adjunct Professor, Faculty of Political Science, University of Iceland, Reykjavik
UNESCO South-North Chair, University of Valencia, Spain, autumn 2012
Phone: 353-86-2076207
E-mail: peadar.kirby@ul.ie
Website: www.peadarkirby.ie
Twitter: @KirbyPeadar

From: Failte32 Failte32 [failte32@gmail.com]

Sent: 27 January 2015 14:32

To: Peadar.Kirby

Subject: Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

[Quoted text hidden]



Failte32 Failte32 <failte32@gmail.com>

Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

13 messages

Failte32 Failte32 <failte32@gmail.com> Sat, Jan 31, 2015 at 7:12 PM

To: ma@michaeljhoransolicitor.com, wexlegal@eircom.net, cardagh@ardaghlaw.ie, barmstrong@millehouse.com, william.aylmer@aylmerco.ie, mbergin@faganbergin.com, joanne.blennerhassett@ucd.ie, helen.obrien@boweobrien.ie, info@etainboyce.ie, catherinebradley35@gmail.com, sinead@sbsolicitors.com, richard.breen@williamfry.ie, breheny@iol.ie, siobhancbyrne@eircom.net, elaine.callan@carvill-rickard.ie, mcarey@dfmgsolicitors.ie, ecarney@carneymccarthy.ie, mairecarney@hotmail.com, ecarroll@nlcc.ie, tcarroll@tjhegarty.ie, gavancarty@kentcarty.com, hughcarty@kentcarty.com, simoncarty@simoncarty.com, david.casey@caseylaw.biz, mpc@cashinlaw.com, pcody.med.res@gmail.com, aine_coghill@csso.gov.ie, barry@barrycollinssol.ie, marycondell@shellsolicitors.ie, pcowhey@maxwells.ie, gus.cullen@acslsolicitors.ie, kieran@kierancummins.com, ocummins@orlacummins.ie, edavy@hayes-solicitors.ie, amdermody@lyonsdermody.ie, frank@dohertysolicitors.ie, angela@roryhayden.com, cathleendolan@eircom.net, stjohndonovan@gmail.com, info@ajduncanandco.ie, karenerwin@erwin-mediation.ie, lfenelon@leman.ie, mfinucane@portermorris.ie, noirin.galvin@gmail.com, alice@maloneandpotter.ie, bernie@bernadettegoff.com, dgrehan@duncangrehan.com, davidguilfoyle@guilfoyles.ie, richard@hgs.ie, eamon.harrington@ckt.ie, alan.harrison@harrisonsolicitors.com, siobhan.hayes@arthurcox.com, cairiona.healy@pierse.ie, ken@kenheffernan.ie, ahennesy@sweeneymcgann.com, jessica.hickey@hibernianlegal.ie, davidhiggins@berwick.ie, bill@billholohan.ie, mhough@hayes-solicitors.ie, jhughes@hugheskehoesolicitors.ie, ghyneslaw@gmail.com, michael.irvine@mop.ie, jkeaney@keaneynevin.ie, tadghk@yahoo.com, rhona.kelly@kcs.ie, pkennedy2012@yahoo.ie, ronankennedy@kfos.ie, pk@pakukhan.com, james.klnch@dublincity.ie, martina.larkin@pierse.ie, peterdoyle@doylefoxsolrs.ie, lkeane@lkp.ie, annemarieblaney@gmail.com, paul@engagedweb.co.uk, mlawlor@coghlanekelly.com, deborah.hanratty@gmail.com, john@lynchsolicitors.com, Dylan Macaulay <dy@dmlaw.ie>, jmaccurtain@pearts.ie, josepha@madigans.ie, sjmag2@gmail.com, avril@mangansolicitors.ie, bmannering@ntma.ie, stuart.margetson@gmail.com, annemayden@me.com, claire@cmcsolicitor.ie, mediation@live.ie, omccarthy@byrnemwallace.com, keith.mcconnell@matheson.com, jmccourt@omgm.ie, hmccullagh@hmcs.ie, smce@mmce.ie, alanmcgee@kenmurray.ie, bxdmccgill@gmail.com, peter@mcinnesdunne.ie, brian.mccloughlin@island-house.lol.ie, benitameagher@yahoo.com, alsling@mediationinireland.ie, imoore@algoodbody.com, michael@mmmlegalservices.com, doirinmulligan@rosemarygantly.ie, patrickmullins@mlb.ie, colm.murphy@ongarsolicitors.com, simon.murphy@bmomeara.ie, catriona@davidobriensolicitors.ie, snunan@mhp.ie, frank@franknyhan.ie, john@cullentyrrell.ie, brian@obrlaw.ie, martinjobriensol@eircom.net, brian@ocalegal.ie, helena@pierfitz.ie, maria.odonovan@wolfe.ie, dodris1@eircom.net, denis@doda.ie, richael.odriscoll@fodlaw.ie, shauna@shaunamvogorman.com, kogorman@mgyran.com, cohanlon@jwod.ie, jimohiggins@kentcarty.com, gail.okeeffe@oclegal.ie, edward.oleary@pjodriscoll.ie, eoeoleary1@gmail.com, toleary@olearysolicitors.ie, bomalley@hayes-solicitors.ie, info@karenomalley.ie, tomalley@mcdowellpurcell.ie, catriona94@yahoo.co.uk, rstjon@eircom.net, mick@osheabarry.com, lillianosullivan@gmail.com, info@tjos.ie, tosullivan@kmcCarthySolicitors.ie, dotlaw@dotlaw.ie, pendredandco@eircom.net, ppierse@hotmail.com, markregan@adamssolicitors.ie, esmond@securemail.ie, eroberts@algoodbody.ie, nicholas@oshearussell.ie, edelmariaryan@gmail.com, julie.sadlier@gmail.com, maryanne.scanlon@gmail.com, tonysheil@sheilsolicitors.ie, jamieasherry@yahoo.co.uk, laurencekshields@gmail.com, mark@staffordandcompany.ie, ms@canninglandy.ie, vstone@stonelaw.ie, fiona@mediatedsolutions.ie, joethomas@oreillythomas.ie, athornton@pierfitz.ie, law@wptoolan.com, maryzwoman@sbcglobal.net, fiona@fionatwomey.ie, twomey@partnershiplaw.ie, michelangelo.consultants@gmail.com, stephen.walker@whitney Moore.ie, mgw@mcf.ie, sabinewaish@eircom.net, fionawynne@fionawynne.com

Dear Solicitors,

I would be grateful if you would provide me with an expert opinion on the matter below and attached (I can furnish additional information on this matter upon request), or refer me to somebody who can. Please send me your fee schedule and retainer agreement so that we can begin the process.

Innovation Fund Ireland: Enterprise Ireland and National Pensions Reserve Fund competitive tender - Attached is my final communication on this matter.

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Thank you in advance for your attention to this matter.

Kind regards

Maurice D. Landers

 My-observations-and-Interpretation-of-Enterprise-Ireland.....pdf
508K

Mail Delivery Subsystem <mailer-daemon@googlemail.com>
To: failte32@gmail.com

Sat, Jan 31, 2015 at 7:12 PM

Delivery to the following recipient failed permanently:

elaine.callan@carvill-rickard.ie

Technical details of permanent failure:

DNS Error: Address resolution of carvill-rickard.ie. failed: Domain name not found

----- Original message -----

DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed;

d=gmail.com; s=20120113;

h=mime-version:date:message-id:subject:from:to:content-type;

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IKmw==

MIME-Version: 1.0

X-Received: by 10.180.20.226 with SMTP id q2mr9915219wle.28.1422749524203;

Sat, 31 Jan 2015 16:12:04 -0800 (PST)

Received: by 10.194.126.231 with HTTP; Sat, 31 Jan 2015 16:12:03 -0800 (PST)

Date: Sat, 31 Jan 2015 19:12:03 -0500

Message-ID: <CALd8EiDeP7=4dGGyUO0zd8735_p6S-4DRvFWx8dmOVUqoM0uVQ@mail.gmail.com>

Subject: Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3

(final part): My experience of bringing new Investor Groups to Ireland, and

Irish Government business practices.

From: Failte32 Failte32 <failte32@gmail.com>

*NOTE: I COUNTED 34
EMAIL DELIVERY (AND IT
LIKE
FAILURES.*



Fallte32 Fallte32 <fallte32@gmail.com>

Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Fallte32 Fallte32 <fallte32@gmail.com>
To: kevin@ohigginssolicitors.ie

Fri, Feb 6, 2015 at 6:46 PM

Dear Mr. O' Higgins, President of the Law Society of Ireland Council (2015),

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request (bar one major Irish law firm that acknowledged my email but declined my request), which I find very unusual. Perhaps this is normal practice for law firms in Ireland? I have also been told by all relevant Irish Ombudsman, and the Central Bank of Ireland, that this matter is outside their remit. And I just heard back (after 5 months) from the Minister for Justice and Equality who effectively told me that this matter is outside her department's aegis.

So I can only conclude that this matter is outside the remit of each and every oversight institution in Ireland? And is this a case of law firms being too scared to take on the Government lest they loose referral business from them? That's a pretty sad and sheepish compromise to make. Lawyers should not choose cases based upon current and future business relationships with Governments, as they are critical for a properly functioning justice system by being unbiased in the provision of their services, if the case is within the scope of the services they provide. No exceptions. It's their duty.

The Garda Bureau of Fraud Investigation (Irish police force) whom I met with in person suggested that this case may come under administrative rather than criminal law. However, regardless of what semantics you want to use to describe this case, if the act ultimately enables or leverages the inappropriate disbursement of Euro 50 Million of tax payer funds (and potentially Euro 250 million), then the act is criminal and corrupt in my book.

My case is an example I believe of dubious Irish Government/Corporate dynamics at work. Can you provide me with an expert opinion on this matter or refer me to a firm that can? (I can furnish additional information on this matter upon request). I'll pay the required fee to do this. I'm not looking for a free service. I have already sent a similar communication on my case to the Director General of the Law Society of Ireland, Mr. Ken Murphy, but have not yet received a reply from him since my first communication to him on December 3 2014, and my follow up email communication to him last week.

Innovation Fund Ireland: Enterprise Ireland and National Pensions Reserve Fund competitive tender - Attached is my final communication on this matter.

8/31/2020

Gmail - Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to...

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Thank you in advance for your attention to this matter.

Kind regards

Maurice D. Landers

 **My-observations-and-interpretation-of-Enterprise-Ireland.....pdf**
504K



Failte32 Failte32 <failte32@gmail.com>

Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>
To: mirvine@irishruleoflaw.ie

Sat, Feb 14, 2015 at 7:08 PM

Dear Mr. Irvine,

I would be grateful if you would provide me with an expert opinion on the matter below and attached (I can furnish additional information on this matter upon request). Please send me your fee schedule and retainer agreement so that we can begin the process.

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495K



Failte32 Failte32 <failte32@gmail.com>

Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>

Sun, Feb 15, 2015 at 7:49 PM

To: julia@burrencollege.ie

Dear Burren Law School Governance and Burren Law School Committee,

I would be grateful if you would provide me with an expert opinion on the matter below and attached (I can furnish additional information on this matter upon request), or refer me to a solicitor who can. Please send me your fee schedule and retainer agreement so that we can begin the process.

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495K



Failte32 Failte32 <failte32@gmail.com>

Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>
To: eoin.omalley@dcu.ie

Sun, Feb 15, 2015 at 8:39 PM

Dear Dr. Eoin O'Malley, Senior lecturer in political science in the School of Law and Government at Dublin City University,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Perhaps this is normal practice for law firms in Ireland? I have also been told by all relevant Irish Ombudsman, and the Central Bank of Ireland, that this matter is outside their remit. And I just heard back (after 5 months) from the Minister for Justice and Equality who effectively told me that this matter is outside her department's aegis.

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My case (test case) is an example of dubious Irish Government - Corporate dynamics at work. Can you, or do you know of anyone who can, provide me with an expert opinion on this matter? I'll pay the required fee to do this. I'm not looking for a free service.

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Thank you in advance for your attention to this matter.

Kind regards

Maurice D. Landers

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504K



Failte32 Failte32 <failte32@gmail.com>

Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>

Fri, Feb 27, 2015 at 4:39 PM

To: Failte32 Failte32 <failte32@gmail.com>

Bcc: owen.binchy@jamesbinchy.com, info@bolandquirke.com, malachy@boohigsolicitors.ie, enquiries@johnbrosnan.ie, info@kbuckleysolrs.ie, info@pbuckley.ie, colm@colmburke.com, ed@edmundjburke.ie, margaretcampbell@eircom.net

Dear Solicitors,

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Kind regards

Maurice D. Landers

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Failte32 Failte32 <failte32@gmail.com>

Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>

Fri, Feb 27, 2015 at 5:12 PM

To: Failte32 Failte32 <failte32@gmail.com>

Bcc: info@brosnanandco.ie, meburke@eircom.net, tfcasey@securemail.ie, info@cashellsolicitors.ie, law@cmsolicitors.com, mcoffeylaw@gmail.com, lawlc@liamfcoghlan.com, info@bailys.ie, poconnell@fastmail.fm, foconnor@dinglelaw.com, info@elegal.ie, jpodonoghuek@eircom.net, info@pjodriscoll.com, info@tohalloransolicitors.com, info@olearysolicitors.ie, info@osheawhite.ie, info@philiposullivan.com, reception@sheehanryan.ie, sreenanandcompany@eircom.net, twomeysolr@eircom.net, info@plerse.ie, info@foleysolicitors.com, tommy@tgsolicitors.ie, hod@harrisonodwyer.com, nglistonsolr@eircom.net, info@malonehegarty.ie

Dear Solicitors,

I would be grateful if you would provide me with an expert opinion on the matter below and attached (I can furnish additional information on this matter upon request). Please send me your fee schedule and retainer agreement so that we can begin the process.

Innovation Fund Ireland: Enterprise Ireland and National Pensions Reserve Fund competitive tender -
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Thank you in advance for your attention to this matter.

Kind regards

Maurice D. Landers

9/1/2020 Gmail - Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to I...

 **My-observations-and-interpretation-of-Enterprise-Ireland.....pdf**
495K



Failte32 Failte32 <failte32@gmail.com>

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1 message

Failte32 Failte32 <failte32@gmail.com>

Fri, Feb 27, 2015 at 6:12 PM

To: Failte32 Failte32 <failte32@gmail.com>

Bcc: bohanlaw@eircom.net, adrianpbourke@eircom.net, law@poconsol.ie, info@odwyersolicitors.ie, reception@paulomalley.net, ljsheridan@eircom.net, thomasjwalsh@thomasjwalshsolicitors.ie, cgilmartin@gilmartinandmurphy.com, law@jjgordon.ie, info@machales.com, info@maguirebrennan.ie, lawyer@mcdarbysolicitors.ie, doddian@eircom.net, admin@patrickjdurcan.ie, lawyer@heneghansolicitors.ie, info@scottssolicitors.com, info@mkeanesolicitor.com, molloylaw@eircom.net, info@morahans.ie, info@lbsolicitors.ie, info@bcllaw.ie, haboylan@eircom.net, paulbrennansolicitor@gmail.com, info@jamescahill.com, vlncentdeane@eircom.net, info@bamburysolicitors.com, foymurphy@eircom.net, reception@foyryan.ie, mcegalvin@eircom.net, garavanoconnor@iolfree.ie

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495K



Failte32 Failte32 <failte32@gmail.com>

Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>

Sat, Feb 28, 2015 at 4:53 PM

To: Failte32 Failte32 <failte32@gmail.com>

Bcc: info@dillongeraghty.ie, neil@cosgravesolicitors.ie, ks@karlsherlocksolicitors.com, solicitors@steenoreilly.ie, info@niamhtuitesolicitors.ie, ThomasNoonan@noonan-son.com, law@lkp.ie, john@kellcall.ie, law@reganmcentee.ie, danieljreilly@securemail.ie, olivershanley@securemail.ie, info@oreilly-law.ie, info@gleesonsolicitors.com, info@francesebarron.com, philbradysolicitors@eircom.net, info@williamjbrennan.com, info@eabrennan.com, info@fabiancadden.ie, teresa@coylesolicitors.com, eugenepdunne@eircom.net, law@keavenywalsh.com, law@nlacy.ie, terrygorry@gmail.com, murchanlaw@eircom.net, info@murphycoady.ie

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495K



Failte32 Failte32 <failte32@gmail.com>

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1 message

Failte32 Failte32 <failte32@gmail.com>

Sat, Feb 28, 2015 at 5:21 PM

To: Failte32 Failte32 <failte32@gmail.com>

Bcc: info@geoffreybrowne.ie, info@bruenglynn.ie, b.burkesols@gmail.com, info@patrickburke.ie, burkesolicitors@eircom.net, burkesolicitors@gmail.com, info@daraghfeeneysolicitors.com, info@oliverfoley.ie, info@fordassociates.ie, enquiries@geraghty.ie, fbanesolicitor@eircom.net, info@berwick.ie, bsb@bsblake.com, galway@dillonleetchcomerford.ie, dermot@dermotduncan.com, info@jackduncanandco.com, gcostello@costellosolicitors.com, kellycollier@eircom.net, info@cpcrowley.ie, johncuddy@outlook.com, orlacullinan@gmail.com, michaelcunningham@galwaysolicitors.ie, tonymcgintyandco@eircom.net, info@mcinerneysolicitors.com, info@mcloughlinco.com, info@mcmahonandcompany.ie, info@agmoylan.ie, mulroyandcompany@eircom.net

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9/1/2020

Gmail - Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to 1...

Right-click here to download pictures. To help protect your privacy, Outlook prevented automatic download of some pictures in this message.



My-observations-and-interpretation-of-Enterprise-Ireland.....pdf

495K



Failte32 Failte32 <failte32@gmail.com>

Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

1 message

Failte32 Failte32 <failte32@gmail.com>

Sun, Mar 1, 2015 at 5:51 PM

To: barcouncil@lawlibrary.ie, info@dublinarbitration.com, jmcdonagh@lawlibrary.ie

Dear Mr David Bariniville SC - Chairman of the Bar of Ireland,

I'm following up on my communication to you on December 1, 2014 (below).

Can you refer me to an objective law firm or solicitor who can provide me with an expert opinion on this matter (I can furnish additional information on this matter upon request).

I have also cc'd Jeanne McDonagh, who may also be able to assist me.

By the way, your name is spelt incorrectly in the 'Bar Council Committees' section (link below). Your surname is spelt "Bariniville" in bold, to the right of 'Inner Bar Panel' listing. I realize how thorough you legal guys are, so I'm sure you'd want this corrected immediately.

<http://www.lawlibrary.ie/viewdoc.asp?fn=/documents/aboutus/committees.asp&m=2>

Kind regards
Maurice D. Landers

From: Failte32 Failte32 <failte32@gmail.com>**Date:** Mon, Dec 1, 2014 at 7:41 PM**Subject:** Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.**To:** barcouncil@lawlibrary.ie, info@dublinarbitration.com

Dear Mr David Barniville SC, Chairman of the Bar Council,

I requested an expert opinion on the matter below and attached from a number of law firms in Ireland, some as far back as February 2014, which is nothing more than a basic legal service request, but I have not yet heard back from any of them, not even an acknowledgement or refusal of my request, which I find very unusual. Is this normal practice for law firms in Ireland?

Can you refer me to an objective law firm who can provide me with an expert opinion on this matter (I can furnish additional information on this matter upon request).

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Kind regards

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 **My-observations-and-interpretation-of-Enterprise-Ireland.....pdf**
508K



Failte32 Failte32 <failte32@gmail.com>

Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

2 messages

Failte32 Failte32 <failte32@gmail.com>

Sun, Mar 1, 2015 at 6:54 PM

To: Failte32 Failte32 <failte32@gmail.com>

Bcc: info@pduffysolicitors.ie, info@mcgovsols.ie, reception@mcgovernwalsh.securemail.ie, georgelynchsolicitors@eircom.net, mail@camsolicitors.com, reception@kellyryanmanor.com, cathallflynn@eircom.net, flynnmcmorrow@eircom.net, info@collinssolicitors.ie, info@mjbsolicitors.ie, titles@irishconveyancing.com, ellisandcosolicitors@gmail.com, johngerardcullen@yahoo.ie, delanyquinn@info.ie, law@wptoolan.com, info@kilranelaw.ie, info@kpk.ie, bridmimnagh@eircom.net, muldowneyandco@eircom.net, tom@mcdonnellsolicitors.com, leobranigansolicitors@yahoo.com, law@mfbsoilr.ie, seamus@jameskquinnssolicitors.ie, info@jquinn.ie, jshanley@shanleyglennon.com, fergus@fafeeney.ie, info@bccsolicitors.ie, karenmclabby@eircom.net, info@connellansolicitors.ie, csheridansolicitor@eircom.net, tom@tkmadden.com, cgearty@ecgearty.ie, michael@fjgearty.com, info@groarkeandpartners.ie

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 **My-observations-and-interpretation-of-Enterprise-Ireland.....pdf**
495K

Mail Delivery Subsystem <mailer-daemon@googlemail.com>
To: failte32@gmail.com

Sun, Mar 1, 2015 at 6:54 PM

Delivery to the following recipient failed permanently:

michael@fjgearty.com

Technical details of permanent failure:

Google tried to deliver your message, but it was rejected by the server for the recipient domain fjgearty.com by mailsweep1.expd8.com. [66.35.83.100].

The error that the other server returned was:
550 5.0.1 Mailbox Does Not Exist

----- Original message -----

DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed;
d=gmail.com; s=20120113;
h=mime-version:date:message-id:subject:from:to:content-type;
bh=mL/WY1MLmEeP48vX27JuYs7SP6FmesX6Lcs3oJR2lyc=;
b=EvYFleqPIINO+9cm3pjFxfq/IOUvVFv6ZdxVbmgQvF1JqORR2Hqa1SiUPIOKony+Mn
4AinlbJ7g6veFYdeu/DCWRQRdH53CwyjusJz6rLXckjA8N+srjwnnDtM27ng2ScnJ9ZU
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zADw==

MIME-Version: 1.0

X-Received: by 10.180.35.33 with SMTP id e1mr29766575wj.49.1425254061924;

Sun, 01 Mar 2015 15:54:21 -0800 (PST)

Received: by 10.195.11.34 with HTTP; Sun, 1 Mar 2015 15:54:21 -0800 (PST)

Date: Sun, 1 Mar 2015 18:54:21 -0500

Message-ID: <CALd8EiCAgpw2SbkCX6nwp=PTsiZjyoV-xJTiwCNNujN8Hzo6=g@mail.gmail.com>

Subject: Re: Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3
(final part): My experience of bringing new Investor Groups to Ireland, and
Irish Government business practices.

From: Failte32 Failte32 <failte32@gmail.com>

To: Failte32 Failte32 <failte32@gmail.com>

Content-Type: multipart/mixed; boundary=e89a8f8391b113b1c1051042d2c6

Bcc: michael@fjgearty.com

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* Innovation Fund Ireland*: Enterprise Ireland and National Pensions

[Quoted text hidden]



Failte32 Failte32 <failte32@gmail.com>

Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3 (final part): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices.

2 messages

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Sun, Mar 1, 2015 at 7:41 PM

To: Failte32 Failte32 <failte32@gmail.com>

Bcc: info@mmcloughlinsolicitors.com, info@jfmcternan.com, seamusmonaghan@gmail.com, info@michaelmonahansolicitor.ie, mullaney@mullaney.ie, carol@murphyballantyne.ie, tommacsharry@hotmail.com, info@pmartinsol.com, gerry@mccannysolicitors.com, info@gmcdermottsol.com, valeriekearins@eircom.net, info@macgowansolicitors.ie, mcegalvin@eircom.net, info@morganandcosolicitors.ie, info@callantansey.ie, harte.stanley@gmail.com, ballymote@rochford-gallagher.com, tubbercurry@rochford-gallagher.com, info@hughsheridan.ie, h&asolicitors@millehouse.com, eddiehenry@eircom.net, willghenry80@gmail.com, sinead@sdsllaw.ie, info@carteranhold.ie, info@mckenrosolicitors.com, reception@mcgovernwalsh.securemail.ie, sineadmaguire@yahoo.com, dgmcd@eircom.net, info@mcdcm.com, info@johnsonandjohnson.ie, noel@kellyryansligo.com, info@kilfeatherkeyes.ie, reception@annehickeyesolicitors.ie, info@michaelljhoran.ie, dervilla@oboylesolicitors.com

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Kind regards

Maurice D. Landers

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495K

Mail Delivery Subsystem <mailer-daemon@googlemail.com>
To: failte32@gmail.com

Sun, Mar 1, 2015 at 7:42 PM

Delivery to the following recipient failed permanently:

info@macgowansolicitors.ie

Technical details of permanent failure:

Google tried to deliver your message, but it was rejected by the server for the recipient domain macgowansolicitors.ie by mail.macgowansolicitors.ie. [93.107.175.38].

The error that the other server returned was:
550 5.7.1 Unable to relay

----- Original message -----

DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed;
d=gmail.com; s=20120113;
h=mime-version:date:message-id:subject:from:to:content-type;
bh=Rap/AEjRkpPLmnxLVGwo4rMfulcqTFG8ubUDILpkFZw=;
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NPZA==

MIME-Version: 1.0

X-Received: by 10.194.243.1 with SMTP id wu1mr54466257wjc.69.1425256918465;

Sun, 01 Mar 2015 16:41:58 -0800 (PST)

Received: by 10.195.11.34 with HTTP; Sun, 1 Mar 2015 16:41:58 -0800 (PST)

Date: Sun, 1 Mar 2015 19:41:58 -0500

Message-ID: <CALd8EiDtopNysOf5qjoCR0QyWjPPtthVMbPjWyoFq2V39=+v2A@mail.gmail.com>

Subject: Re. Innovation Fund Ireland (NPRF and Enterprise Ireland) - Part 3
(final part): My experience of bringing new Investor Groups to Ireland, and
Irish Government business practices.

From: Failte32 Failte32 <failte32@gmail.com>

To: Failte32 Failte32 <failte32@gmail.com>

Content-Type: multipart/mixed; boundary=089e013d1d52589da20510437c3c

Bcc: info@macgowansolicitors.ie

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* Innovation Fund Ireland*: Enterprise Ireland and National Pensions

[Quoted text hidden]

SOURCE : MY FINAL REPORT

B

Irish Solicitors/Lawyers

In order to try and hold the legal profession in Ireland accountable, I decided to reveal the name of the lawyer who had replied to my request for a legal opinion on my case with the words "Go fuck yourself" (first Report, Section 5). However, I will consider accepting independent legal opinions on my case from certain Irish lawyers/solicitors as an alternative. Therefore, I ask the following lawyers for a legal opinion on my case, the reason I choose these particular lawyers/solicitors is because their replies as detailed in my first Report seem incomplete (names below and revealed, except list of solicitors in 5. below, on p.221 of my update Report):

1. Under (a) p. 51: Deirdre Dunne, Partner | Head of Business Development, Matheson, 70 Sir John Rogerson's Quay, Dublin 2. Deirdre.Dunne@Matheson.com
2. Under (e) p. 54: Patrick Quinlan, Partner, Maples and Calder, Dublin. patrick.quinlan@maplesandcalder.com
3. Under (i) p. 60: David Phelan, Managing Partner, Hayes solicitors, Lavery House, Earlsfort Terrace, Dublin 2. dphelan@hayes-solicitors.ie
4. The lawyer on page 52 of my first Report, (c), (name not revealed in my update Report)
5. The list of solicitors provided to me by Transparency International Ireland who take actions against the State. Not one of these solicitors replied to my recent request for a legal opinion on my case – see list

I would like an honest legal opinion on my case (as part of your pro bono work) per the three main areas of investigation as detailed in my email communication (Attachment 1) to the Taoiseach, Garda Commissioner and DPP, and for you to try and compel the release of the internal audit plan between the NTMA/NPRF and PwC.

Such opinions will not only inspire confidence in the integrity of the legal profession in Ireland, hence there will be no need for me to publicize this lawyer's name, but also assist me in holding the Irish Government accountable, which has been the whole purpose of my investigation/Reports since the beginning. Why should one Irish lawyer have to bear a burden that should be borne by a properly functioning legal system and profession?

The only other option open to me to try and exact some change (accountability) is to let the Irish Public decide. (after all, that's what I've been appealing for regarding the practices of PAB's, in particular IAASA, who seem to find it difficult to inform the very people they're meant to protect, the Public, and it's all I've got to go on to assist the Irish Public).

This of course won't be required if I receive honest legal opinions from the above lawyers as such opinions will demonstrate, among other things, that this change has already occurred.

I have no confidence in the Law Society of Ireland to hold this person accountable aside from a slap on the hand type of punishment done out of public view. I heard on the grapevine that members of the Law (Solicitors) Society of Ireland frown upon any member who deviates from Law Society consensus as regards holding any of its members accountable, which if true, and should I receive the above legal opinions, will further add to confidence in the integrity of the Irish legal profession.

I believe the Law Society recently sought to discipline tens of Irish lawyers, but I don't know what the outcome was. I'm guessing this was just window dressing again for the Irish Government's attempts to win an elected seat on the UN Security Council and portray itself (inaccurately) as a hub for dispute resolution post-Brexit:

List of firms/solicitors who take actions against the State

1. Pat McInerney or Harry Fehily at Homs Solicitors

General contact details:

Address: 2, Ely Place, Dublin 2

Telephone: +353 (0)1 6768928

Email: info@homs.ie

Pat McInerney

Telephone: + 353 61 44 5507

Email: pat.mcinerney@homs.ie

Harry Fehily

Telephone: +353 61 445512

Email: harry.fehily@homs.ie

2. Anne Lyne at Hayes Solicitors

General contact details:

Address: Lavery House, Earlsfort Terrace, Dublin 2

Telephone: +353 1 6624747

Email: law@hayes-solicitors.ie

Anne Lyne

Email: alyne@hayes-solicitors.ie

3. Brophy Solicitors

Address: 38-40 Parliament Street, Dublin 2

Telephone: +353 (0)1 6797930

Email: info@brophysolicitors.ie

4. Cunneen & McCarthy Solicitors

Address: 17 Upper Pembroke Street, Dublin 2

Telephone: + 353 (0)1 6611657

Email: info@cmlaw.ie

5. Lynch Law

Address: 12 Lower Ormond Quay, Dublin 1

Telephone: +353 (0)1 8732134

Re: Final Report on "A Case of Mismanagement of Irish Government Funds" - Irish Government Interference in US Elections / What will Irish lawyers opt for? / PricewaterhouseCoopers (PwC) innocent or guilty? / Relevancy of Large Audit & Accounting Firms / Fraud by Chartered Accountants Ireland? / Foreign Direct Investment (FDI) / Ireland's Justice System, and more...

From: maurice landers (mauricelanders@yahoo.com)

To: mauricelanders@yahoo.com

Bcc: muldowneyandco@eircom.net; deirdre.dunne@matheson.com; patrick.quinlan@maplesandcalder.com; dphelan@hayes-solicitors.ie; info@homs.ie; pat.mcinerney@homs.ie; harry.fehily@homs.ie; law@hayes-solicitors.ie; alyne@hayes-solicitors.ie; info@brophysolicitors.ie; info@cmlaw.ie; info@lynchlaw.ie

Date: Wednesday, November 6, 2019, 10:25 AM EST

Dear Irish Solicitors,

Re. my communication to you on October 11th, I'll be sending out a 'one pager' to my readers beginning December 2, 2019 with or without your legal opinions. I had mentioned a time frame of around mid-December in my Final Report but would prefer to spend the Christmas period as far from Irish lawyers on my mind as possible. I'm sure you understand.

Kind regards,
Maurice D. Landers

On Friday, October 11, 2019, 08:59:34 AM EDT, maurice landers <mauricelanders@yahoo.com> wrote:

Dear Irish Solicitors,

Each of you was referenced in the attached Final Report.

Kind regards,
Maurice D. Landers

Final Report on "A Case of Mismanagement of Irish Government Funds" - Irish Government Interference in US Elections / What will Irish lawyers opt for? / PricewaterhouseCoopers (PwC) innocent or guilty? / Relevancy of Large Audit & Accounting Firms / Fraud by Chartered Accountants Ireland? / Foreign Direct Investment (FDI) / Ireland's Justice System, and more...

From: maurice landers (mauricelanders@yahoo.com)

To: mauricelanders@yahoo.com

Bcc: muldowneyandco@eircom.net; deirdre.dunne@matheson.com; patrick.quinlan@maplesandcalder.com; dphelan@hayes-solicitors.ie; info@homs.ie; pat.mcinerney@homs.ie; harry.fehily@homs.ie; law@hayes-solicitors.ie; alyne@hayes-solicitors.ie; info@brophysolicitors.ie; info@cmlaw.ie; info@lynchlaw.ie

Date: Friday, October 11, 2019, 8:59 AM EDT

Dear Irish Solicitors,

Each of you was referenced in the attached Final Report.

Kind regards,
Maurice D. Landers



Final Report.pdf
393kB

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "2" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

Sworn before me by the said *Maurice D. Landers*

on the *8th* day of *September* 2020, at *Citibank*

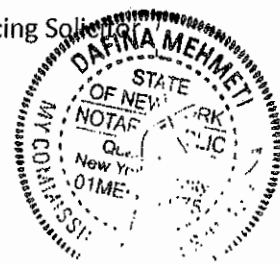
in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*NYSDC 560 566 648*) containing a photograph

Dafina Mehmet

Commissioner for Oaths/Practicing Solicitor



SOURCE: MY FINAL REPORT

Introduction

This is my final communication on my case (aside from a one pager in December - keep reading), and while it pushes the envelope in certain areas including by hypothesizing broader consequences when a government is involved in criminal activity, I believe my prior Reports have established a credible basis for any extrapolations I have made.

Why a third Report you ask? To prove that nothing has changed since the publication of my first summary document in 2014, not even at the highest levels, the Irish Prime Minister, Garda Commissioner etc. That is, the culture the former Prime Minister stated (2014) we were never going back to has never changed. I'd like to reassure you that this Report is not anti-Irish Government as I hope the issues I raise will go towards improving the Irish Government and ultimately the quality of life of the Irish people.

Following are the links to my first and update Reports (first Report includes summary docs):

First Report:

<http://www.eoi.at/d/EOI%20-%20Jahresberichte/Irland/Report%20-%20A%20Case%20of%20Mismanagement%20of%20Irish%20Government%20funds.pdf>

Update Report:

<http://www.eoi.at/d/EOI%20-%20Jahresberichte/Irland/Irl-update%20Report%20February%202018.pdf>

I'd like to again thank whichever nation/s also uploaded my update Report onto the European Ombudsman Institute (EOI) website. Now, both my first and update Reports can be accessed on this great website. See 'Popularity of the Ombudsman' at:

<http://www.eoi.at/?Historiae%20-%20Begr%C3%BCnder>

Although my prior Report (update Report) completed my investigation into the disbursement of funds under Innovation Fund Ireland (IFI), and by extension a profile of the Irish Government and Ireland's oversight system, using my test case as a basis, there were still some outstanding items to address. Fortunately, by addressing these items, I was able to focus proof of my case on just one audit document.

Therefore, **first**, I can now finally prove my case in its entirety through the release of **just one audit document (Attachment 1)**. Unfortunately, all the organizations that have access to, or can access, the document have refused to provide it (NTMA/NPRF, PwC, ICAI, Comptroller and Auditor General. The Irish Prime Minister and the Irish Police Force have effectively refused to provide it by not responding to my request for an investigation wherein the release of this document could be compelled). And ICAEW, ICAI and PwC I believe **lied about its scope of services**.

Second, I believe I have proven **fraud on the part of ICAI** (Chartered Accountants Ireland) which corroborates the above and the evidence I've provided in my Reports (Attachment 1).

Therefore, I have done all the work for anyone who has the power to compel the release of this document, and I've no doubt there are a few of you on my mailing list who can do this. This might be important for the relevant EU body/s who may have a case/jurisdiction now that the crime is a current one (Irish Government's subsequent cover up and likely cover up by oversight bodies/Prescribed Accountancy Bodies (PAB's) and others) and based on the fact that the Irish Government was stealing taxpayer funds while at the same time begging for, and receiving, money from the EU to bail it out of the financial crisis.

Do any of you reading this find it unusual that I would be told by all of the above bodies that I have no case, and yet when I make a request for a copy of a document in their possession which I inform them I believe will

prove my case, they all refuse to provide it? Not giving me a copy of an audit plan relating to the year 2010/2011 of a now disbanded organization, the NPRF?

Please read Attachment 1 first before proceeding. This is my recent communication with the Taoiseach (Irish Prime Minister), Garda (Police) Commissioner and Director of Public Prosecutions (DPP).

Attachment 1

Dear Taoiseach, Garda Commissioner Drew Harris, and DPP,

I chose to send this communication collectively so that you're all on the same page regarding this matter.

All of you should be well aware of my case, as I've received replies from each of your organizations over the course of the many years I've been seeking justice and accountability. In the case of Commissioner Harris, you might not be fully informed due to your relatively new position as Garda Commissioner.

Below is the link to my most recent Report which includes a link to my first Report (and summary documents that form the basis of both Reports). These will bring you up to date.

<http://www.eoi.at/d/EOI%20-%20Jahresberichte/Irland/irl-update%20Report%20February%202018.pdf>

The three main areas of investigation (original complaint (a) and further complaint (b)) I requested are:

a. My complaint alleges that the NPRF Commissioners, in their individual roles as decision makers at the NPRF, awarded \$50 million from Innovation Fund Ireland (IFI) to one of the applicants to IFI (2 weeks or earlier after the closing date for applications), a U.S. Venture Capital Firm named (name of US VC firm), by sidestepping competitive tender/bid rules, and not investing alongside EI (therefore before all other applications were fairly evaluated (approx. 32)) under the IFI competitive tender/bid call for expressions of interest in late 2010. (Note: by investing alongside EI, the NPRF would in effect be subject to the same evaluation process as EI, since it would have to wait until this evaluation is complete before it could co-invest with EI in the same opportunity under IFI)

b. The NPRF Commission misrepresented a transfer of funds from the NPRF to IFI (i.e. from one public entity to another) in the NPRFC Annual Report and Financial Statements 2010 as being an investment in a private entity under the NPRF's private equity mandate,

c. and subsequently at least unethically (and illegally) awarded funding under IFI to a number of private entities. Therefore, the awarding of funding by the Commission under IFI to private entities was at least unethical (and illegal) in that this funding was awarded to these entities by circumventing the NPRF's mandate by misrepresenting a transfer of funds from the NPRF to IFI as being an investment, and which funding the NPRF Commission was not authorized to award to these entities under the NPRF's own separate mandate (if the NPRF Commission could have awarded funding to these private entities directly i.e. "separately" and on an "independent basis" under the NPRF's own mandate as was claimed, then there would have been no reason for the Commission to award this funding under IFI).

This will be my last communication with Irish Government bodies, and therefore want it to be at the highest level. You have the authority to initiate an investigation any time you want, so please don't pass the buck in this case by having your private secretaries refer me to somebody else. I've gone down this road already and you've seen the indifferent replies I've received. **This was a crime of theft of at least \$50M from the Irish taxpayer** - if that's not worth investigating then I don't know what is.

I have subsequently tried to get justice via ICAI and SIPO (newer complaint) but have been told that my case does not concern a disciplinary matter (Attachment A), and that I have not provided evidence, respectively. Incidentally, they're the only ones (inc. those detailed in my Reports) who believe this. Everyone else I've spoken to particularly those outside of Ireland have expressed some concern (indeed frustration in some cases) that an investigation hasn't begun by this stage.

What I subsequently show however (outside of my Reports) is that ICAI committed fraud in its final binding decision (Attachment A, (4)) to me when it intentionally omitted the more serious part of my complaint against PwC (above (b)) in its statement of my allegations. I say intentional because I have proven **intent** to omit material information on the part of ICAI because ICAI did the same thing in their earlier initial decision (same case) on May 29, 2018 (Attachment A, (1)) and I brought it to their attention on June 6, 2018 (Attachment A, (4)). And after my appeal, in its final binding decision eight months later (Feb. 2019), ICAI again omitted my more serious complaint relating to PwC. When I challenged them on it, they refused to make the correction,

instead just giving a recap of who at ICAI assessed my case (Attachment A, (4.1)), Conduct Committee reply link).

Further corroborating ICAI's intent to omit, as stated above I informed ICAI that they had omitted the more serious part of my complaint (above (b)) in its statement of my allegations in its initial decision to me re. **PwC** on May 29, 2018. But ICAI included '(b)' above, two days after I brought to their attention the above omission relating to PwC, in their initial decision (statement of my allegation) relating to the **Paul Carty** complaint I had submitted to them, against whom the exact same allegations were made (Attachment A, Part B, (1)), and **again** after my appeal, provided the correct statement of my allegation in its final binding decision (Attachment A, Part B, (3)) relating to Paul Carty six months later (Dec. 2018) by including '(b)' above (by the way, ICAI's initial decision - and their subsequent decisions on my appeals effectively say the same thing - regarding Paul Carty was, surprise surprise, "I do not believe this complaint concerns a disciplinary matter in relation to the member as an individual Commissioner." See Attachment A, Part B)

Therefore, ICAI was well aware that it was intentionally omitting this material information when it issued its final decision relating to PwC (Feb. 2019), two months after its final decision relating to Paul Carty, having had been informed by me of the omission earlier on June 6, 2018 and having correctly included '(b)' in its initial and final decisions relating to Paul Carty. **In summary**, ICAI intentionally left out '(b)' above in both their initial and final decisions relating to PwC, but left it in in their initial and final decisions relating to Paul Carty, cases where the exact same allegations were made. This clearly proves that ICAI knew that part '(b)' of my complaints above applied to PwC, and decided not to hold them accountable. Why. Because everyone before them has covered up for the Irish Government, and if ICAI were to act the way it should by giving an honest decision, think of the domino effect this would have. This is a big problem in the Irish Government, and Irish oversight bodies (the proverbial Den of Thieves), as you well know.

ICAI **did** include '(b)' in its decision (Sept. 2018) by the Head of Professional Conduct on my **appeal of its initial decision** on May 29, 2018 (Attachment A, (2)). It was after my second appeal this time to the Conduct Committee, in ICAI's final decision, that '(b)' was removed (Attachment A, (4)). I believe the decision by the Head of Professional Conduct (first appeal) tried to 'throw me off the track' by including '(b)', and then ICAI subsequently excluded it from their final binding decision after my second appeal, thinking that I wouldn't notice. Fraud by people who need Freud! (incidentally, the response/acknowledgement I received from ICAI relating to PwC after I requested an appeal of their second decision by the Head of Professional Conduct was referenced in the email subject line as "Case ref 18/058 (Attachment A, (3)). All other communications relating to PwC (inc. subsequent ones) were referenced as "File Ref: 17/058 or just 17/058". I'll assume they just get their number mixed up from time to time like the Irish Government - or as we say in Ireland, sure it could happen to a Bishop!)

SIPO sent me a reply that I could only describe as insulting to the Irish people (and all my efforts over the years) and Ireland's oversight system. They didn't even have the respect to give an explanation or any type of reason based upon my comprehensive submissions. All I could do was politely tell them what I thought of them, which I did, as I hope I'll never have to communicate with these people ever again. Their decision/reply was a few lines, summarized in last line: "As it is the view of the Commission that you have not provided evidence of this in your complaints, the Commission deems the matters closed and will not give them further consideration. "

I then requested a copy of the internal audit plan from **PwC** (Attachment D), **ICAEW** (Attachment E), **ICAI** (Attachment A, (4.1)), **the Comptroller and Auditor General** (Attachment B), and **the NTMA/NPRF** (Attachment C). All **refused** to provide me with a copy. **I'm claiming that the document either never existed or that ICAEW, ICAI and PwC lied about its scope of services (most likely the latter).**

The only reason I'm being refused a copy is because these bodies know that my claim is correct and that this document will definitively prove my entire case. After many years, I have finally been able to distill the proof of my case down to just one document, hence **everyone's** effort to stop me getting my hands on it. Therefore, I need someone to **compel the release of this document** in full.

The Comptroller and Auditor General's response to my bringing to their attention the fact that the above mentioned bodies lied about the scope of services of the internal audit plan referenced in the financial statements of the National Pension Reserve Fund for the year ended 31 December 2010 under the

Attachment A

Read from top down.

(1)

Initial decision by ICAI, and my reply part of (4) below:

From: **Derek Dee** <Derek.Dee@charteredaccountants.ie>
Date: Tue, May 29, 2018 at 5:06 AM
Subject: FW: Our Ref 17/058: PwC and the National Pensions Reserve Fund Commission
To: failte32@gmail.com <failte32@gmail.com>

Dear Mr Landers,

I refer to previous correspondence in relation to the above matter resting with my email dated 8 December 2017.

Please note, the Institute's disciplinary process is private and confidential, correspondence and documentation sent by Professional Standards to you may not be disclosed to or discussed with third parties.

I have reviewed your complaint that the member firm, whilst providing internal audit services to the National Pension Reserve Fund (NPRF) Commission, failed to identify that funds were awarded from Innovation Fund Ireland and by the NPRF Commission without following correct tendering and evaluation procedures and determined that your complaint does not concern a disciplinary matter. The reason for the determination is as follows:

The scope of the internal audit work undertaken by the member firm was specific scope and the scope was agreed with and approved by the Audit Committee of the National Treasury Management Agency (NTMA) and the National Pension Reserve Fund (NPRF) Commission each year. **The member firm provided us with a copy of internal audit plan for the NPRF as presented to, and subsequently agreed with, the NPRF Commission and the NTMA** and the matter complained of appears to have been outside the scope of the internal audit work undertaken by the member firm. I therefore have concluded that this complaint does not concern a disciplinary matter in relation to the member firm.

You may, within fourteen days of receiving this notification, notify me in writing of any further representations that you wish to make in relation to the complaint. If you provide further representations, the Head of Professional Conduct shall consider the matter and decide whether or not the complaint concerns a disciplinary matter. The Head of Professional Conduct shall notify you of her decision and the reasons for the decision.

Regards

Derek Dee
Senior Complaints Case Manager, Professional Standards

Chartered Accountants Ireland

Chartered Accountants House | 47-49 Pearse St, Dublin 2, Ireland

Android: [NewsDesk App](#) | Apple: [NewsDesk App](#)

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(2)

Decision letter from Head of Professional Conduct:

<http://www.failte32.org/wp-content/uploads/2019/07/180904-Letter-to-Mr-M-Landers.pdf>

Complainants (author's) replies:

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Wed, Sep 5, 2018 at 1:27 AM
Subject: Re: File Ref: 17/058
To: Marie Byrne <Marie.Byrne@charteredaccountants.ie>

Dear Ms. Mawe,

In accordance with Disciplinary Regulation 18.6, I request that my complaint be referred to the Conduct Committee for final decision as to whether or not the complaint concerns a disciplinary matter.

I request that I receive a reply from the Conduct Committee prior to December 31, 2018. Based on the date of your reply (9/4/18) to my additional representations submitted on June 6, 2018, I believe this is a reasonable time frame.

You state in part under the heading Decision and Reasons:

"In my view liability to disciplinary action cannot arise in such circumstances and accordingly my decision is that the complaint does not concern a disciplinary matter."

This is not good enough. The part sentence "In my view..." is just nonsense. We can all have many different viewpoints. I'm not looking for your viewpoint, I can get viewpoints all day long on CNN.

I respectfully ask that you do your job and stop playing word games. This is a clear case of a disciplinary matter.

Kind regards,
Maurice D. Landers

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Wed, Sep 5, 2018 at 3:42 AM
Subject: Re: File Ref: 17/058
To: Marie Byrne <Marie.Byrne@charteredaccountants.ie>,
<professionalstandards@charteredaccountants.ie>

Dear Ms. Mawe,

I would like to add to my email/representation earlier (Sep 5).

You state in part under the heading Decision and Reasons:

"In this case the scope of the work carried out by the member firm for the year ended 31 December 2010 was agreed with the Audit Committee in advance and the identification of the matters set out above was beyond the agreed scope of work."

I would like to see proof of this in the audit plan i.e. when you state further down under the same heading "A query has been raised as to whether the audit plan provided to the Executive by the member firm related to the correct period and in this regards I am satisfied."

Kind regards,
Maurice D. Landers



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Strictly Private and Confidential
Mr Maurice D. Landers

By email: failte32@gmail.com

4 September 2018

File Ref: 17/058

Dear Mr Landers

I refer to the above matter.

Please note that this is a confidential process and correspondence with Professional Standards may not be disclosed to or discussed with third parties.

As required under disciplinary Regulation 18.4 I have considered your complaint in light of your additional representations, submitted on 6 June 2018.

In summary it is alleged that the work carried out by the member firm as internal auditor to the National Pension Reserve Fund Commission was deficient in that it failed to identify:

- (a) that funds were awarded from Innovation Fund Ireland (IFI) and by the NPRFC without following the correct tendering and evaluation procedures
- (b) misrepresentation by NPRFC in its Annual Report and Financial Statements 2010 of a transfer of funds from the NPRF to IFI as being an investment in a private entity under the NPRF's private equity mandate
- (c) that NPRFC unethically and illegally awarded funding under IFI to a number of private entities

Decision and Reasons

A disciplinary matter is defined to mean one or more events which appear to give rise to liability to disciplinary action. In this case the scope of the work carried out by the member firm for the year ended 31 December 2010 was agreed with the Audit Committee in advance and the identification of the matters set out above was beyond the agreed scope of work. As such it is alleged that the member firm failed to do something it had not been engaged to do. In my view liability to disciplinary action cannot arise in such circumstances and accordingly my decision is that the complaint does not concern a disciplinary matter.

A query has been raised as to whether the audit plan provided to the Executive by the member firm related to the correct period and in this regard I am satisfied. Complainants are not entitled to receive copies of materials generated or obtained in the course of case handling.

Next Steps

In accordance with Disciplinary Regulation 18.6, you may within **14 days**, from the date of this letter request that your complaint be referred to the Conduct Committee for final decision as to whether or not the Complaint concerns a disciplinary matter. If no such request is received I will proceed to close our file.

Barry Dempsey | Chief Executive Heather Briers, FCA | Secretary



Belfast Office The Linenhall, 32-38 Linenhall Street, Belfast BT2 8BG
(from NI) Tel 028 9043 5858 Fax 028 9031 9320

(from ROI) Tel 048 9043 5858 Fax 048 9031 9320

Email professionalstandards@charteredaccountants.ie

The regulatory and disciplinary function of the Institute are overseen independently by the Chartered Accountants Regulatory Board.
Chartered Accountants Ireland is the operating title for The Institute of Chartered Accountants in Ireland

Yours sincerely

Sent by email, bears no signature

Aideen Mawe
Head of Professional Conduct
Chartered Accountants Ireland

(3)

My reply to acknowledgement letter from ICAI to my above replies:

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Fri, Sep 14, 2018 at 1:55 AM
Subject: Re: Case ref 18/058
To: <Aideen.Mawe@charteredaccountants.ie>
Cc: <professionalstandards@charteredaccountants.ie>

Thank you Aideen.

I would like to take this opportunity to finally say that if disciplinary action is warranted in this case, and you don't take it, you're going to do a great injustice to your organization over the long-term in that those reading my Reports and the research provided within will view your standards as nothing more than meaningless rubbish. They are well capable of determining whether disciplinary action is justified in this case. Many of them are very reputable firms and organizations.

You will also be doing a great disservice to PwC in that those who are currently working for this firm, or who have worked for this firm in the past, will see that it is not being held accountable, and that its standards too are meaningless. These people obviously reference PwC on their resumes and bios. Do you think they would feel comfortable knowing that the reputation of a firm they have worked for has been tainted. They have a vested interest in the reputation of firms such as PwC over the long-term.

By being held accountable, it reassures clients and employees that the reputation of a firm remains solid. There may not have been intent on the part of PwC in this case, we can all do the wrong thing from time to time the only variable being the severity of the wrongdoing.

If the Irish Government acted inappropriately, which I have no doubt it did, you should not put the reputation of your firm, or that of PwC, on the line. It's your choice: cover-up for the Irish Government by avoiding taking disciplinary action, or maintain the integrity and reputation of ICAI and PwC.

The purpose of disciplinary action, although ultimately there to protect the public interest, also has a role in protecting firms such as PwC. Unfortunately, it seems organizations such as yours and Irish Government oversight bodies seem to view this role as being counterintuitive.

Kind regards,
Maurice D. Landers

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Thu, Sep 20, 2018 at 2:08 AM
Subject: Re: Case ref 18/058
To: <Aideen.Mawe@charteredaccountants.ie>

Dear Aideen,

Just fyi, the case reference in the subject line of your email below is incorrect. It should be 17/058, not 18/058.

The case reference in the attached letter is correct, but should you wish to retrieve it in future by searching your email box, you won't be able to find it.

As you know, it's very important to be able to retrieve these documents in future should they be required by other authorities.

Kind regards,
Maurice D. Landers

(4)

Decision letter from Conduct Committee (final decision):

<http://www.failte32.org/wp-content/uploads/2019/07/190220-Letter-to-Complainant-complaint-does-not-concern-a-DM.pdf>

Complainants (author's) reply:

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Fri, Mar 15, 2019 at 2:16 PM
Subject: Re: File Ref: 17/058
To: Deborah Ray <Deborah.Ray@charteredaccountants.ie>

Dear Conduct Committee,

I strongly disagree with your decision and believe it to be potentially fraudulent, by possibly covering up for PwC and the Irish Government.

The reason I state this is because this will be the second time that I've had to inform ICAI that its summary of my allegations in its decisions relating to my case is incorrect. Based on my experience, this seems to be common practice among many oversight bodies in Ireland. Omitting material information in a final and binding decision is fraudulent I believe.

I had corrected ICAI on June 6, 2018 when I replied in part to its initial decision on May 29, 2018 as follows:

"Dear Derek,

In reply to your email of May 29, 2018, there are a number of items that concern me.

First, regarding your summary of my complaint below:

"I have reviewed your complaint that the member firm, whilst providing internal audit services to the National Pension Reserve Fund (NPRF) Commission, failed to identify that funds were awarded from Innovation Fund Ireland and by the NPRF Commission without following correct tendering and evaluation procedures and determined that your complaint does not concern a disciplinary matter. The reason for the determination is as follows:"

This is not accurate as it relates only to my first complaint to SIPO and not to my more important second complaint to SIPO. I refer you to pages 8 - 11 of my update Report (attached).

Specifically, as per my update Report, p. 68, my second complaint, in the context of my complaint against PwC, alleges "that the member firm, whilst providing internal audit services to the National Pension Reserve Fund (NPRF) Commission, failed to identify that" the NPRF Commission (NPRFC):

a. misrepresented a transfer of funds from the NPRF to IFI (i.e. from one public entity to another) in the NPRFC Annual Report and Financial Statements 2010 as being an investment in a private entity under the NPRF's private equity mandate,

b. and subsequently at least unethically (and illegally) awarded funding under IFI to a number of private entities (see 1. above). Therefore, the awarding of funding by the NPRFC under IFI to private entities was at least unethical (and illegal) in that this funding was awarded to these entities by circumventing the NPRF's mandate by misrepresenting a transfer of funds from the NPRF to IFI as being an investment, and which funding the NPRFC was not authorized to award to these entities under the NPRF's own separate mandate (if he could have awarded funding to these private entities directly i.e. "separately" and on an "independent basis" under the NPRF's own mandate, then there would have been no reason for the NPRFC to award this funding under IFI).

Additionally, I refer you to my specific request to you and the other PAB's which was sent to you in an email on August 12, 2017 and stated in part "The complaints I submitted to SIPO (inc. subsequent email communications), although structured according to SIPO's requirements, clearly describe my case and evidence, and I submit them, in addition to my Report, to you for your consideration (and investigation/enforcement if that is something you do)." and "Since PricewaterhouseCoopers was the internal auditor of the National Pensions Reserve Fund Commission's Annual Report and Financial Statements 2010, and is clearly referred to in the 'Oversight' and 'Key Control Procedures' sections (p.29/30 & 42), I would also like to find out if PwC adhered to all applicable and appropriate accounting/auditing standards (ethics, good governance etc.)?"

I'm at a loss as to why, in your above summary, you would exclude the more serious crime I alleged i.e. that detailed in my second complaint to SIPO. Why is it that at least two PAB's I've dealt with including your own organization, and Irish Government oversight bodies, always incorrectly summarize my case when providing a decision."

Why would ICAI incorrectly state my allegations a second time, this time in its final and binding decision? Perhaps it thought I'd forgotten the first time?

I will give ICAI (Conduct Committee) a second chance (in fact, this will be your fourth chance) to provide an honest decision on my case, starting by accurately summarizing my allegations in its decision on Feb. 20, 2019.

Kind regards,
Maurice D. Landers

To reader:

This is the remainder of above email (original) FYI not included in email above to conduct committee:

"Second, you state in same email of May 29, 2018 below:

"The scope of the internal audit work undertaken by the member firm was specific scope and the scope was agreed with and approved by the Audit Committee of the National Treasury Management Agency (NTMA) and the National Pension Reserve Fund (NPRF) Commission each year. The member firm provided us with a copy of internal audit plan for the NPRF as presented to, and subsequently agreed with, the NPRF Commission and the NTMA and the matter complained of appears to have been outside the scope of the internal audit work undertaken by the member firm. I therefore have concluded that this complaint does not concern a disciplinary matter in relation to the member firm."

How you can conclude that my complaint does not concern a disciplinary matter in relation to PwC based upon your statement above that " the matter complained of appears to have been outside the scope of the internal audit work undertaken by the member firm" is completely mind boggling. You arrived at this conclusion based upon "...the matter complained of appears to have been outside...". When something "appears" to be something, this means that further investigation is required

in order to arrive at a definitive and accurate conclusion. One of the definitions of "appears" is 'give the impression of being' i.e. not conclusive. I have used such words in my Reports as part of the basis of my requests for further investigation.

Otherwise, if hypothetically I were to state that your email of May 29, 2018, "appears" to be bogus and part of a cover-up based upon its disregard for that which I've exposed in my two lengthy Reports, can everyone now conclude that this is in fact the case? Perhaps you chose the word "appears" to CYA legally in that you can always claim later on that you never actually said the matter complained of was outside the scope of the internal audit work undertaken by the member firm, you only said it "appears" to be?

I hope you're not playing games with me and the Irish people in your emails (it's the Irish people's money we're talking about here). You have a very important role to play in honestly and impartially overseeing firms such as PwC.

What I would like from you is confirmation that you verified that the copy of the internal audit plan for the NPRF that you received from PwC is legitimate i.e. time stamped for 2010/2011. I assume you did this, it goes without saying.

I would also like a copy of this audit plan to verify its contents.

I don't know why it has taken 6 months since my last email to you (Dec. 5, 2017) for you to respond per your email below (in addition to the few months prior to December 5, 2017 that you were aware of my complaint). It has taken me just under 4 hours to prepare and write this email reply to you (and it's more comprehensive than your simplistic response), and approx. a week to reply, and I have a full-time job and many other activities to attend to. Additionally, I addressed the 'scope' excuse that you are using in my update Report (Reply F, starting on p. 157), a copy of which your organization received on Feb. 24, 2018, so why would it take so long for PwC to provide you with a copy of the internal audit plan? And even earlier, on Nov. 3, 2017, PwC referred to the scope of its services in its reply to me when it stated in part "Our work was performed in accordance with the Auditing Practices Board's Auditing Guideline - "Guidance for Internal Auditors", and with the terms of reference as set out in our engagement letter." (Reply H, starting p. 81 update Report)

Have you verified that this audit copy is not fraudulent and was not written or doctored (with or without your knowledge) during this 6-month period? Since your role is to protect the public interest (the Irish people), you have a responsibility to verify the authenticity of this audit plan.

Should you claim confidentiality (we all know how confidentiality agreements potentially can be used to cover-up), I offer you the option of having a reputable independent body of my choosing verify its authenticity while preserving its 'confidentiality'. Anyhow, it being only a technical document describing "scope" areas, and therefore not confidential in the normal sense of the word, I can't imagine you refusing me a copy. However, if this is still not acceptable to you, I give you the flexibility to redact the 'confidential' information as this should still leave enough technical information available for a reputable independent oversight body or anyone else for that matter to determine whether the audit copy is legit. Surely, ICAI, PwC and the NPRF have nothing to hide.



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www.charteredaccountants.ie

**Strictly Private and Confidential
Addressee Only**
Mr Maurice D. Landers

By email: failte32@gmail.com

20 February 2019

File Ref: 17/058

Member Firm: PwC

Complainant: Mr Maurice Landers

Dear Mr Landers

The Conduct Committee of the Institute of Chartered Accountants in Ireland (the "Institute") considered the above matter at its meeting of 5 February 2019. Its findings are set out in the enclosed notice.

This decision is final and we will now proceed to close our file.

Thank you for your co-operation.

Yours sincerely,

**Carine Pessers
Secretary to the Conduct Committee
Chartered Accountants Ireland**

Encls.

Garry Dempsey | Chief Executive Heather Briers FCA | Secretary



Belfast Office The Linenhall, 32-38 Linenhall Street, Belfast BT2 8BG

From NI Tel 028 9043 5858 Fax 028 9031 9320

From ROI Tel 048 9043 5858 Fax 048 9031 9320

Email professionalstandards@charteredaccountants.ie

The Institute of Chartered Accountants in Ireland is a not-for-profit organisation. It is a member of the Chartered Accountants' Association (CAA) of the United Kingdom. The Institute is a member of the Chartered Accountants' Association (CAA) of the United Kingdom. The Institute is a member of the Chartered Accountants' Association (CAA) of the United Kingdom.

Decision of the Conduct Committee

File Reference:	17/058
Member Firm:	PwC
Complainant:	Mr. Maurice D. Landers
Allegations:	That the member firm, whilst providing internal audit services to the National Pension Reserve Fund (NPRF) Commission, failed to identify that funds were awarded from Innovation Fund Ireland and by the NPRF Commission without following correct tendering and evaluation procedures.
Conduct Committee Decision and Reasons:	<p>The Conduct Committee considered the complaint in accordance with the Disciplinary Regulations and concurred with the decision of the HoPC as set out in her decision of 4 September 2018. The Conduct Committee, in accordance with Disciplinary Regulation 18.7, decided that the complaint does not concern a Disciplinary Matter. The Conduct Committee, in arriving at its decision, concurred with the reasons previously given by the HoPC.</p> <p><i>"A disciplinary matter is defined to mean one or more events which appear to give rise to liability to disciplinary action. In this case the scope of the work carried out by the member firm for the year ended 31 December 2010 was agreed with the Audit Committee in advance and the identification of the matters set out above was beyond the agreed scope of work. As such it is alleged that the member firm failed to do something it had not been engaged to do. In my view liability to disciplinary action cannot arise in such circumstances and accordingly my decision is that the complaint does not concern a disciplinary matter.</i></p> <p><i>A query has been raised as to whether the audit plan provided to the Executive by the member firm related to the correct period and in this regard I am satisfied. Complainants are not entitled to receive</i></p>

	<i>copies of materials generated or obtained in the course of case handling."</i>
Action taken / proposed:	File to be closed.
Date of Conduct Committee meeting / decision:	5 February 2019

If I'm satisfied that the audit plan is legitimate, I will drop my case/complaint against PwC.

If, on the other hand, I do not receive the above from you, I will assume you are possibly trying to hide something (and therefore not willing to hold those responsible accountable), and will interpret your actions as possibly suggesting your part in the Irish Government's cover up. I realize there would be a domino effect should ICAI at this stage rule in favor of my complaint in that those oversight bodies who have already ruled against it would now be seen to be compromised, but that's no reason for ICAI to tarnish its reputation by following suit if by doing so would be contrary to the correct and honest course of action. Of course, I may be wrong but we'll let everyone else determine that.

I believe you also have to provide me with a decision on the complaint you opened against your member, Mr. Paul Carty, as a Commissioner of the NPRF Commission.

Apart from this email, I do not have any further representations that I wish to make in relation to my complaint."

(4.1)

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Tue, Apr 23, 2019 at 11:51 AM
Subject: Re: File Ref: 17/058
To: Deborah Ray <Deborah.Ray@charteredaccountants.ie>

Dear Conduct Committee,

I would now like a copy of the audit plan given to you by PwC.

You state in your decision:

"A query has been raised as to whether the audit plan provided to the Executive by the member firm related to the correct period and in this regard I am satisfied. Complainants are not entitled to receive copies of materials generated or obtained in the course of case handling"

Since my case is now closed, and no longer being handled, I would like a copy of this material.

Kind regards,
Maurice D. Landers

From: Aileen Mawe <Aileen.Mawe@charteredaccountants.ie>
Date: Mon, Apr 29, 2019 at 11:37 AM
Subject: RE: File Ref: 17/058
To: failte32@gmail.com <failte32@gmail.com>
Cc: Marie Byrne <Marie.Byrne@charteredaccountants.ie>

Dear Mr Landers

I refer to previous correspondence in relation to Case Reference 17/058.

It is important to note firstly that this matter has been addressed in accordance with Chartered Accountants Ireland's disciplinary process and the Conduct Committee's decision of 5 February 2019 is final; accordingly this matter is at an end. A Complainant has no entitlement to the information / documentation you are seeking and it will not be provided.

Thank you for your co-operation.

Regards

Aileen Mawe
Professional Standards

Chartered Accountants Ireland

Chartered Accountants House | 47 Pearse St, Dublin 2, Ireland
Android: [NewsDesk App](#) | **Apple:** [NewsDesk App](#)
Phone: +353 1 637 7336 | **Reception:** +353 1 637 7200

From: Failte32 Failte32 <failte32@gmail.com>
Date: Mon, May 20, 2019 at 8:35 AM
Subject: Re: File Ref: 17/058
To: Deborah Ray <Deborah.Ray@charteredaccountants.ie>, Marie Byrne <Marie.Byrne@charteredaccountants.ie>, <carine.pessers@charteredaccountants.ie>, Aileen Mawe <Aileen.Mawe@charteredaccountants.ie>

Dear Conduct Committee,

You have not replied to my email below dated March 15, 2019.

You did however reply to my subsequent email dated April 23, 2019.



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Strictly Private and Confidential

By email only to: fallte32@gmail.com

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Email professionalstandards@charteredaccountants.ie
www.charteredaccountants.ie

22 May 2019

File Ref: 17/058

Dear Mr Landers

I refer to your email of 20 May 2019.

As previously advised, your complaint has been assessed and it has been determined that it does not concern a disciplinary matter. The Case Manager, the Head of Professional Conduct and the Conduct Committee were each provided with copies of all correspondence relating to this matter at the time they carried out their assessments. As a complainant you have been provided with all the information, documentation and rights to which you are entitled under the process. That process has concluded and our file is closed.

Yours sincerely,

Carine Pessers
Secretary to the Conduct Committee
Professional Standards

Is there a reason why you haven't replied? Are you unable to reply because you have indeed committed a fraudulent act?

Kind regards,
Maurice D. Landers

Reply of Conduct Committee to above email:

<http://www.failte32.org/wp-content/uploads/2019/07/190522-letter-to-complainant.pdf>

I repeated my request but heard nothing back.

Part B

Read from top down.

(1)

Initial decision by ICAI:

From: **Derek Dee** <Derek.Dee@charteredaccountants.ie>
Date: Fri, Jun 8, 2018 at 8:58 AM
Subject: RE: 17/081 Mr Paul Carty - National Pensions Reserve Fund Commission
To: Failte32 Failte32 <failte32@gmail.com>

Dear Mr Landers,

I refer to previous correspondence in relation to the above matter resting with your email dated 25 October 2017.

Please note, the Institute's disciplinary process is private and confidential, correspondence and documentation sent by Professional Standards to you may not be disclosed to or discussed with third parties.

I have reviewed your complaint that the member as a Commissioner of the National Pension Reserve Fund (NPRF) Commission was a party to the misrepresentation of the transfer of funds between entities and the awarding of funds from Innovation Fund Ireland without following correct tendering and evaluation procedures and determined that your complaint does not concern a disciplinary matter in relation to the member. The reason for the determination is as follows:

The member was a Commissioner of the NPRF Commission from August 2005 until the cessation of its investment mandate in December 2014. The Commission comprised of 7 Commissioners. The member acted as Chairman of the Commission from December 2005.

The complainant also submitted complaints in relation to the funding by the Commission to the Standards in Public Office Commission (SIPO), the Office of the Comptroller & Auditor General (C&AG) and the National Treasury Management Agency (NTMA). The NPRF is managed by the NTMA.

The three bodies referred to above have all rejected the complainant's complaint on the grounds that the Commission did not act outside its mandate in determining investment criteria or in the allocation investment funds.

The decision whether or not to invest in a particular project was a commercial decision reached by the Commission as a body and therefore it would not be appropriate to single out one member of the Commission for further investigation because he was a member of Chartered Accountants Ireland whilst the other members of the Commission are not. The other appropriate bodies as noted above have found no grounds for the complainant's complaint in relation to the Commission acting as a whole and therefore I do not believe this complaint concerns a disciplinary matter in relation to the member as an individual Commissioner.

You may, within fourteen days of receiving this notification, notify me in writing of any further representations that you wish to make in relation to the complaint. If you provide further representations, the Head of Professional Conduct shall consider the matter and decide whether or not the complaint concerns a disciplinary matter. The Head of Professional Conduct shall notify you of her decision and the reasons for the decision.

Regards

Derek Dee
Senior Complaints Case Manager, Professional Standards

Chartered Accountants Ireland

Chartered Accountants House | 47-49 Pearse St, Dublin 2, Ireland

Android: [NewsDesk App](#) | Apple: [NewsDesk App](#)

Phone: +353 1 637 7263 | Reception: +353 1 637 7200

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Tue, Jun 19, 2018 at 1:57 AM
Subject: Re: 17/081 Mr Paul Carty - National Pensions Reserve Fund Commission
To: Derek Dee <Derek.Dee@charteredaccountants.ie>

Dear Derek,

I note in your email below of June 8, 2018, you corrected your summary of my case vis a vis the summary in your email of May 29, 2018.

First, why did you base your decision on the decisions other organizations (SIPO, C&AG, NPRF/NTMA) have made regarding my case as opposed to doing your own objective independent analysis, which is what you're meant to do? Also, you based your decision on the decisions made by organizations whom I have alleged, in two comprehensive Reports of which you have full knowledge, either committed the crime or are covering up for it. Why would you do this?

Second, you state in part in your email below:

"The decision whether or not to invest in a particular project was a commercial decision reached by the Commission as a body and therefore it would not be appropriate to single out one member of the Commission for further investigation because he was a member of Chartered Accountants Ireland whilst the other members of the Commission are not. The other appropriate bodies as noted above have found no grounds for the complainant's complaint in relation to the Commission acting as a whole and therefore I do not believe this complaint concerns a disciplinary matter in relation to the member as an individual Commissioner."

So, in other words, what you're saying is: (a) as long as you commit a crime as part of a group, group participants cannot be held individually accountable (even if you're the Chairman!), and (b) since none of the other Commission members have been held accountable, why should ICAI hold one of its own members accountable.

This is not just nonsense, in the case of (b), it's borderline puerile.

Apart from this email, I do not have any further representations that I wish to make in relation to my complaint.

I look forward to hearing back from the 'Head of Professional Conduct' regarding my responses to your decisions of May 29 and June 8, 2018. I just hope it won't take another 6 months for a response.

Kind regards,

Maurice D. Landers

(2)

Decision letter from Head of Professional Conduct:

<http://www.failte32.org/wp-content/uploads/2019/07/180904-letter-to-Mr-M-Landers-1.pdf>

Complainants (author's) reply:

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Wed, Sep 5, 2018 at 3:07 AM
Subject: Re: File Ref: 17/081
To: Marie Byrne <Marie.Byrne@charteredaccountants.ie>,
<professionalstandards@charteredaccountants.ie>

Dear Ms. Mawe,

In accordance with Disciplinary Regulation 18.6, I request that my complaint be referred to the Conduct Committee for final decision as to whether or not the complaint concerns a disciplinary matter.

I request that I receive a reply from the Conduct Committee prior to December 31, 2018. Based on the date of your reply (9/4/18) to my additional representations submitted on June 19, 2018, I believe this is a reasonable time frame.

You state in part under the heading Decision and Reasons (last sentence):

"In such circumstances i.e. where there has been no adverse finding in respect of the NPRFC by the appropriate authorities, the member's actions as an NPRF Commissioner do not appear to give rise to liability to disciplinary action in my opinion."

Again with the "do not appear" and "in my opinion" nonsense.

ICAI's job is to issue its own independent findings, not rehash those of other allegedly dishonest authorities as detailed in the multiple Reports/documents I provided ICAI.

Regarding the first paragraph under the heading Decision and Reasons, investigating Mr. Paul Carty and reaching a determination in relation to alleged misrepresentation and/or breach of procedure by him is NOT beyond the scope of ICAI's authority. Mr. Paul Carty is a member of ICAI. The allegation against Mr. Paul Carty is NOT predicated on the alleged wrongdoing by the NPRFC, it is predicated on the alleged wrongdoing by HIM.

Kind regards,
Maurice D. Landers



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Strictly Private and Confidential
Mr Maurice D. Landers

By email: fallte32@gmail.com

4 September 2018

File Ref: 17/081

Dear Mr Landers

I refer to the above matter. As required under disciplinary Regulation 18.4 I have considered your complaint in light of your additional representations, submitted on 19 June 2018.

Please note that this is a confidential process and correspondence with Professional Standards may not be disclosed to or discussed with third parties.

In summary it is alleged that the member as a Commissioner of the National Pension Reserve Fund Commission was party to the misrepresentation of the transfer of funds between entities and awarding funds from Innovation Fund Ireland without following the correct tendering and evaluation procedures.

Decision and reasons

Investigating the NPRFC and reaching a determination in relation to alleged misrepresentation and / or breach of procedures by the NPRFC is beyond the scope of the Institute's authority. The allegation against this member is predicated on the alleged wrongdoing by the NPRFC. Complaints in this regard have been made to the appropriate authorities and have not been upheld. A disciplinary matter is defined to mean one or more events which appear to give rise to liability to disciplinary action. In such circumstances i.e. where there has been no adverse finding in respect of the NPRFC by the appropriate authorities, the member's actions as an NPRFC Commissioner do not appear to give rise to liability to disciplinary action in my opinion.

Next Steps

In accordance with Disciplinary Regulation 18.6, you may within **14 days**, from the date of this letter request that your complaint be referred to the Conduct Committee for final decision as to whether or not the Complaint concerns a disciplinary matter. If no such request is received I will proceed to close our file.

Yours sincerely

Sent by email, bears no signature

Aideen Mawe
Head of Professional Conduct
Chartered Accountants Ireland

Barry Dempsey | Chief Executive Heather Briers, FCA | Secretary



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(from ROI) Tel 048 9043 5858 Fax 048 9031 9320

Email professionalstandards@charteredaccountants.ie

The regulatory and disciplinary function of the Institute are overseen independently by the Chartered Accountants Regulatory Board
Chartered Accountants Ireland is the operating title for The Institute of Chartered Accountants in Ireland

(3)

Decision letter from Conduct Committee (final decision):

<http://www.failte32.org/wp-content/uploads/2019/07/181213-Letter-to-Complainant.pdf>



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**Strictly Private and Confidential
Addressee Only**
Mr Maurice D. Landers

By email: failte32@gmail.com

13 December 2018

File Ref No.: 17/081

Member: Mr Paul Carty

Complainant: Mr Maurice Landers

Dear Mr Landers,

The Conduct Committee of the Institute of Chartered Accountants in Ireland (the "Institute") considered the above matter at its meeting of 28 November 2018. Its findings are set out in the enclosed notice.

This decision is final and we will now proceed to close our file.

Thank you for your co-operation.

Yours sincerely,

**Carine Pessers
Secretary to the Conduct Committee
Chartered Accountants Ireland**

Encls.

Burry Dempsey | Chief Executive Heather Briggs, FCA | Secretary



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Email professionalstandards@charteredaccountants.ie

The Institute's conduct and discipline of the Institute also have been chartered by the University of London and the Regulatory Board.
Chartered Accountants Ireland is a member of the Institute of Chartered Accountants in Ireland.

Decision of the Conduct Committee

File Reference:	17/081
Member:	Mr Paul Carty
Complainant:	Mr. Maurice D. Landers
Allegations:	That the member as a Commissioner of the National Pension Reserve Fund (NPRF) Commission was a party to the misrepresentation of the transfer of funds between entities and the awarding of funds from Innovation Fund Ireland without following correct tendering and evaluation procedures.
Conduct Committee Decision and Reasons:	<p>The Conduct Committee considered the complaint in accordance with the Disciplinary Regulations and concurred with the decision of the HoPC as set out in her decision of 4 September 2018.</p> <p><i>Investigating the NPRFC and reaching a determination in relation to alleged misrepresentation and / or breach of procedures by the NPRFC is beyond the scope of the Institute's authority. The allegation against this member is predicated on the alleged wrongdoing by the NPRFC. Complaints in this regard have been made to the appropriate authorities and have not been upheld. A disciplinary matter is defined to mean one or more events which appear to give rise to liability to disciplinary action. In such circumstances i.e. where there has been no adverse finding in respect of the NPRFC by the appropriate authorities, the member's actions as an NPRF Commissioner do not appear to give rise to liability to disciplinary action in my opinion.</i></p>
Action taken / proposed:	File to be closed.
Date of Conduct Committee meeting / decision:	28 November 2018

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "3" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

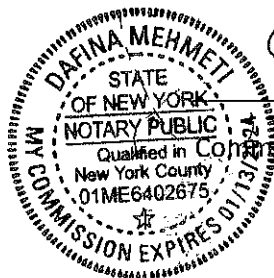
Sworn before me by the said *Maurice D. Landers*

on the *8th* day of *September* 2020, at *CITIBANK*

in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*NYSOL*)
containing a photograph *560 566 698*



[Signature]

Commissioner for Oaths/Practicing Solicitor

RE: Landers v Information Commissioner 2020/53/MCA

From: Gary Fitzgerald (gary.fitzgerald@ombudsman.ie)

To: mauricelanders@yahoo.com

Date: Thursday, March 12, 2020, 8:49 AM EDT

No problem Maurice, I'll see you on Monday. It will probably be listed in Court 6 in the Four Courts at 11am.

Thanks

Gary

From: maurice landers <mauricelanders@yahoo.com>
Sent: Thursday 12 March 2020 12:47
To: Gary Fitzgerald <Gary.Fitzgerald@ombudsman.ie>
Subject: Re: Landers v Information Commissioner 2020/53/MCA

Dear Gary,

No, I am not consenting.

Kind regards,

Maurice D. Landers

On Thursday, March 12, 2020, 08:28:49 AM EDT, Gary Fitzgerald <gary.fitzgerald@ombudsman.ie> wrote:

Hi Maurice,

I don't think that the High Court offers that service, you will have to attend in person. And you are right, you have to be there yourself or be represented by a lawyer with the right of audience. I will be applying for an adjournment on Monday for 4 weeks to allow the Commissioner to file opposition papers. It is up to you if you want to object to this application, but it is normally a relatively straight forward matter. There won't be anything of substance until the matter is listed for hearing. The normal process is:

1. Respondent is given 4 weeks to file opposition papers.
2. Appellant is given 4 weeks to consider and see if he wants to reply via a replying affidavit.
3. Further adjournments for affidavits if necessary.
4. Once this exchange of affidavits is over, the matter is listed for hearing. At the moment cases like this are given dates 6 months in the future.

Thus it is unlikely that there will be a hearing before October (the courts are on vacation in August and September).

You might just confirm whether or not you are consenting to the four week adjournment on Monday.

Thanks

Gary

From: maurice landers <mauricelanders@yahoo.com>
Sent: Thursday 12 March 2020 12:20
To: Gary Fitzgerald <Gary.Fitzgerald@ombudsman.ie>
Subject: Re: Landers v Information Commissioner 2020/53/MCA

Dear Gary,

Unfortunately, I have a flight booked for tomorrow to attend the High Court on Monday, and so plan to attend. Due to work constraints, I'm unable to be flexible as regards travel changes as I can't just jump on a plane anytime I want (but if I have to I will), and I believe I have to attend in person when representing myself.

However, to resolve this, if you and the High Court agree that we can instead do this via email communications where the Honorable Judge can make a ruling/s based upon the documents we submit over the course of the case, then I can go with that. But I will still have to appear Monday to satisfy the appearance in person criteria (on the first date in court), but from then onwards, we could communicate with the High Court via email.

Let me know if this is satisfactory.

Kind regards,

Maurice D. Landers

On Thursday, March 12, 2020, 07:53:28 AM EDT, Gary Fitzgerald <gary.fitzgerald@ombudsman.ie> wrote:

Dear Mr Landers,

I refer to the above High Court case, your appeal of the Commissioner's decision OIC-58612-G9F7Z0.

I am a solicitor working in the Legal Services Unit of the Office of the Ombudsman. The Information Commissioner is a statutory body within the Office of the Ombudsman and I will be representing the Commissioner in this appeal.

It is listed for directions on Monday 16th March 2020. My client intends to defend this appeal and will be filing an Appearance, Points of Opposition and replying affidavit over the coming weeks. It is normal for these appeals to be adjourned for 4 weeks on the first date in court to allow the respondent time to determine its position. If you are in a position to consent to this adjournment I can inform that court on Monday morning. This will avoid the need for either of us to be there.

It may be that the court will be closed on Monday as part of the government's response to covid-19. If I hear anything on this I will inform you as soon as possible.

In the meantime, please feel free to contact me on this email address, or on the numbers below.

Thanks

Gary

Gary Fitzgerald | Legal Advisor | Office of the Ombudsman | 6 Earlsfort Terrace, Dublin 2 | D02 W773 | ☎ (+353-1) 639 5787 |

We have moved!

Our new address is 6 Earlsfort Terrace, Dublin 2, D02 W773.

Bhog muid!

Is é 6 Ardán Phort an Iarla, Baile Átha Cliath 2, D02 W773, an seoladh nua.

We have moved!

Our new address is 6 Earlsfort Terrace, Dublin 2, D02 W773.

Bhog muid!

Is é 6 Ardán Phort an Iarla, Baile Átha Cliath 2, D02 W773, an seoladh nua.

RE: Landers v Information Commissioner 2020/53/MCA

From: Gary Fitzgerald (gary.fitzgerald@ombudsman.ie)

To: mauricelanders@yahoo.com

Date: Thursday, March 12, 2020, 8:53 AM EDT

Hi Maurice,

For your information, here is the latest new from the Court Service on Covid-19:

<https://beta.courts.ie/news/covid-19-notice-10th-march-2020>

In summary, cases are going ahead as normal next week.

Thanks

Gary

From: maurice landers <mauricelanders@yahoo.com>
Sent: Thursday 12 March 2020 12:20
To: Gary Fitzgerald <Gary.Fitzgerald@ombudsman.ie>
Subject: Re: Landers v Information Commissioner 2020/53/MCA

Dear Gary,

Unfortunately, I have a flight booked for tomorrow to attend the High Court on Monday, and so plan to attend. Due to work constraints, I'm unable to be flexible as regards travel changes as I can't just jump on a plane anytime I want (but if I have to I will), and I believe I have to attend in person when representing myself.

However, to resolve this, if you and the High Court agree that we can instead do this via email communications where the Honorable Judge can make a ruling/s based upon the documents we submit over the course of the case, then I can go with that. But I will still have to appear Monday to satisfy the appearance in person criteria (on the first date in court), but from then onwards, we could communicate with the High Court via email.

Let me know if this is satisfactory.

Covid-19

From: Gary Fitzgerald (gary.fitzgerald@ombudsman.ie)

To: mauricelanders@yahoo.com

Date: Friday, March 13, 2020, 5:08 PM EDT

Hi Maurice,

The Court Service have revised their approach to Covid-19 and have severely curtailed court sittings. Our case is now listed for 2pm on Monday. We are now able to adjourn it by email. Give the very real threat to our health by attending court on Monday, I would ask again for you to consent to a 4 week adjournment. I have acted in a significant number of these cases and the only outcome of a first mention date in the High Court list is an adjournment to allow the respondent to file papers. If you insist on us attending court I will apply for an adjournment and will be granted it without any real difficulty. The judge will not get into the substance of the case at all.

In these circumstances, are you in a position to alter your view on a consent adjournment?

You can find details of the general approach of the courts [here](#), and the list for Court 6 [here](#).

I am off work for the weekend but will check my email again on Sunday evening.

Thanks

Gary

We have moved!

Our new address is **6 Earlsfort Terrace, Dublin 2, D02 W773.**

Bhog muid!

Is é **6 Ardán Phort an Iarla, Baile Átha Cliath 2, D02 W773**, an seoladh nua.

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "4" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

Sworn before me by the said *Maurice D. Landers*

on the *8th* day of *September* 2020, at *Citibank*

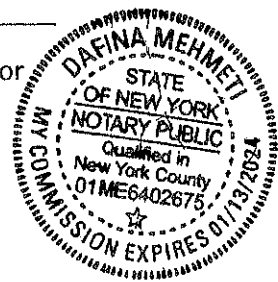
in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*NYSOL*)
containing a photograph *S60 566 698*

[Signature]

Commissioner for Oaths/Practicing Solicitor



Re: Covid-19

From: Gary Fitzgerald (gary.fitzgerald@ombudsman.ie)

To: mauricelanders@yahoo.com

Date: Thursday, April 9, 2020, 4:08 PM EDT

Maurice,

I can confirm that you do not have to attend court on 27th April. I will email you the opposition papers as soon as they are agreed with my client.

Gary

From: maurice landers <mauricelanders@yahoo.com>

Sent: 06 April 2020 14:23

To: Gary Fitzgerald

Subject: Re: Covid-19

Gary,

I requested from you outside the court room after the case was adjourned that you agree that I don't have to appear in person a second time 'for mention' on April 27, 2020.

I have not heard back from you on this. I assume since you believed there was a very real threat to our health by attending court on March 16th (I personally believed it was low risk at the time), you must believe that this threat will be even more real come April 17th. As responsible people, I don't believe either of us would insist on each others appearance during the possible apex of this virus here in NY or indeed in Ireland.

Perhaps the courts themselves will have delays?

However, if you require my appearance, I will have to book my flight imminently, so could you please let me know your decision by the end of this week at the latest.

Thank you,
Maurice D. Landers

On Friday, March 13, 2020, 05:08:06 PM EDT, Gary Fitzgerald <gary.fitzgerald@ombudsman.ie> wrote:

Hi Maurice,

The Court Service have revised their approach to Covid-19 and have severely curtailed court sittings. Our case is now listed for 2pm on Monday. We are now able to adjourn it by email. Give the very real threat to our health by attending court on Monday, I would ask again for you to consent to a 4 week adjournment. I have acted in a significant number of these cases and the only outcome of a first mention date in the High Court list is an adjournment to allow the respondent to file papers. If you insist on us attending court I will apply for an adjournment and will be granted it without any real difficulty. The judge will not get into the substance of the case at all.

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You can find details of the general approach of the courts [here](#), and the list for Court 6 [here](#).

I am off work for the weekend but will check my email again on Sunday evening.

Thanks

Gary

We have moved!

Our new address is **6 Earlsfort
Terrace, Dublin 2, D02 W773.**

Bhog muid!

Is é **6 Ardán Phort an Iarla, Baile Átha
Cliath 2, D02 W773, an seoladh nua.**

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "5" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

Sworn before me by the said *Maurice D. Landers*

on the *8th* day of *September* 2020, at *Citi bank*

in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*NMSBZ*)
containing a photograph *560 566 648*

[Signature]

Commissioner for Oaths/Practicing Solicitor



THE HIGH COURT

RECORD NO: 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACT 2014

AND IN THE MATTER OF AN APPEAL PURSUANT TO SECTION 42 OF THAT ACT

BETWEEN:

MAURICE D. LANDERS

APPELLANT

AND

INFORMATION COMMISSIONER

RESPONDENT

AFFIDAVIT OF STEPHEN RAFFERTY

I, Stephen Rafferty, Senior Investigator in the Office of the Information Commissioner, 5-6 Earlsford Terrace, Dublin 2, aged 18 and upwards do MAKE OATH and say as follows:

1. I am the Senior Investigator in the Office of the Information Commissioner within the meaning of section 43 of the Freedom of Information Act 2014 (the 2014 Act).
2. I swear this affidavit on behalf of the Information Commissioner ("the Commissioner") and with his authority and consent. The purpose of the affidavit is to respond to the appeal against the decision of the Commissioner and to verify the Points of Opposition to that appeal. I make this affidavit based on a review of the files and records of the Commissioner and from facts within my own knowledge, save where so otherwise appears, and where so appearing, I believe the same to be true and accurate.
3. One of the functions of the Commissioner is to carry out an independent review of decisions made by public bodies of requests for information made under the 2014 Act and, where necessary, make binding new decisions. He will examine the records in question and will also invite submissions from the requester and the public body. The Commissioner may also consult any third parties whom he considers might be affected by his decision. The Office generally seeks to conduct reviews in an informal manner subject to the requirements of the 2014 Act.

4. Following a review pursuant to section 22 of the 2014 Act, the Commissioner may then uphold (affirm) or vary the decision of the public body, or annul it and make a new decision. Paragraph 9 of the Second Schedule of the Acts makes provision for the delegation of this function by the Commissioner to a Senior Investigator. The decision is final and binding on the parties, subject only to a right of appeal on a point of law to the High Court pursuant to section 42 of the 2014 Act.
5. The facts of this case are set out in the Points of Opposition and the decision being challenged by the Appellant. The National Treasury Management Agency (NTMA) refused the Appellant's request for documents under s. 15(1)(a) of the 2014 Act:

"15. (1) A head to whom an FOI request is made may refuse to grant the request where . . . the record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken..."

6. I am advised that the role of the Commissioner in a s. 22 review of a refusal under s. 15(1)(a) is to review the decision of the public body and to have regard to the evidence which was available to the decision-maker and to the reasoning used by the decision-maker in arriving at the decision being challenged. It is not generally the role of the Commissioner to conduct searches for the records.
7. In this case I examined the steps taken by the NTMA to ascertain if it had taken all reasonable steps to find the documents requested. Those steps are set out in the Decision and in the submissions of the NTMA to the Commissioner. I enclose of copy of those submissions upon when I have marked my initials "SR 1" prior to the swearing of this affidavit.
8. As stated in the Decision, the Appellant was provided with details of the steps taken by the NTMA to find the documents requested. This was done by letter dated 17th January 2020. He has not identified any deficiency in the searches undertaken by the NTMA. I enclose of copy this letter upon when I have marked my initials "SR 2" prior to the swearing of this affidavit.
9. The Appellant appears to misunderstand the powers of the Commissioner set out in s. 45 of the 2014 Act. That section allows the Commissioner to require the production of documents in certain circumstances. The Appellant appears to believe that the Commissioner could use this power to order third party private entities to produce documents. But s. 45 can only be used for the proposes of a s. 22 review or s. 44 investigation. It does not give a wide, general power of production to the Commissioner. This is a point that will be set out in more detail in legal submissions.

10. In the opinion of the Commissioner in this dispute, it was not necessary for him to use the powers in s. 45. The question before the Commissioner in this review was whether the NTMA was justified in saying that it took all reasonable steps to find the documents requested. As set out in the Decision, I was satisfied that there was sufficient evidence before the NTMA to arrive at this conclusion.
11. The fact that other parties might hold the documents in question is not relevant and is a misconstruction of the powers and role of the Commissioner.
12. At paragraph 7 in the grounding affidavit, Mr Landers averred that the Commissioner concurred with the NTMA that the documents never existed. This is not correct. The Decision concurs with the NTMA's reliance on s. 15(1)(a) of the 2014 Act. It may be that the documents are held by private third party entities not covered by the FOI regime. This is outside the scope of the 2014 Act and therefore outside the jurisdiction of the Commissioner and this Court on appeal.
13. The Decision used the phrase "*the records do not exist*". This language is drawn directly from s. 15(1)(a). It does not mean that the records do not exist at all, anywhere in the world, but that they do not exist in the records of the public authority to which the initial request was made.
14. As per the Points of Opposition, I do not think that Mr Landers is entitled to the reliefs sought, or any reliefs.

Sworn by the said **STEPHEN RAFFERTY** this

day of 2020 , at

before me, a Practising Solicitor/
Commissioner for Oaths and I know the
Deponent.

Deponent

Practising Solicitor/ Commissioner for Oaths

Filed on the day of , 2020 on behalf of the Respondent by Legal Services Unit, Office of the Ombudsman and the Information Commissioner, Solicitors for the Respondent.

THE HIGH COURT

RECORD NO: 2020/53/MCA

BETWEEN:

MAURICE D. LANDERS

APPELLANT

AND

INFORMATION COMMISSIONER

RESPONDENT

AFFIDAVIT OF STEPHEN RAFFERTY

THE HIGH COURT

RECORD NO: 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACT 2014

AND IN THE MATTER OF AN APPEAL PURSUANT TO SECTION 42 OF THAT ACT

BETWEEN:

MAURICE D. LANDERS

APPELLANT

AND

INFORMATION COMMISSIONER

RESPONDENT

AFFIDAVIT OF STEPHEN RAFFERTY

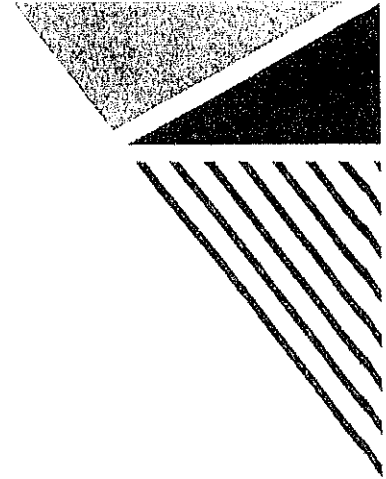
EXHIBIT "SR 1"

Stephen Rafferty

Commissioner for Oaths/Practising Solicitor



Gníomhaireacht Bainistíochta an Chisteáin Náisiúnta
National Treasury Management Agency



15 January 2020

Ms Anne Greenalgh,
Investigator,
Office of the Information Commissioner.

By email to applications@oic.ie

Your Ref: OIC-58612-G9F7Z0

Dear Ms Greenalgh

I refer to the application for review by the Information Commissioner in the decision of the National Treasury Management Agency (the "NTMA") FOI Request (our reference numbers 2019/44/FOI and 2019/5/IR). As requested in your letter of 12 December 2019, we have set out below our submission regarding the steps taken to search for the relevant records relating to this request.

Responses to specific questions

1. *"Is it [the NTMA's] position that no further records sought in the request exist? If so, please explain the background to this case and the reasons why [the NTMA] came to the conclusion that no relevant records exist."*

Yes, it is the NTMA's position that no further records within the scope of Mr Landers' FOI request exist.

The background to this case is as follows.

General query

Mr Landers contacted the NTMA by email on 5 June 2019 seeking copies of the internal audit plans for the National Pensions Reserve Fund (the "NPRF") for the years ending 31 December 2009, 2010 and 2011.

The NPRF was established pursuant to the National Pensions Reserve Fund Act 2000 (as amended) and the NTMA was appointed as the manager of the NPRF and acts as the agent of the National Pensions Reserve Fund Commission (the "Commission") in the performance of its statutory functions. Following the commencement of the relevant provisions of the National Treasury Management Agency (Amendment) Act 2014, the assets of the NPRF became assets of the Ireland Strategic Investment Fund (the "ISIF") which was established on 22 December 2014. As of 31 December 2018, all foreign assets other than certain withholding tax reclaims had transferred from the NPRF to the ISIF. Once all the assets have been transferred, it is envisaged that the Commission will be dissolved. The Commission consists of one commissioner, the Chief Executive of the NTMA.

Duga an Státhchiste, Cé an Phoirt Thuaidh, Baile Átha Cliath 1, D01 A9T8, Éire
Treasury Dock, North Wall Quay, Dublin 1, D01 A9T8, Ireland

+353 1 238 4000

+353 1 238 4890

@NTMA_IE

www.ntma.ie

info@ntma.ie

Mr Landers' email of 5 June 2019 was formulated as a general query and treated as such by the NTMA. Mr. Landers' email made clear that he was seeking these plans in order to verify the decision that he received from Chartered Accountants Ireland (ICAI) regarding his case, which he stated was as follows:

"The scope of the internal audit work undertaken by the member firm was specific scope and the scope was agreed with and approved by the Audit Committee of the National Treasury Management Agency (NTMA) and the National Pension Reserve Fund (NPRF) Commission each year. The member firm provided us with a copy of internal audit plan for the NPRF as presented to, and subsequently agreed with, the NPRF Commission and the NTMA and the matter complained of appears to have been outside (sic) the scope of the internal audit work undertaken by the member firm."

Upon receipt of Mr Landers' general query, enquiries were made in order to establish what records were held relating to the scope of audit work undertaken by PwC during the relevant years.

The staff member that previously performed the role of NPRF Commission Secretary (who is now assigned to the ISIF Unit) was contacted and asked to locate any relevant records held in relation to audit plans of the NPRF for the relevant years. This staff member carried out electronic searches for these records. No records categorised as internal audit plans were located. The only records located that were relevant to the scope of audit work undertaken by PwC were the internal audit plan presentations for 2009, 2010 and 2011, which were presented to the NPRF Audit Committee.

Based on these searches, the knowledge of the former NPRF Commission Secretary and the content of the applicable Audit Committee minutes, the NTMA's understanding is that PwC did not submit 'final' or 'formal' audit plans once an audit plan presentation was agreed at Audit Committee level.

Accordingly, the NTMA was satisfied that no other records comprising internal audit plans for the relevant years would be located, and that the internal audit plan presentations were the only records held by the NTMA that were relevant to Mr Landers' query concerning the scope of work undertaken by PwC.

Mr Landers was subsequently advised that he was entitled to request access to the requested records from the NTMA under the FOI Act. Mr Landers was also advised that, if he confirmed that his request could be considered as a FOI request, this would enable the NTMA to process his request in accordance with the terms of the FOI Act.

FOI request

Following a series of emails with Mr Landers, he subsequently agreed to the NTMA processing his request as an FOI request in his email of 6 September 2019, a copy of which was provided to your office on 11 November 2019.

The NTMA was satisfied that the searches previously conducted for the purposes of Mr Landers' general query had located all records held by the NTMA within the scope of Mr Landers' request;

namely the internal audit plan presentations for 2009, 2010 and 2011. On this basis, the NTMA's original decision-maker notified Mr Landers by letter of 25 September 2019 that the searches conducted had located these three records, and granted access to them, in full.

Internal review

Mr Landers proceeded to appeal this decision by way of internal review, which was received by the NTMA on 15 October 2019. In his internal review request, Mr Landers again requested copies of the internal audit plans, and indicated that he did not believe that the NTMA did not hold any records other than the presentations previously provided. Accordingly, further enquiries were undertaken at this stage to identify and locate any records entitled or comprising the final, agreed 'internal audit plans'.

As detailed above, given the previous searches carried out, the knowledge of the former NPRF Commission Secretary and the content of the applicable Audit Committee minutes, there was no expectation that any audit plans would be located. However, to validate this position, the staff members considered most likely to have had involvement in the NPRF internal audit process were requested to undertake manual and electronic searches for any relevant records.

The outcome of these searches did not identify any additional records entitled or comprising internal audit plans for the NPRF for the years in question. Accordingly, the NTMA's internal reviewer decided to vary the original decision, and to administratively refuse access to the request pursuant to section 15(1)(a) of the FOI Act. This was on the basis that the requested 'internal audit plans' did not exist, and the records with the most relevance to the request had already been released to Mr Landers in full.

2. "What areas were searched and can [the NTMA] outline whether this was done manually or by computer?"

As mentioned above, the former NPRF Commission Secretary carried out electronic searches in response to Mr Landers' initial, general query. The relevant network folder entitled 'National Pensions Reserve Fund' was searched electronically.

On receipt of the internal review further manual and electronic searches were carried out by the staff members considered most likely to have had involvement in the NPRF, namely NPRF Commission Secretary and certain former NPRF staff. These searches comprised electronic searches of personal mailboxes and network folders as well as manual searches of records held in filing cabinets. Finally, as another potential area of relevance, staff from the Finance section also carried out searches.

In relation to the above electronic searches, each staff member was advised to use key words when conducting their searches, such as 'internal audit 2009', 'internal audit 2010', 'internal audit 2011', 'audit committee' and 'audit plan'.

3. "Were the relevant individuals consulted?"

Yes. See number 2 above.

4. *"Did PwC submit audit plans following the audit presentations?"*

As detailed above, based on the searches carried out to date, the knowledge of the former NPRF Commission Secretary and the content of the applicable Audit Committee minutes, the NTMA's understanding is that PwC did not submit 'final' or 'formal' audit plans once an audit plan presentation was agreed at Audit Committee level.

5. *"Section 11(9) of the FOI Act provides that a record held by a service provider, insofar as it relates to the service, shall be deemed to be held by the FOI Body. Can [the NTMA] confirm if PwC were consulted about the records sought in this case?"*

The NTMA contacted PwC via email, prior to issuing its original decision on 25 September 2019, notifying PwC of the intention to release the audit plan presentations in full. As mentioned at number 4 above the NTMA's understanding is that PwC did not submit 'final' or 'formal' audit plans once an audit plan presentation was agreed at Audit Committee level.

6. *"Is it possible that any relevant records were destroyed, in accordance with policy or otherwise?"*

The NTMA does not believe that internal audit plans were received and subsequently destroyed. Its understanding is that PwC did not submit 'final' or 'formal' audit plans once an audit plan presentation was agreed at Audit Committee level, and that these internal audit plan presentations encompass the scope of the internal audit work for the relevant period.

Conclusion

For the reasons outlined above, the NTMA is satisfied that the searches undertaken to locate any and all relevant records within the scope of Mr Landers' request were appropriate and adequate in the circumstances. The NTMA is also satisfied that no PwC internal audit plans exist for the years in question, and that the only records located relating to the scope of the internal audit work carried out by PwC have already been provided to Mr Landers.

The NTMA is happy to engage with your office to provide any further information required in support of the content set out above and any queries in relation to this application can be made to Orla Yeates, FOI Officer by phone on 01 238 4875 or by email to Orla.yeates@ntma.ie

Yours sincerely,



Orla Yeates

FOI Officer

THE HIGH COURT

RECORD NO: 2020/S3/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACT 2014

AND IN THE MATTER OF AN APPEAL PURSUANT TO SECTION 42 OF THAT ACT

BETWEEN:

MAURICE D. LANDERS

APPELLANT

AND

INFORMATION COMMISSIONER

RESPONDENT

AFFIDAVIT OF STEPHEN RAFFERTY

EXHIBIT "SR 2"

Stephen Rafferty

Commissioner for Oaths/Practising Solicitor

Our Reference OIC-58612-G9F7Z0

Mr Maurice Landers
By email: mauricelanders@yahoo.com

17 January 2020

Dear Mr Landers

I refer to a review by this Office of the decision of National Treasury Management Agency (NTMA) on your FOI request for access to records. In particular you requested internal audit plans for the financial years ending 31 December 2009, 2010 and 2011 as per your engagement with PwC".

This case has been assigned to me for investigation and recommendation. The purpose of this email is to provide you with a summary of NTMA's submissions in this case and to give you the opportunity to make any final comments, if you so wish.

Section 15(1)(a) – Adequacy of Search

This case involves a search issue under Section 15(1)(a) of the FOI Act. Section 15(1)(a) provides that an FOI body may refuse to grant a request where the records sought either do not exist or cannot be found after all reasonable steps to ascertain their whereabouts have been taken. The Commissioner's role in such cases is to review the decision of the FOI body and to decide whether the decision was justified. This means that the Commissioner must have regard to the evidence available to the decision maker in arriving at his/her decision. The evidence in "search" cases generally consists of the steps actually taken to search for the records along with miscellaneous and other information about the record management practices of the FOI body, insofar as those practices relate to the records in question.

It is important to note that the FOI Act does not require absolute certainty as to the existence or location of records, as situations arise where records are lost or simply cannot be found. Furthermore, this Office can find that an FOI body has satisfied the requirements of Section 15(1)(a), even where records that an applicant believes ought to exist have not been located.

Please also be advised, that this Office does not examine the manner in which public bodies carry out their functions generally, nor does it investigate complaints.

National Treasury Management Agency's Submission

In conducting this review, I sought a submission from National Treasury Management Agency ("NTMA") in relation to the details of searches undertaken to locate the records relevant to your request. Provided below is a summary of NTMA's submissions:

- By way of background, the NTMA outlined that The National Pensions Reserve Fund ("NPRF") was established pursuant to the National Pensions Reserve Fund Act, 2000 (as amended) and the NTMA was appointed as the manager of the NPRF and acts as the agent of the National Pensions Reserve Fund Commission in the performance of its statutory function.
- You made a general inquiry to NTMA on 5 June 2019 and on foot of this, enquiries were made in order to establish what records were held relating to the scope of audit work undertaken by PwC during the relevant years. The staff member who performed the role of NPRF Commission Secretary was contacted and asked to locate any relevant records held in relation to audit plans of National Pension Reserve Fund. Electronic searches for these records were carried out and no records categorised as internal audit plans were located. NTMA understands that PwC did not submit final or formal audit plans once an audit plan was agreed at Audit Committee level.
- Following your FOI request to NTMA on 6 September 2019, NTMA was satisfied that the searches previously conducted for your general query had located all records held by NTMA within the scope of your request, i.e., *"internal audit plans for the financial years ending 31 December 2009, 2010 and 2011 as per your engagement with PwC"*.
- This decision was appealed by way of Internal Review on 15 October 2019 and further enquiries were undertaken to identify and locate any records entitled or comprising the final agreed 'internal audit plans'. Staff members considered most likely to have had involvement in the NPRF internal audit process were requested to undertake manual and electronic searches (using key words) for any relevant records. These further searches did not identify any additional records entitled or comprising internal audit plans for the NPRF for the years in question. The internal reviewer decided to vary the original decision and administratively refuse access on the basis that the requested internal audit plans, as sought by you, did not exist.
- It is NTMA's position, based on the appropriate and adequate searches carried out, the knowledge of former NPRF Commission Secretary, relevant staff members and the content of the applicable Audit Committee minutes that no internal audit plans were ever received or subsequently destroyed. Therefore, NTMA is satisfied that no PwC internal audit plans exist for the years in question and that the only records located relating to the scope of the internal audit work carried out by PwC have already been provided to you.

Conclusion

Having carefully examined NTMA's submissions, it would appear that no records exist or can be found in relation to your FOI request. Presently, I am of the view that NTMA has conducted all reasonable searches to locate the relevant records and that Section 15(1)(a) of the FOI Act applies. Therefore, should this case proceed to a formal legally binding decision, I intend to recommend to the Senior Investigator that he affirm the decision of the NTMA under Section 15(1)(a).

Having considered my view above, you may wish to consider withdrawing your application for review at this time. If you choose to do so, this case will be treated as closed. This offer does not affect your rights and if you do not wish to withdraw, this case will progress to a formal, legally binding decision, which will be anonymised and published on our website. This should not in any way be interpreted as an attempt to persuade you to withdraw your application for review. Rather, I am merely ensuring that you are fully informed of all relevant matters before deciding as to how best to proceed.

If you have any further comments in relation to the above or if you wish to withdraw your application for review, please forward your response to this Office at your earliest convenience and by no later than **31 January 2020**.

Please note, that should I not hear from you by **31 January 2020**, this Office may proceed to issue a formal, legally binding decision without further reference to you. Feel free to contact me should you require any clarification on the above.

Yours sincerely

Anne Greenalgh
Office of the Information Commissioner

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "6" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

Sworn before me by the said *Maurice D. Landers*

on the *9th* day of *September* 2020, at *Litbanc*

in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*NYSDL 560 566 648*) containing a photograph

Dutheil



Commissioner for Oaths/Practicing Solicitor

OIC Review No 160034

From: maurice landers (mauricelanders@yahoo.com)
To: peter.tyndall@oic.ie; peter.tyndall@ombudsman.ie
Date: Monday, October 10, 2016, 2:50 AM EDT

Dear Peter Tyndall, Information Commissioner,

I had requested a reply from you personally in my email to you on October 3, 2016. I instead received a reply from an Elizabeth Dolan who told me "as he is away on leave this week, I am sending you this reply rather than delay the matter further."

Now that you are back in the Office, could you confirm that you are in agreement with Elizabeth's reply. The reason I ask for your confirmation is because although the email is signed by an Elizabeth Dolan, it was sent from Alison McCulloch's email address, which I find unusual. Why wouldn't Elizabeth send it from her own email address? Additionally, she didn't cc you on the email, which I also find unusual.

Elizabeth states "Unfortunately, she made an error in providing the incorrect time allowed for an appeal by the Department which is four weeks and not the eight weeks stated by her."

Although the number of 'errors' the Irish Government has made regarding my case is disturbing, it's even more disturbing that the Office of the Information Commissioner, the highest level of oversight outside of the court system, which over the past nearly two decades has corresponded with many regarding Freedom of Information requests and the appeals process, can too so easily make such 'errors'. It would seem that I, a novice in these types of proceedings, bear the responsibility of overseeing the Irish Government and your Office. Is this how it is meant to work?

Is it possible that one or more members of your staff could be influenced by some within the Irish Government?

I look forward to hearing back from you.

Kind regards,
Maurice D. Landers

On Tuesday, October 4, 2016 9:19 AM, "alison.mcculloch@oic.ie" <alison.mcculloch@oic.ie> wrote:

Our Reference: 160034 & 160043

4 October 2016

Mr Maurice Landers
30-80 33rd Street
3rd Floor
Astoria
NY 11102
USA

Dear Mr Landers,

I refer to your email of 3 October 2016 concerning correspondence received from my Office about decisions, dated 21 September 2016, made on reviews under the FOI Act arising from your FOI requests

to the Department of Public Expenditure and Reform and the Department of Finance. You asked that the Commissioner respond to you; as he is away on leave this week, I am sending you this reply rather than delay the matter further.

Firstly, I must stress that there was no intention on our part to mislead you. I refute absolutely your allegation that the Commissioner "is protecting the Irish Government at all costs". I note that the correct information on High Court appeal periods is set out in the decisions. Following your email of 27 September 2016 querying when the records would be released by the Department as directed, I understand from Ms McCulloch that her first email was by way of explaining why the records could not be released immediately. The FOI Act allows time for an appeal to the High Court by a party to a review, or any other person affected by the decision. Unfortunately, she made an error in providing the incorrect time allowed for an appeal by the Department which is four weeks and not the eight weeks stated by her. When you responded to her email the error was noticed and Ms McCulloch provided the corrected information in her email of 29 September 2016. She also pointed out that a summary of the appeal provision was included in the decision which issued on 21 September 2016 and which stated that the detailed appeal provisions are provided in section 24 of the FOI Act. The error arose because section 24(4)(b) specifies that where access is to be granted to some records but not all records, the requester has eight weeks from notification of the decision to appeal to the High Court on a point of law whereas the public body has four weeks. It also provides that the public body shall grant access to the records it intends to release after the expiration of four weeks.

Regarding the time taken to complete the reviews in your case, the Commissioner endeavours to complete reviews within the four statutory objective. Unfortunately, this is not always possible. In 2015, approximately 53% of cases were closed within the four month period and we are constantly striving to improve on that. In your cases, as the two FOI requests were similar my Office decided to consider them together. This involved examination of a large number of pages of records withheld under six different sections of the FOI Act. It also involved consulting with two different Departments which facilitated the release of additional records. I regret that the two reviews took longer than expected to complete and I apologise for the inconvenience this caused to you.

While release of the records is now a matter for the Departments holding them, I will ensure that the FOI Officers concerned in both Departments are reminded of the four week time limit and ask them to release those records directed for release if the Departments have decided not to appeal the decisions to the High Court.

Yours sincerely,
Elizabeth Dolan
Senior Investigator

On Monday, October 3, 2016 4:00 AM, maurice landers <mauricelanders@yahoo.com> wrote:

Dear Peter Tyndall, Information Commissioner,

I find the communications below from your Office unacceptable and misleading.

I point out in my email to Alison on 9/28/16 below that her statement in her email on 9/27/16 below i.e. "Regarding your query as to when the Department will release the records, following the eight week time frame for appeal the Department should release the records if no appeal has been made." is ridiculous

She replied on 9/29/16 by making a **completely** different statement i.e.

"Therefore, following four weeks after this Office issued its decision in your case, the Department will release the records as directed by the Commissioner. You will then have four weeks in which to bring an appeal."

Had I relied on her first statement in her email on 9/27/16, I would have lost the opportunity to appeal to the High Court. Fortunately, I questioned this statement. There is no excuse for the Office of the Information Commissioner to make these types of misleading statements, which Alison passes off as being a clarification ("Hope this clarifies the matter."). I can only conclude that the Office of the Information Commissioner is protecting the Irish Government at all costs.

I would like a reply from you personally on this matter. The second statement made by Alison on 9/29/16 should have been the first statement she made on 9/27/16. Your Office is very well versed in these types of communications, and I find it unacceptable that it could make such a misleading statement without intent. I didn't ask your Office about the appeals process, I had asked "Do you know when the Government Departments will send me the released documents?". Why would your Office reply in such a way as to seemingly finesse me into not appealing to the High Court by giving me the impression that I had to wait a period of time (8 weeks) from when your decision was issued (9/21/16) before I could receive the additional FOI documents. I would have no reason to appeal to the High Court until I read these documents to determine if an appeal was warranted, and therefore Alison's statement in her email on 9/27 would have caused me, if I wasn't paying close attention and hadn't questioned her statement, to miss the window of opportunity to appeal to the High Court? Additionally, I find it very unusual that it took approx. nine months for your office to make its decision, more than twice the four-month period your Office generally has under the FOI Act to make its decision.

I'm seriously considering doing an update Report on my case shortly, and if I don't receive a satisfactory explanation from you, I will include these communications and let the Irish American (and further afield) investment and business community judge your intentions for themselves. I'm rightfully disgusted by the deceptive practices by Irish Government bodies, having had to contend with apologies, recalled emails, errors and much more by the Irish Government since bringing my case to their attention. Am I now to believe that the Office of the Information Commissioner (whose very important role is in protecting openness and freedom of speech) is complicit in these types of deceptive practices?

I had not planned on appealing to the High Court, and had not appealed any of your earlier decisions relating to my other applications to your Office, but will seriously consider doing so now, as it is clear based on the above that PER and the DoF have information that the Government (and your Office seemingly) does not want me to get my hands on.

I would also like the FOI documents released immediately.

I look forward to hearing back from you.

Kind regards,
Maurice D. Landers

On Thursday, September 29, 2016 6:55 AM, "alison.mcculloch@oic.ie" <alison.mcculloch@oic.ie> wrote:

Dear Mr Landers,

As stated in the decision issued on 21 September 2016, section 24 of the FOI Act sets out detailed provisions for an appeal to the High Court by a party to a review, or any other person affected by the decision. In summary, such an appeal, normally on a point of law, must be initiated by the applicant not later than eight weeks after notice of the decision was given, and by any other party not later than four weeks after notice of the decision was given.

The public body, after the initial four week period, will release the records at issue to the applicant if an appeal is not made. The applicant will have an additional four week period in which to bring an appeal. Therefore, following four weeks after this Office issued its decision in your case, the Department will release the records as directed by the Commissioner. You will then have four weeks in which to bring an appeal.

Hope this clarifies the matter.

Best regards

Alison McCulloch
Investigator
Office of the Information Commissioner

From: maurice landers <mauricelanders@yahoo.com>
To: "alison.mcculloch@oic.ie" <alison.mcculloch@oic.ie>
Date: 28/09/2016 04:37
Subject: Re: OIC Review No 160034

Dear Alison,

Regarding the release of records after the eight week time frame to appeal has passed, this sounds like complete nonsense to me. How can I decide to appeal if I haven't first reviewed the released documents? I've never heard anything so ridiculous (I take that back, I have heard the most ridiculous things from the Irish Government over the past two or so years while pursuing my case).

I'd like these documents released immediately.

Regarding the 'typographical error' you refer to, I'll review that in due course. As we're on the subject, is there anything you need to 'recall' regarding any decisions you have made so far?

Kind regards,
Maurice D. Landers

On Tuesday, September 27, 2016 10:23 AM, "alison.mcculloch@oic.ie" <alison.mcculloch@oic.ie> wrote:

Dear Mr Landers,

I refer to the decision issued by this office on 21 September 2016 following a review of the decision of the Department of Finance on your FOI request concerning Innovation Fund Ireland. Unfortunately, there was a typographical error in the last paragraph dealing with section 28 of the FOI Act in that decision.

Records numbered 2.9 and 2.12 are similar and section 2 Background/Reason for Memorandum section 2.1 to 2.4

contains the same factual information in both records therefore the same parts should be released. Due to a typing error this was not clear in the decision, therefore, I now attach a corrected decision.

Apologies for any inconvenience caused by this omission.

Regarding your query as to when the Department will release the records, following the eight week time frame for appeal the Department should release the records if no appeal has been made.

Best regards

Alison McCulloch
Investigator
Office of the Information Commissioner

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "7" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

Sworn before me by the said *Maurice D. Landers*

on the *8th* day of *September* 2020, at *Citi bank*

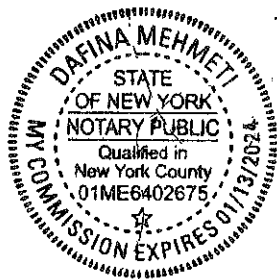
in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*NYSDL*)
containing a photograph *560 566 695*

Dafina Mehmet

Commissioner for Oaths/Practicing Solicitor



SOURCE: MY FIRST REPORT

Section 3

(a) Citizens Information Board

I had contacted the Citizens Information Board on January 23, 2015, which is the statutory body that supports the provision of information, advice and advocacy on a broad range of public and social services, for direction on who could provide me with an expert opinion on my case, and they fortunately confirmed to me which Irish Government Departments were responsible for Innovation Fund Ireland (IFI).

I was told by the Citizens Information Board in part:

"I suggest you contact the Government departments responsible for both funds. The Department of Finance and Department of Public Expenditure and Reform is involved in both funds. The Department of Jobs, Enterprise and Innovation is involved in the Innovation Fund. You can also contact the Taoiseach's office directly with your recommendations and advice regarding both funds."

Therefore, having now formally identified the responsible Government Departments, I could confidently personally contact each with a view to asking them to investigate my case.

I had already been in contact with the Department of Jobs, Enterprise and Innovation, and the Taoiseach's Office (Irish Prime Minister) as per my summary documents, so now it was only a matter of personally contacting the Department of Finance and the Department of Public Expenditure and Reform to start getting to the bottom of this. Or so I thought!

The Citizens Information Board also suggested that I contact the Law Society of Ireland in relation to the difficulties I have had trying to get an Irish law firm to provide me with an expert legal opinion on my case. I will address this issue in section 5, but suffice it to say at this stage, there seems to be a serious systemic problem with the Irish legal profession (and justice system), given a reluctance to take on the Irish Government on matters relating to possible corruption.

(b) Department of Public Expenditure and Reform

I sent my case at the end of January 2015 to the Department of Finance and the Department of Public Expenditure and Reform requesting an investigation of my case/allegations.

I also sent a follow-up email to the Minister for Justice and Equality on January 30, 2015.

I received a reply from the Department of Public Expenditure and Reform on February 12, 2015, stating in part:

"The issues raised are primarily matters, in the first instance, for the Minister for Jobs, Enterprise and Innovation, Mr. Richard Bruton T.D."

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "8" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

Sworn before me by the said *Maurice D. Landers*

on the *8th* day of *September* 2020, at *Citibank*

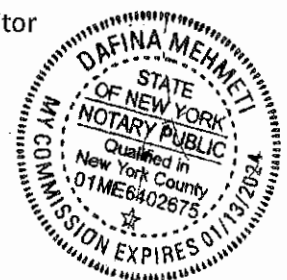
in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*NYSDL 560566698*) containing a photograph

Dafina Mehmeti

Commissioner for Oaths/Practicing Solicitor



New Document From Office of the Ombudsman Legal Services

From: Gary Fitzgerald (notifications@clio.com)

To: mauricelanders@yahoo.com

Date: Thursday, May 14, 2020, 7:37 AM EDT

Office of the Ombudsman Legal Services

Dear Maurice D. Landers,

Gary Fitzgerald invites you to view a shared document using Clio Connect.

Gary says:

Hi Maurice,

Here is the text of the email I sent you two weeks ago.

"Dear Mr Landers,

Please see attached the opposition papers of the Information Commissioner in Landers v Information Commissioner 2020/53/MCA. The affidavit is unsworn and the Points of Opposition have not been stamped or filed. This is due to the restrictions placed on the operations of the Central Office of the High Court by the Courts Service. Please accept our undertaking that these documents are the final versions and will not be amended. We will swear the affidavit and stamp and file the Points of Opposition as soon as it is safe to do so and will provide you with a copy of the formal documents at that point.

We are happy to receive any replying affidavit from you in the same format – finalised but unsworn and unfiled with an undertaking that you will comply with the formal requirements as soon as possible.

You will see from the High Court database that this matter was adjourned generally with liberty to re-enter on 27/04/2020. As such it will not be listed until one of the parties apply for it is be listed.

Thanks

Gary

Thanks

Gary"

Click the link below to view the document using your Clio Connect credentials. Creating an account is easy and only takes a few seconds!



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Clio Connect is a secure, web-based portal that enables you to easily receive resources and collaborate with members of a firm.

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Clio's dedicated Support Team is here to help. Email to support@clio.com or call +44-800-433-2546 , +44-333-577-2546 , 8am Monday – 8am Saturday GMT. You can also visit Clio Connect's Support Resources.

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Fumbally Square, 1st Floor, Dublin, D08-CPW3, Ireland

RE: New Document From Office of the Ombudsman Legal Services

From: Gary Fitzgerald (gary.fitzgerald@ombudsman.ie)

To: mauricelanders@yahoo.com

Date: Monday, August 10, 2020, 4:51 AM EDT

Hi Maurice,

Contents noted. I am happy to accept your affidavit by email.

Thanks

Gary

From: maurice landers <mauricelanders@yahoo.com>
Sent: Monday 3 August 2020 12:38
To: Gary Fitzgerald <Gary.Fitzgerald@ombudsman.ie>
Subject: Re: New Document From Office of the Ombudsman Legal Services

Hi Gary,

I'm still working on my rebuttal/replying affidavit. I'll probably send in usual format, sworn and filed at High Court, which I'm sure I will be able to do once I'm finished.

Regards,

Maurice

On Thursday, May 14, 2020, 07:37:28 AM EDT, Gary Fitzgerald <notifications@clio.com> wrote:

Office of the Ombudsman Legal Services

Dear Maurice D. Landers,

Gary Fitzgerald invites you to view a shared document using Clio Connect.

Gary says:

Hi Maurice,

Here is the text of the email I sent you two weeks ago.

"Dear Mr Landers,

Please see attached the opposition papers of the Information Commissioner in Landers v Information Commissioner 2020/53/MCA. The affidavit is unsworn and the Points of Opposition have not been stamped or filed. This is due to the restrictions placed on the operations of the Central Office of the High Court by the Courts Service. Please accept our undertaking that these documents are the final versions and will not be amended. We will swear the affidavit and stamp and file the Points of Opposition as soon as it is safe to do so and will provide you with a copy of the formal documents at that point.

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You will see from the High Court database that this matter was adjourned generally with liberty to re-enter on 27/04/2020. As such it will not be listed until one of the parties apply for it is be listed.

Thanks

Gary

Thanks

Gary"

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THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "9" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

Sworn before me by the said *Maurice D. Landers*

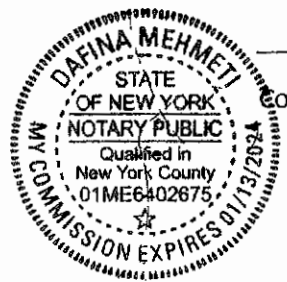
on the *8th* day of *September* 2020, at *Citibank*

in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*NYS 10*)
containing a photograph *860 566 698*

[Handwritten Signature]



Commissioner for Oaths/Practicing Solicitor

IN THE MATTER OF THE FREEDOM OF INFORMATION ACT 2014

AND IN THE MATTER OF AN APPEAL PURSUANT TO SECTION 24 OF THAT ACT

BETWEEN:

MAURICE D. LANDERS

APPELLANT

AND

INFORMATION COMMISSIONER

RESPONDENT

POINTS OF OPPOSITION

The Respondent ("the Commissioner") opposes this Appeal on the following grounds:

1. The Appellant requested copies of internal audit plans for the National Pension Reserve Fund from the National Treasury Management Agency (the NTMA). The NTMA refused this request under s. 15(1)(a) of the Freedom of Information Act 2014 on the basis that the records did not exist or could not be found after all reasonable steps were taken to ascertain their whereabouts. The Appellant sought an internal review of this decision. On 6th November 2019 the Appellant applied to the Commissioner for a review of the deemed refusal of his request for an internal review. On 8th November 2019 the NTMA issued the internal review decision and arrived at the same conclusion as the original decision.
2. For the avoidance of doubt the term "Commissioner" includes the investigator appointed to carry out the review requested by the Appellant.

3. The Commissioner issued his decision OIC-58612 (the Decision) on 24th January 2020 affirming the decision of the NTMA to refuse access to the documents requested on the basis of s. 15(1)(a). It is this Decision that that Appellant has challenged in these proceedings.
4. By way of preliminary objection, the Notice of Motion does not disclose any grounds on which the Appellant is seeking the reliefs sought.

Failure to disclose a point of law

5. Section 24 of the Act 2014 provides for the bringing of a statutory appeal against a decision of the Commissioner following a review by the Commissioner of a decision of an FOI body under the 2014 Act. An appeal pursuant to section 24 is restricted to an appeal on a point of law. The Act does not allow for a merits-based appeal. The jurisdiction of the High Court in such an appeal is limited to reviewing the specific decision challenged in the appeal on the basis of the point (or points) of law identified by the Appellant relating to the exercise by the Commissioner of his functions under the 2014 Act and to no other matters.
6. The Appellant has failed to identify any point of law or any point with sufficient precision to ground a statutory appeal pursuant to s. 24 and fails to disclose any justiciable complaint to which the Commissioner can properly respond. The grounding affidavit does not specify, clearly or at all, any particular alleged error or errors of law which would entitle the Appellant to seek to appeal the Commissioner's Decision. In the circumstances, this appeal fails to disclose any or any stateable case and is bound to fail and, accordingly, ought to be dismissed.

Proceedings are misconceived

7. The Notice of Motion seeks three orders. Only the first order is directed at the Commissioner. It is denied that Appellant is entitled to the relief sought in this order.

8. It appears to be the Appellant's case that the Commissioner should have used his powers under s. 45 of the 2014 Act to request that third party entities provide him with a copy of the documents he had sought from the NTMA and to compel the NTMA to release those documents, or for the Commissioner to release them directly to him. This is a fundamental misconception about the role of the Commissioner under a s. 22 review and the powers of the Commissioner under s. 45.
9. It is accepted that the Commissioner has powers under s. 45 but it is denied that it was necessary for the Commissioner to have used those powers in this case in the manner suggested.
10. As a creature of statute, the Commissioner can only do what he is permitted to do under the 2014 Act. The right of access under the 2014 Act is limited to documents held by public bodies as defined in the Act. His powers under s.45 do not extend to compelling third parties to provide him with copies of records that a public body cannot locate and to proceed to determine whether the requester has a right of access to those records. In this case the Commissioner was conducting a review under s. 22 of the 2014 Act into a refusal of an FOI body of a request for information under s. 15(1)(a) of the 2014 Act on the ground that the records sought do not exist or cannot be found.
11. It is settled law that it is not generally the role of the Commissioner in such an appeal to search for records. The Commissioner was required to review the decision of the public body and in so doing to have regard to the evidence which was available to the decision-maker and to the reasoning used by the decision-maker in arriving or failing to arrive at a decision. It is clear from the Decision that this is precisely what the Commissioner did in this case.

Miscellaneous matters

12. For the avoidance of doubt, it is denied that that Appellant is entitled to any of the other reliefs sought. Order 2 is directed at two bodies that are not covered by the 2014 Act. Even if they were covered by the 2014 Act, the Appellant has not made a

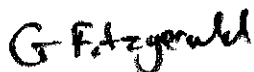
request to those bodies and the Commissioner has not made any decision in relation to them. Thus this Court cannot make any order against either body in these proceedings.

13. In making the Decision the Commissioner acted reasonably at all material times. There was sufficient evidence before the Commissioner to allow him to make the Decision and this evidence is set out in the Decision and was communicated to the Appellant.

14. The Appellant has not identified any error on the part of the NTMA in how it dealt with his request, or any deficiency in how it searched for the documents requested. He has not shown that the NTMA has failed to take all reasonable steps to ascertain the whereabouts of the documents requested. The Appellant has not joined the NTMA as a Notice Party to these proceedings.

15. It is denied that the Appellant is entitled to any further orders, or the costs of this appeal.

Signed:



Legal Services Unit
Solicitors for the Respondent
Office of the Ombudsman and Information Commissioner
6 Earlsfort Terrace
Dublin 2

To: Maurice D. Landers
3 Talbot Court
Millview Road
Malahide
County Dublin

And to: The Chief Registrar,
 Central Office of the High Court
 The Four Courts
 Inns Quay
 Dublin 7

THE HIGH COURT

RECORD NO: 2020/53/MCA

BETWEEN:

MAURICE D. LANDERS

APPELLANT

AND

INFORMATION COMMISSIONER

RESPONDENT

POINTS OF OPPOSITION

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "10" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

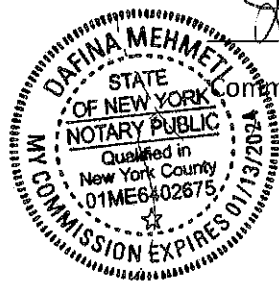
Sworn before me by the said *Maurice D. Landers*

on the *8th* day of *September* 2020, at *Catbanic*

in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent whose identity has been established by reference to a relevant document (*NYS ID 560 566 698*) containing a photograph

Dafina Mehmeti

Commissioner for Oaths/Practicing Solicitor


Application for review

From: maurice landers (mauricelanders@yahoo.com)

To: info@oic.ie

Date: Wednesday, November 6, 2019, 9:07 AM EST

Dear Information Commissioner,

I would like to appeal the decision by the NTMA (attached), and therefore request a review of the matter by you.

I'm appealing because a review decision was not made within the time permitted. The NTMA for some peculiar reason couldn't provide a final decision on my appeal, preferring instead to pass the buck to you (obviously, I know all of this is coordinated with you behind the scenes, but I'll play along as I have from the beginning).

Also attached is my Final Report for context.

Additionally, I refer you to p.24 of my Update Report (link below) where I quote from your own website (earlier version):

"Powers of the Information Commissioner

The FOI Act 2014 provides the Information Commissioner with significant powers to allow him to carry out his function of reviewing the decisions of FOI bodies. If he considers a decision to be inadequate, he may, under Section 23, require that a new one be issued.

Under Section 45, he may also require any person who he considers has information relevant to a case or investigation to provide it to him. Furthermore, he may require the person to attend before him to present the information. He can enter any premises occupied by an FOI body and require any person found on the premises to provide him with records (documents) which he may copy and retain for a reasonable period.

Anyone who hinders the Commissioner in the performance of his review or investigative functions is guilty of an offence and, in accordance with Section 45, may have a fine imposed or be imprisoned for a term not more than 6 months."

<http://www.eoi.at/wp-content/uploads/2018/09/lri-update-Report-February-2018.pdf>


Although I know that such powers will allow you to compel the release of the audit plan unredacted, I've no doubt you will find some excuse not to provide it or provide it in such redacted form as to make it impossible for anyone to determine PwC's scope of services. But it's important for me to exhaust all my appeals (my appeal to you being my last) and juxtapose your powers with your response/decision.

I will mention in my 'one pager' to my readers to be sent out in December (in fact, I'll do so by including this email) that I'm awaiting your decision, and if they don't receive a brief email from me with the audit plan attached (scope of services not redacted) by the latest end of May, 2020 (six months appeal period), they can take it that you decided not to release it and have once again lied to everyone, including them.

This should be my final communication with you.

Maurice D. Landers

 Final Report.pdf
393kB

 2019.5.IR - Signed ack letter 29.10.19.pdf
207.7kB



Gníomhaireacht Bainistíochta an Chisteáin Náisiúnta
National Treasury Management Agency

29 October 2019

Mr Maurice Landers

By email: mauricelanders@yahoo.com

Re: IR Request Ref 2019/5/IR

Dear Mr Landers,

I refer to your application for an internal review of FOI request 2019/44/FOI, received by this office on 14 October 2019.

Your application stated:

"I'd like to appeal your decision (request a review), and request a copy of the internal audit plan."

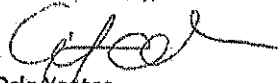
A final decision on your application would normally be sent to you within 3 weeks, where a week is defined as 5 working days, excluding the weekend and public holidays. This means that you can expect a decision letter to issue not later than 5 November 2019.


Should our decision not reach you on time, please feel free to contact this office to discuss any problems that may have arisen. If you have not heard from us once the allotted time has expired, you are entitled to apply to the Information Commissioner for a review of the matter. This review proceeds on the legal basis that the original decision is considered to be affirmed on internal review once the specified time for responding to it has expired. An 'application for review' to the Information Commissioner should be made no later than 6 months from the date of this notification. In your application for review you should state that you are appealing because a review decision was not made within the time permitted.


In the event that you decide to apply for such a review, you can do so by writing to:


The Office of the Information Commissioner,
18 Lower Leeson Street,
Dublin 2,
D02 HE97
Email: info@oic.ie

Yours sincerely,


Orla Yeates
FOI Officer

 Duga an Stáitchiste, C6 an Phoirt Thuaidh, Baile Átha Cliath 1, D01 A9T8, Éire
Treasury Dock, North Wall Quay, Dublin 1, D01 A9T8, Ireland

 +353 1 238 4000

 +353 1 238 4890

 @NTMA_IE

 www.ntma.ie

 info@ntma.ie

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "11" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

Sworn before me by the said *Maurice D. Landers*

on the *8th* day of *September* 2020, at *Citibank*

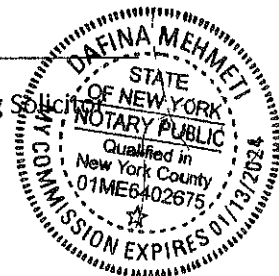
in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*NYS ID 560 566 648*) containing a photograph

[Handwritten Signature]

Commissioner for Oaths/Practicing Solicitor



SOURCE: MY UPDATE REPORT

Reply H - PwC

It took PwC from June 27 to November 3 to get back to me, coincidentally after my replies to the above PABs. And after so many months, I received their scant reply below.

I find the letter I received from PwC pretty disgraceful, and you can read my analysis following. I would have thought that PwC would have been jumping all over this based on their direct or indirect involvement in the allegations I've brought against the Irish Government, something that could potentially taint their reputation, particularly since they proclaim adherence to the highest of standards, which I will also address further below under PwC's Code of conduct in **theory versus practice**.

I'll now address/analyze PwC's only correspondence with me below (see also **Exhibit 15**).

Regarding the **first** paragraph (immediately below) of PwC's letter I got the impression they were trying to minimize their involvement with, and responsibility for, the NPRF by effectively stating that their involvement with it was just part of a wider engagement. If so, what a way to start off a letter, as if it matters what other entities PwC was engaged with. You're meant to apply the same standards across the board.

"As referred in your correspondence, PwC Ireland was appointed by the National Treasury Management Agency (the "Agency") as internal auditors for the financial years ending 31 December 2009, 2010 and 2011. The National Pension Reserve Fund ("NPRF") was among a number of entities which were included under the overall engagement letter with the Agency."

Regarding the **second and third** paragraphs (immediately below) of PwC's letter, I'll refer you to Reply G above, part B (in particular, my email response on December 5, 2017, and corresponding attachment).

"Our work was performed in accordance with the Auditing Practices Board's Auditing Guideline - "Guidance for Internal Auditors", and with the terms of reference as set out in our engagement letter. In performing our work we had regard to the professional statements issued by the Institute of Internal Auditors, UK & Ireland and the Institute of Chartered Accountants in Ireland."

"We complied with all relevant standards in the course of carrying out this work"

Regarding the **third** paragraph (sentence) above, not only do I believe they did not comply with all relevant standards bodies, I believe they even attempt to limit their requirement to comply with at least one of the selective institutes they referenced above, that is, the Institute of Internal Auditors, UK & Ireland. I also refer you to Reply A above where I establish that the (Chartered) Institute of Internal



Private and confidential

Mr Maurice Landers
(by e-mail to failte32@gmail.com)

3 November 2017

Dear Mr Landers

As referred in your correspondence, PwC Ireland was appointed by the National Treasury Management Agency (the "Agency") as internal auditors for the financial years ending 31 December 2009, 2010 and 2011. The National Pension Reserve Fund ("NPRF") was among a number of entities which were included under the overall engagement letter with the Agency.

Our work was performed in accordance with the Auditing Practices Board's Auditing Guideline – "Guidance for Internal Auditors", and with the terms of reference as set out in our engagement letter. In performing our work we had regard to the professional statements issued by the Institute of Internal Auditors, UK & Ireland and the Institute of Chartered Accountants in Ireland.

We complied with all relevant standards in the course of carrying out this work

We were not engaged to prepare or review the financial statements of the NPRF for the year ended 31 December 2010.

For reasons of client confidentiality, we are not in a position to comment further.

Yours sincerely


PricewaterhouseCoopers

PricewaterhouseCoopers, One Spencer Dock, North Wall Quay, Dublin 1, Ireland, I.D.E. Box No. 137
T: +353 (0) 1 792 6000, F: +353 (0) 1 792 6200, www.pwc.ie

Fergal O'Rourke (Managing Partner - PricewaterhouseCoopers Ireland)

Olwyn Alexander Paul Barrie Brian Bergin Fidelma Boyce Damian Byrne Pat Candon John Casey Mary Cleary Siobhán Collier Thérèse Cregg Richard Day Fiona de Búrca John Dillon Ronan Doyle John Dunne FCCA Kevin Egan Martin Frayne Ailsa Hayden FCCA Olivia Hayden Paul Harinossy Gareth Hynes Ken Johnson Patricia Johnston Páirc Joyce Andrea Kelly Joanne P. Kelly John Loughlin Gillian Lowth Vincent MacMahon Deolan Maunsell Enda McDonagh John McDonnell Dáidra McGrath Ivan McLaughlin Daslan Murphy Damian Neylin Andy O'Callaghan Jonathan O'Connell Denis O'Connor Paul O'Connor Irene O'Keefe Ger O'Mahoney Padraig Osborne Ken Owens Anthony Reidy Mary Ruane Emma Scott Milka Sullivan Billy Sweetman Paul Tullie

Located at Dublin, Cork, Galway, Kilkenny, Limerick, Waterford and Wexford

Chartered Accountants

PricewaterhouseCoopers is authorised by Chartered Accountants Ireland to carry on investment business.

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "12" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

Sworn before me by the said *Maurice D. Landers*

on the *8th* day of *September* 2020, at *Citi bank*

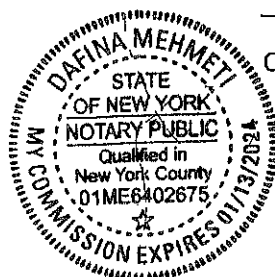
in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*AMS 110*)
containing a photograph *560 566 698*

Dafina Mehmet

Commissioner for Oaths/Practicing Solicitor



SOURCE: FINAL REPORT, ATTACHMENT 1

Attachment D

Read from bottom up.

Reply from PwC

http://www.failte32.org/wp-content/uploads/2019/07/PwC_1.pdf

From: **Failte32 Failte32** <failte32@gmail.com>
Date: Thu, May 23, 2019 at 8:45 AM
Subject: Re: Private and Confidential
To: <kate.odowd@ie.pwc.com>

Dear Kate,

Just to be clear, when I state in my email below:

"However, if this is still not acceptable to you, I give you the flexibility to redact the 'confidential' information as this should still leave enough technical information available for a reputable independent oversight body or anyone else for that matter to determine whether the audit plan copy is legitimate."

by legitimate I mean that the date the audit plan was prepared can be verified (time stamped), and the non-redacted content (although I see no reason for you to redact any of it) will verify the decision I received from ICAI, i.e.

"The scope of the internal audit work undertaken by the member firm was specific scope and the scope was agreed with and approved by the Audit Committee of the National Treasury Management Agency (NTMA) and the National Pension Reserve Fund (NPRF) Commission each year. The member firm provided us with a copy of internal audit plan for the NPRF as presented to, and subsequently agreed with, the NPRF Commission and the NTMA and the matter complained of appears to have been outside the scope of the internal audit work undertaken by the member firm."

Kind regards,
Maurice D. Landers

On Wed, May 22, 2019 at 10:01 AM Failte32 Failte32 <failte32@gmail.com> wrote:
Dear Kate,

Could you please provide me with a copy of the internal audit plan for the financial years ending 31 December 2009, 2010 and 2011 as per your engagement with with NTMA/NPRF.

Should you claim confidentiality (we all know how confidentiality agreements potentially can be used to cover-up), I offer you the option of having a reputable independent body of my choosing verify its authenticity while preserving its 'confidentiality'. Anyhow, it being only a technical document describing "scope" areas, and therefore not confidential in the normal sense of the word, I can't imagine you refusing me a copy. However, if this is still not acceptable to you, I give you the flexibility to redact the 'confidential' information as this should still leave enough technical information available for a reputable independent oversight body or anyone else for that matter to determine whether the audit plan copy is legitimate. Surely, PwC has nothing to hide.

If I'm satisfied that the audit plan is legitimate, I will drop my case/complaint against PwC.

If, on the other hand, I do not receive the above from you, I will interpret your actions as possibly suggesting your part in the Irish Government's cover up in this case.

Kind regards,
Maurice D. Landers



Private and confidential

Mr Maurice Landers
(by e-mail to failte32@gmail.com)

3 June 2019

Dear Mr Landers,

I note receipt of your e-mail to my colleague, Ms Kate O'Dowd of 22 May 2019 and 23 May 2019.

I have been advised that this matter has been considered and closed by the professional standards unit of Chartered Accountants Ireland.

We are not in a position to provide client confidential information to any third party, nor to comment on client specific affairs.

Yours sincerely,


PricewaterhouseCoopers

PricewaterhouseCoopers, One Spencer Dock, North Wall Quay, Dublin 1, Ireland, I.D.E. Box No. 137
T: +353 (0) 1 792 6000, F: +353 (0) 1 792 6200, www.pwc.ie

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THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "13" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

Sworn before me by the said *Maurice D. Landers*

on the *8th* day of *September* 2020, at *Litbank*

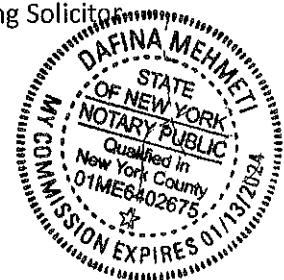
in the city/county of *M*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*NY5 ID 560 566 698*) containing a photograph

[Handwritten Signature]

Commissioner for Oaths/Practicing Solicitor



SOURCE: MY UPDATE REPORT

The Department stated that while IFI was established on foot a policy decision taken by Government and implemented by the Department, the Department has no act or part in the execution of the decisions regarding the funds, and no records relating to the executive functions of the NPRF/ISIF or EI are held in the Department. Specifically, the Department stated that it had no role in the particular IFI investment decision identified by the applicant, and that it consequently does not hold any records relating to that decision."

If this is the only explanation you have to give to the Information Commissioner for him to rule in your favor, the criminals are going to love him! Did he not think that he should have done even a simple search to see for himself if there are any documents/records that evidence the DJEI's involvement in decision-making relating to the awarding of funding under IFI, instead of just taking the alleged criminal's word for it?

According to the Office of the Information Commissioner's website when I was in communication with them (the website has been completely overhauled since my communications with the OIC as all the original links are no longer accessible including the link to the information immediately below titled "Powers of the Information Commissioner". This overhaul obviously occurred sometime in 2017 because my last communication with the Information Commissioner was I believe on October 10, 2016, and I made a copy of the original website's site map/links page on November 19, 2016 when all of these links were still active):

"Powers of the Information Commissioner

The FOI Act 2014 provides the Information Commissioner with significant powers to allow him to carry out his function of reviewing the decisions of FOI bodies. If he considers a decision to be inadequate, he may, under Section 23, require that a new one be issued.

Under Section 45, he may also require any person who he considers has information relevant to a case or investigation to provide it to him. Furthermore, he may require the person to attend before him to present the information. He can enter any premises occupied by an FOI body and require any person found on the premises to provide him with records (documents) which he may copy and retain for a reasonable period.

Anyone who hinders the Commissioner in the performance of his review or investigative functions is guilty of an offence and, in accordance with Section 45, may have a fine imposed or be imprisoned for a term not more than 6 months."

It's interesting to note that instead of using the actual name of the U.S. VC firm in his 'explanations' above, the Information Commissioner refers to the VC firm as "*in the particular IFI investment decision identified by the applicant*". While I, the author of this update Report, have to replace (redact) the actual name of the VC firm with '(name of U.S. VC firm)' for privacy purposes, why does the Information Commissioner have to avoid using the actual name of the VC firm in a formal FOI decision?

Obviously, I know the name of the VC firm so he didn't need to 'redact' it for privacy purposes since I'm the recipient. Of concern to me is, if a FOI request is made in future by somebody else, does this mean that this particular decision/document by the Information Commissioner will not appear in the search results if a search is done under the name of the firm? Doesn't the Information Commissioner have to be as specific as possible, particularly when it comes to the inclusion of the actual names of the parties involved in his decisions, for the sake of future reference? After all, I would have thought that 'future reference' is in large part what the FOI retrieval process is all about? Is this another Irish Government trick of the trade?

te32@gmail.com>
failte32@gmail.com>

Fri, D

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The FOI Act 2014 provides the Information Commissioner with significant powers to allow him to carry out his function of reviewing the decisions of FOI bodies. If he considers a decision to be inadequate, he may, under **Section 23**, require that a new one be issued.

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mail

Failte32 Failte32 <failte32>

Failte32 <failte32@gmail.com>
Failte32 <failte32@gmail.com>

Sat, Nov 19, 2015

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out Us / Role, Functions and Powers of the Information Commissioner

Functions and Powers

Information Commissioner is completely independent of the Government in the performance of his functions. This independence is underpinned by the Freedom of Information Act 2014.

The functions of the Commissioner can be summarised as :

making (on application) decisions of public bodies in relation to FOI requests and where necessary, making binding new decisions
regarding the operation of the Freedom of Information Act to ensure that FOI bodies comply with the provisions of the legislation
promoting an attitude of openness among FOI bodies by encouraging the voluntary publication of information above and beyond the minimum requirements of the Act
writing and publishing commentaries on the practical operation of the Act
publishing an Annual Report

The Freedom of Information Act 2014 provides the Commissioner with certain powers to facilitate him in carrying out his functions.

Links:

Functions of the Information Commissioner

<https://www.foi.gov.uk/om/mail/u/0?ik=8b1f48b628&view=pt&search=all&permthid=thread-f%3A1551424244766000237&simpl=msg-f%3A1551424244766000237>

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Role, Functions and Powers of the Information Commissioner

- Powers of the Information Commissioner
- The review of FOI Decisions of Public Bodies
- Reviewing the operation of the Freedom of Information Acts
- Fostering an Attitude of Openness

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THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "14" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

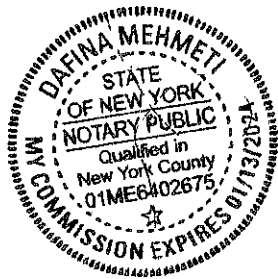
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on the *8th* day of *September* 2020, at *Citibank*

in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*NYS ID*)
containing a photograph *560 566 698*



D Mehmeti

Commissioner for Oaths/Practicing Solicitor



An Coimisinéir Faisnéise
Information Commissioner

Review Application to the Information Commissioner under the
Freedom of Information Act 2014 (the FOI Act)

- Case Number:** OIC-58612-G9F7Z0
- Applicant:** Mr Maurice Landers
- Public Body:** National Treasury Management Agency (NTMA)
- Issue:** Whether the NTMA was justified in refusing access to internal audit plans for the National Pensions Reserve Fund for the years ending 31 December 2009, 2010 and 2011, under Section 15(1)(a) on the basis that the records do not exist.
- Review:** Conducted in accordance with section 22(2) of the FOI Act by Stephen Rafferty, Senior Investigator, who is authorised by the Information Commissioner to conduct this review
- Decision:** The Senior Investigator affirmed the NTMA's decision.
- Right of Appeal:** Section 24 of the FOI Act sets out detailed provisions for an appeal to the High Court by a party to a review, or any other person affected by the decision. In summary, such an appeal, normally on a point of law, must be initiated not later than four weeks after notice of the decision was given to the person bringing the appeal.

Background

On 5 June 2019, the applicant submitted a request to the NTMA for copies of the internal audit plans for the National Pensions Reserve Fund (NPRF) for financial years ending 31 December 2009, 2010 and 2011 as per NTMA's engagement with PwC. Following correspondence between the parties, it was subsequently agreed to process the applicant's request under FOI.

In a decision dated 24 September 2019, the NTMA stated that it had conducted searches and located three audit plan presentations dated 2009, 2010, and 2011, copies of which were released. The applicant sought an internal review of the NTMA's decision on the ground that he wanted access to the audit plans. On 6 November 2019, the applicant sought a review by this Office of the deemed refusal of his request. On 8 November 2019, the NTMA issued its internal review decision in which it refused the request on the basis that the requested internal audit plans did not exist and that the records of most relevance to the request had been released to the applicant in full.

I have now completed my review in accordance with section 22(2) of the FOI Act. During the course of the review, this Office provided the applicant with details of NTMA's submissions regarding the searches it had conducted in response to his request. Ms Greenalgh of this Office informed the applicant of her view that NTMA had carried out all reasonable steps in an effort to ascertain the whereabouts of the records sought and that it was justified in refusing the request on the ground that the records sought did not exist. She invited the applicant to make a further submission on the matter. In response, the applicant said he did not wish to withdraw his application for review.

I have decided to conclude this review by way of a formal, binding decision. In conducting the review, I have had regard to the correspondence between the applicant and NTMA and to the communications between this Office and both NTMA and the applicant on the matter.

Scope of Review

This review is concerned solely with the question of whether the NTMA was justified in refusing access to the internal audit plans for the NPRF for the years ending 31 December 2009, 2010 and 2011.

Analysis and Findings

Section 15(1)(a) of the FOI Act provides that access to records may be refused if the records concerned do not exist or cannot be found after all reasonable steps to ascertain their whereabouts have been taken. The role of the Commissioner in a case involving section 15(1)(a) is to decide whether the decision maker has had regard to all of the relevant evidence and, if so, whether the decision maker was justified in coming to the decision that the records do not exist or cannot be found, after all reasonable steps to ascertain their whereabouts have been taken. The evidence in such cases includes the steps actually taken to search for records. It also comprises miscellaneous other evidence about the record management practices of the FOI Body, on the

basis of which the decision maker concluded that the steps taken to search for records were reasonable.

In submissions to this Office, the NTMA provided details of searches conducted to identify and locate any records entitled or comprising the final agreed 'internal audit plans'. As this Office has already provided the applicant with those details, I do not propose to repeat them in full here.

In summary, the NTMA said that on foot of the request, the staff member who performed the role of NPRF Commission Secretary was asked to search for relevant records and no relevant internal audit plans were located. It said it understands that PwC did not submit final or formal audit plans once an audit plan was agreed at Audit Committee level. It said further searches were conducted at internal review stage. Staff members considered most likely to have had involvement in the NPRF internal audit process were requested to undertake manual and electronic searches (using key words) for any relevant records. These searches did not identify any additional records entitled or comprising internal audit plans for the NPRF for the years in question.

It is the NTMA's position that based on the searches it carried out, the knowledge of the former NPRF Commission Secretary, relevant staff members and the content of the applicable Audit Committee minutes, that no PwC Internal audit plans exist for the years in question. The only records located relating to the scope of the internal audit work carried out by PwC have already been provided to the applicant.

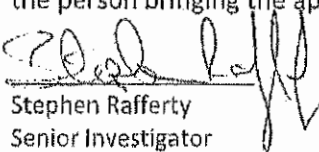
Having considered the NTMA's description of the searches undertaken and of the consultations that took place with members of staff, I am satisfied that it has carried out all reasonable steps in an effort to locate the audit plans sought by the applicant. I find, therefore, that the NTMA was justified in refusing access to the records sought on the grounds that the records cannot be found or do not exist.

Decision

Having carried out a review under section 22(2) of the FOI Act, I hereby affirm the decision of the NTMA to refuse access to the internal audit plans for the National Pensions Reserve Fund for the years ending 31 December 2009, 2010 and 2011 on the grounds that the records sought do not exist.

Right of Appeal

Section 24 of the FOI Act sets out detailed provisions for an Appeal to the High Court by a party to a review, or any other person affected by the decision. In summary, such an appeal, normally on a point of law, must be initiated not later than four weeks after notice of the decision was given to the person bringing the appeal.



Stephen Rafferty
Senior Investigator
24 January 2020

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "15" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

Sworn before me by the said *Maurice D. Landers*

on the *8th* day of *September* 2020, at *Critbank*

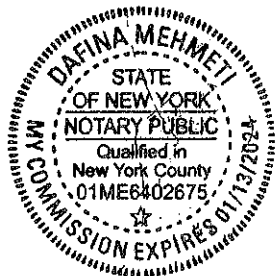
in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*MS ID*)
containing a photograph *560 566 698*

[Signature]

Commissioner for Oaths/Practicing Solicitor



Our Reference: OIC-58612-G9F7Z0

Your Reference:

24 January 2020

Mr Maurice Landers

By email: mauricelanders@yahoo.ie

Re: Application for review under the Freedom of Information Act 2014 (the FOI Act)

Dear Mr Landers,

I refer to the review of the decision of the National Treasury Management Agency on your FOI request for access to internal audit plans for the National Pensions Reserve Fund for the financial years ending 31 December 2009, 2010 and 2011.

Enclosed please find a copy of the Senior Investigator's decision in the matter.

It is this policy of this Office to publish decisions on our website in an anonymised format.

Yours sincerely,

Anne Greenalgh
Office of the Information Commissioner

Our Reference OIC-58612-G9F7Z0

Mr Maurice Landers
By email: mauricelanders@yahoo.com

17 January 2020

Dear Mr Landers

I refer to a review by this Office of the decision of National Treasury Management Agency (NTMA) on your FOI request for access to records. In particular you requested internal audit plans for the financial years ending 31 December 2009, 2010 and 2011 as per your engagement with PwC”.

This case has been assigned to me for investigation and recommendation. The purpose of this email is to provide you with a summary of NTMA’s submissions in this case and to give you the opportunity to make any final comments, if you so wish.

Section 15(1)(a) – Adequacy of Search

This case involves a search issue under Section 15(1)(a) of the FOI Act. Section 15(1)(a) provides that an FOI body may refuse to grant a request where the records sought either do not exist or cannot be found after all reasonable steps to ascertain their whereabouts have been taken. The Commissioner’s role in such cases is to review the decision of the FOI body and to decide whether the decision was justified. This means that the Commissioner must have regard to the evidence available to the decision maker in arriving at his/her decision. The evidence in “search” cases generally consists of the steps actually taken to search for the records along with miscellaneous and other information about the record management practices of the FOI body, insofar as those practices relate to the records in question.

It is important to note that the FOI Act does not require absolute certainty as to the existence or location of records, as situations arise where records are lost or simply cannot be found. Furthermore, this Office can find that an FOI body has satisfied the requirements of Section 15(1)(a), even where records that an applicant believes ought to exist have not been located.

Please also be advised, that this Office does not examine the manner in which public bodies carry out their functions generally, nor does it investigate complaints.

National Treasury Management Agency’s Submission

In conducting this review, I sought a submission from National Treasury Management Agency (“NTMA”) in relation to the details of searches undertaken to locate the records relevant to your request. Provided below is a summary of NTMA’s submissions:

- By way of background, the NTMA outlined that The National Pensions Reserve Fund (“NPRF”) was established pursuant to the National Pensions Reserve Fund Act, 2000 (as amended) and the NTMA was appointed as the manager of the NPRF and acts as the agent of the National Pensions Reserve Fund Commission in the performance of its statutory function.
- You made a general inquiry to NTMA on 5 June 2019 and on foot of this, enquiries were made in order to establish what records were held relating to the scope of audit work undertaken by PwC during the relevant years. The staff member who performed the role of NPRF Commission Secretary was contacted and asked to locate any relevant records held in relation to audit plans of National Pension Reserve Fund. Electronic searches for these records were carried out and no records categorised as internal audit plans were located. NTMA understands that PwC did not submit final or formal audit plans once an audit plan was agreed at Audit Committee level.
- Following your FOI request to NTMA on 6 September 2019, NTMA was satisfied that the searches previously conducted for your general query had located all records held by NTMA within the scope of your request, i.e., *“internal audit plans for the financial years ending 31 December 2009, 2010 and 2011 as per your engagement with PwC”*.
- This decision was appealed by way of Internal Review on 15 October 2019 and further enquiries were undertaken to identify and locate any records entitled or comprising the final agreed ‘internal audit plans’. Staff members considered most likely to have had involvement in the NPRF internal audit process were requested to undertake manual and electronic searches (using key words) for any relevant records. These further searches did not identify any additional records entitled or comprising internal audit plans for the NPRF for the years in question. The internal reviewer decided to vary the original decision and administratively refuse access on the basis that the requested internal audit plans, as sought by you, did not exist.
- It is NTMA’s position, based on the appropriate and adequate searches carried out, the knowledge of former NPRF Commission Secretary, relevant staff members and the content of the applicable Audit Committee minutes that no internal audit plans were ever received or subsequently destroyed. Therefore, NTMA is satisfied that no PwC internal audit plans exist for the years in question and that the only records located relating to the scope of the internal audit work carried out by PwC have already been provided to you.

Conclusion

Having carefully examined NTMA's submissions, it would appear that no records exist or can be found in relation to your FOI request. Presently, I am of the view that NTMA has conducted all reasonable searches to locate the relevant records and that Section 15(1)(a) of the FOI Act applies. Therefore, should this case proceed to a formal legally binding decision, I intend to recommend to the Senior Investigator that he affirm the decision of the NTMA under Section 15(1)(a).

Having considered my view above, you may wish to consider withdrawing your application for review at this time. If you choose to do so, this case will be treated as closed. This offer does not affect your rights and if you do not wish to withdraw, this case will progress to a formal, legally binding decision, which will be anonymised and published on our website. This should not in any way be interpreted as an attempt to persuade you to withdraw your application for review. Rather, I am merely ensuring that you are fully informed of all relevant matters before deciding as to how best to proceed.

If you have any further comments in relation to the above or if you wish to withdraw your application for review, please forward your response to this Office at your earliest convenience and by no later than **31 January 2020**.

Please note, that should I not hear from you by **31 January 2020**, this Office may proceed to issue a formal, legally binding decision without further reference to you. Feel free to contact me should you require any clarification on the above.

Yours sincerely

Anne Greenalgh
Office of the Information Commissioner

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "16" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

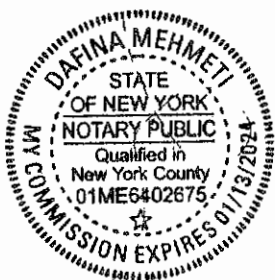
Sworn before me by the said *Maurice D. Landers*

on the *8th* day of *September* 2020, at *Citi bank*

in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*NYS ID*)
containing a photograph *560 566 6 88*



[Signature]

Commissioner for Oaths/Practicing Solicitor

SOURCE: MY FIRST REPORT

(a) Enterprise Ireland

Regarding EI's decision/response above, Exhibit 5 is a series of email communications I have had with EI regarding payment procedure for my FOI review (appeal) request. You will notice that EI again recalled one of its emails to me. Although the contents of the email relate only to payment details and procedure, it demonstrates the types of behavior this agency seems to get up to. A very likely reason the email was recalled is because it was drafted by Garrett Murray, the very person who sent me the email back in early January 2011 upon which my case/allegation is based (Email 2 in my original documents Part 1), but what seems to have happened is that the person at the FOI Unit, Edel Nolan, forgot to change the name details at the bottom of the email from Garrett Murray to her own name (email at end of Exhibit) before sending it to me.

Have any of you reading this ever signed an email or other communication with somebody else's signature in error? I know I haven't and I've written a lot of emails since I started writing emails. And I don't know why on earth a Government body would need to recall any type of communication, particularly **two** over a period of just two months, relating to the same case?

Therefore, it seems Garrett Murray, the person whose email to me back in January 2011 forms the basis of my case against the Irish Government, is now drafting the replies I receive from FOI officers at Enterprise Ireland relating to my case, and therefore is very likely also deciding which records I will gain access to under FOI, 2014. Is this not a serious conflict of interest?

The 'corrected' email (top of exhibit) is signed by Edel Nolan, as it should have been in the first place.

(b) NTMA (NPRF)

In the case of the NTMA's reply above, even if they're a partially included body, why wouldn't they just give me the information anyway? How classified is information pertaining to Innovation Fund Ireland? Is it top secret? Cosmic top secret?

Incidentally, is there a difference between a partially included body and a partially excluded one? I assume the partially included one is more excluded?

According to the FOI Unit of the NTMA, "the NTMA is not a 'public body' for purposes of the FOI Act as regards this information."

So an Irish Government Agency can change from a public body to a non-public body effectively anytime it sees fit?

Under Part 1 (x) of Schedule 1 to the 2014 Act, the NTMA & NPRFC (among other bodies) are only partially included - <http://www.irishstatutebook.ie/2014/en/act/pub/0030/sched1.html>

If you read the 'exclusions' under sub-section (x), you will see that these bodies are not even partially included but rather exempt from pretty much any type of substantial or non-administrative FOI request. I don't know why they're even listed as being partially included in the Statute in the first place. They should be listed as being fully exempt.

These 'exclusions' seem to be written in the context of protecting corruption in Ireland.

It's interesting to note that on page 33 of the NPRFC Annual Report and Financial Statements 2010 (link on P.22 of this document), it states:

"The Commission is a prescribed public body for the purposes of the Ethics in Public Office Acts, 1995 and 2001"

Therefore, the NPRFC is a public body when it needs to exempt itself from adhering to an ethical standard? If you recall earlier (Section 2), SIPO has no authority to deal with a complaint about a public body.

(c) Department of Jobs, Enterprise and Innovation:

In this and the following sub sections (d) & (e), I will first cite the content of email communications between me and Irish Government Department FOI Units, followed by their formal FOI decision/response.

Exhibit 6 is a series of email communications I've had with the FOI Unit of the Department of Jobs, Enterprise and Innovation (DJEI) beginning May 22, 2015.

The first reply I received from the DJEI to my FOI request stated:

"Dear Mr. Landers

I acknowledge receipt of the request below which you have made under the Freedom of Information Act 2014. However, this Department was not involved in any of the Investment Fund Decisions. These are matters for the relevant agencies (National Pension Reserve Fund and Enterprise Ireland). Therefore, this Department does not retain any records on the matter referred to in this request.

In light of the above, you may consider withdrawing your FOI request. You can do so by responding to this email."

I didn't consider withdrawing my FOI request.

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "17" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

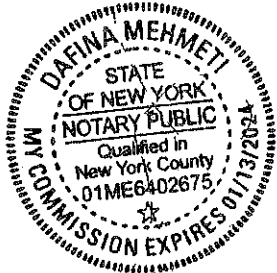
Sworn before me by the said *Maurice D. Landers*

on the *8th* day of *September* 2020, at *Citi bank*

in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*M/SID*)
containing a photograph *560 566 698*



[Signature]

Commissioner for Oaths/Practicing Solicitor

Source: my update report

decision). If I can establish the name(s) of the decision maker(s), this may be sufficient to establish whether "each such person may personally have done a 'specified act'."

(Note: "the Commission" referred to above is SIPO)

In order to achieve the above, I made requests under the Freedom of Information Act (FOI Act 2014) in 2014 and earlier by directly contacting various Irish Government Departments and Agencies to request an investigation into my case. I was able to retrieve additional information that supported my case, although the Irish Government put up many roadblocks. I also contacted most (statistically) Irish law firms and some pertinent legal bodies to request an expert opinion on my case, but there were no takers (Section 5 Report 1 - I didn't mention the names of the law firms cited in Section 5 but I will 'unmask' some later in this update Report).

I'll now describe my efforts since publishing Report 1, which along with the findings in Report 1, led to my final submissions (two complaints) to SIPO.

Where Report 1 finished (p. 50, Report 1):

"My next step is to appeal to the Office of the Information Commissioner, although this body also has a .Gov domain name, so I'm not sure how independent it is, but I may get lucky and retrieve additional records that reveal further evidence against the Irish Government, as was the case with my appeal to the DoF."

Subsequent efforts post-Report 1:

Therefore, I first had to contact the Office of the Information Commissioner and appeal the FOI decisions I received from the NPRF, EI, the Department of Finance (DoF), Department of Public Expenditure and Reform (PER), and the Department of Jobs, Enterprise and Innovation (DJEI). My hope was that the Information Commissioner would require one or more of these bodies to release documents that would clearly identify the decisionmakers, which I could then use to support my complaints to SIPO.

I'm not going to include all of my communications with the Information Commissioner but I got the impression that I was being steered towards one body, namely the NPRF (now dissolved), and away from currently operating Irish Government bodies (the other four above), two of which could be damaged on an international level should they be found to have behaved at least unethically in their involvement in unfairly awarding funding on a preferential basis under IFI.

I found the formal decisions (and accompanying 'analysis') I received from the Information Commissioner relating to EI and the DJEI unusual in that they were simply rejected on the basis that I had made "inaccurate inferences" without any backup by the Information Commissioner as to why they were "inaccurate inferences."

The decisions I received from the Information Commissioner were as follows:

NPRF - Original decision amended. Document released that confirmed who the decision makers were (Section 2).



Gnfhomhaireacht Bainistíochta an Chisteáin Náisiúnta
National Treasury Management Agency

13 January 2016

By email: mauricelanders@yahoo.com

Re: FOI Request Reference 2015/3/FOI

Dear Mr. Landers,

The National Treasury Management Agency [the "NTMA"] has received correspondence from the Office of the Information Commissioner [the "OIC"] regarding the request for information that you submitted to the NTMA. Your request is set out below for ease of reference.

"...if you would confirm that the appointed commissioners in 2010, contained in the report and accounts of the National Pensions Reserve Fund Commission for the year ended 31 December 2010, each made, or agreed to, the decision to award \$50 million, under Innovation Fund Ireland in 2010, to Polaris Partners, OR, if this is not the case, if you would provide me with the names(s) of only those from among the appointed commissioners in 2010, contained in the Report and Accounts of the National Pension Reserve Fund Commission for the year ended 31 December 2010, who made, or agreed to, the decision to award \$50 million, under Innovation Fund Ireland in 2010, to Polaris Partners"

Following the correspondence received by the NTMA from the OIC I have reviewed the request and set out some details which should hopefully address your request.

In carrying out its functions, the National Pensions Reserve Fund Commission (the "NPRFC") established a Private Equity Advisory Committee (the "PEAC") to assist it. In addition, the NPRFC delegated authority to the NTMA to select and invest in private equity investment vehicles, without prejudice to the NPRFC's own responsibility for its functions. These operational features are referenced on page 32 of the 2010 Annual Report of the NPRFC, which is being provided to you.

Accordingly, from an operational perspective, the decision to invest in the Polaris Fund was made by the NTMA on 27 October 2010, on foot of the authority that was delegated to it by the NPRFC as explained above. In advance of making such decision, the NTMA presented the proposed investment to the PEAC, and the PEAC agreed the proposal to invest, subject to the completion of due diligence. The NPRFC was responsible for this decision, and as such the response to your request is that the commissioners that were in place at the time of entry into the investment were responsible for the decision to invest, and the 2010 Annual Report of the NPRFC confirms who the Commissioners were at this time.

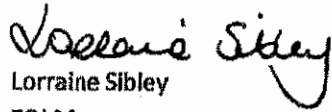
In addition to the information referred to above, an extract from the minutes of the PEAC Meeting dated 7 September 2010 is being provided to you, detailing the attendees at such meeting. Having reviewed this record, I find that the body of the record contains the discussion of the investment and is therefore covered by the exclusions set out in Schedule 1 Part 1 of the Freedom of



Information Act 2014 [the "FOI Act"]. An extract of the relevant provisions is attached for ease of reference.

I trust that this addresses your request.

Yours sincerely,


Lorraine Sibley
FOI Manager

SCHEDULE 1

Section 6

Part 1

Partially Included Agencies

Section 6 does not include a reference to-

- (x) the National Treasury Management Agency, the National Asset Management Agency, the National Pensions Reserve Fund Commission and the National Development Finance Agency, insofar as it relates to records concerning—
 - (i) investors or potential investors in any security issued by the Minister for Finance or any of these bodies, or in any project, fund or other investment managed or promoted by any of these bodies or in which any of these bodies is an investor,
 - (ii) companies, firms, funds or any other entities with or in which any of these bodies have invested or could potentially make an investment,
 - (iii) purchasers or potential purchasers of any asset or loan or of any other asset securing loans held or managed by any of these bodies,
 - (iv) market counterparties or potential market counterparties of any of these bodies, or
 - (v) sellers of assets acquired or which may be potentially acquired by any of these bodies or by any company, firm, fund or other entity in which any of these bodies is an investor;

Minutes

Meeting of the National Pensions Reserve Fund
Private Equity Advisory Committee

Held 07 September 2010 at the National Treasury Management Agency,
Treasury Building, Grand Canal St., Dublin 2

Present:

Paul Carty (Chairman)
John Canning
Brian Hillery
Maurice O'Connell
Walter O'Hara

Apologies:

In Attendance:

From NTMA:

Eugene O'Callaghan
Eileen Fitzpatrick
Nick Ashmore
James Brennan (Secretary)

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "18" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

Sworn before me by the said *Maurice D. Landers*

on the *8th* day of *September* 2020, at *Citibank*

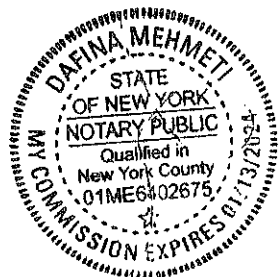
in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*MYSID*)
containing a photograph *560 566 698*

Debra

Commissioner for Oaths/Practicing Solicitor



SOURCE: my update report

If you recall on page 42 of Report 1, I demonstrated a situation where the FOI Unit at the DJEI purposely ignored an amendment I had made to my FOI request where I had specifically listed four names of organizations relevant to my request that I believed when searched using the DJEI's FOI system would have yielded optimal results i.e. all documents in the DJEI's FOI archive relevant to my case.

I believe that when the DJEI searched its FOI system under one or more of these names it pulled up these document/s, hence the DJEI's intentional exclusion of this particular amendment from its decision, and a similar reason why I believe the Information Commissioner avoids mention of the actual name of the VC firm in his 'explanations' above should somebody in the future wish to access all documents relevant to my case. I also note that the FOI Units at different Irish Government bodies have multiple staff reply to you, which purpose I believe is to make keeping track of communications confusing should you need to recall them later on i.e. you can never find them in one place under one person's responsibility.

Finally, these 'inaccurate inferences' claimed by the Information Commissioner relating to my EI and DJEI appeals seem to contradict the many inconsistencies by the Irish Government, including the Office of the Information Commissioner (including the two suspiciously recalled emails by EI conveniently not addressed by the Information Commissioner), that I've exposed during the course of my efforts over the past three plus years to have my case investigated.

Additionally, the DoF, PER and the NPRF did not recall any emails and yet I made the correct inferences in Report 1 regarding these bodies in that I successfully managed to get the Information Commissioner to require these bodies to release further documents under the FOI Act 2014? Taking this point even further, doesn't this also mean that the DoF and PER, in addition to the NPRF, were involved in decisions relating to IFI because my appeals to the Information Commissioner were made in the context of identifying the decision makers involved in awarding funding under IFI? That said, the additional documents released by DoF and PER under the direction of the Information Commissioner were approximately 82% redacted (more on this under 'Complaints to SIPO' below).

Complaints to SIPO

Based on the information I had gathered (or lack thereof) from the FOI review requests I made to the Office of the Information Commissioner, I could now submit my formal complaints to SIPO.

See Section 2, EMAIL 3 - 6 - although it's better that you start reading Section 2 beginning at narrative just before EMAIL 1, which ties in PwC, the Comptroller and Auditor General and other bodies that I've sent my case to for investigation, although you may wish to first quickly read the attachment to EMAIL 11 ('Further information 1'), which synthesizes my overall case/allegations and then go back and start reading at EMAIL 1 (but don't forget to read the other attachment to EMAIL 11 'Further information 2' when you get back up to EMAIL 11 again). But finish reading this Section (Section 1) first to understand how PwC, the Comptroller and Auditor General, and other bodies tie into all of this.

You'll see from my submissions that I did all of the investigating and evidence gathering myself, so although SIPO rejected my complaints, they knew the outcome (that an unethical act had occurred) without having to launch an investigation of their own before rejecting them (although ultimately SIPO would have to do a more formal investigation of their own to complete my investigation, but my investigation was certainly enough for them to know that what I alleged had more than sufficient merit).

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "19" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

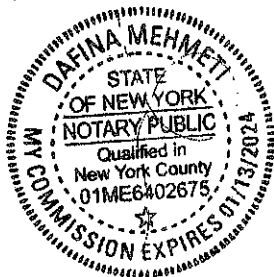
Sworn before me by the said *Maurice D. Landers*

on the *9th* day of *September* 2020, at *Cottbus*

in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*MS ID*
560 566 698)
containing a photograph



[Signature]

Commissioner for Oaths/Practicing Solicitor

Yahoo Mail - Re: Request under the Freedom of Information Act 2014 (the FOI Act)

Request under the Freedom of Information Act 2014 (the FOI Act)

foi.ie

mauricelanders@yahoo.com

Friday, December 15, 2015, 8:13 AM EST

Reference : 150418

December 2015

To: mauricelanders@yahoo.com

Maurice Landers

100 Street

Request under the Freedom of Information Act 2014 (the FOI Act)

Maurice Landers,

Your online application of letter 30 November 2015 requesting a review by the Information Commissioner of the decision made by the Treasury Management Agency (NTMA) on your request for an internal review about the National Pensions Reserve Fund Commission ended December 2010.

The Information Commissioner has decided to accept your application and review that decision. Your case will now be examined and the Office will contact you if necessary.

As the Commissioner has accepted your application solely on the basis of non-reply by the NTMA to your request for an internal review, to settle the matter at this stage, this Office has asked the NTMA to send you a letter which will provide you with the outcome of your internal review request. This Office has asked the NTMA to forward a copy of that letter to this Office. The request was made under the Freedom of Information Act 2014 on the basis of reference to a 'Guidance Note No. 23' issued by the Central Policy Unit (CPU) at the Department of Public Expenditure and Financial Reform which states that review rights do apply in such circumstances. The guidance note can also be viewed online at: <http://www.foi.ie/guidance/cpu-guidance-notices/?cp=3>

When a letter is issued, this Office will close your review and record the matter as settled. However, you should note that if you are not satisfied with the decision of the NTMA, you have six months from the date the letter is issued to make a new application to the Commissioner.

ct provides that the Information Commissioner should, in so far as practicable, make a decision within four months of receipt of an application at this Office. However, the length of time taken to deal with each application depends on a number of factors, including the complexity of the issues involved, the volume of records at issue and the number of cases on hand.

Sincerely,

Leehan

Information Commissioner

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "20" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

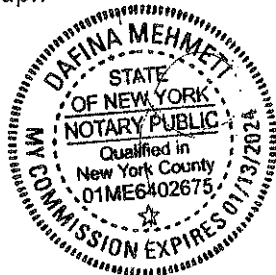
Sworn before me by the said *Maurice D. Landers*

on the *8th* day of *September* 2020, at *Cohbank*

in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*M/S (D)*)
containing a photograph *560 566 698*



Dafina Mehmet

Commissioner for Oaths/Practicing Solicitor

Yahoo Mail - Re: Your OIC Application / Case Number: OIC-58612-G9F7Z0

OIC Application / Case Number: OIC-58612-G9F7Z0

Maurice Landers (mauricelanders@yahoo.com)

applications@oic.ie; info@oic.ie

Monday, November 18, 2019, 10:36 AM EST

Information Commissioner,

Forward you the decision letter I received from the NTMA on the 8th of November, 2019 (received three days late), which is a variation of the decision made in relation to my request. I deem their response a blatant lie as a review decision was not made by them within the time permitted, and I requested a review of the matter by you, and your subsequent response (see quote below), before responding. Perhaps you are involved in this?

State that the Office is required under section 22(6) of the FOI Act to give a copy of your application to the FOI body."

In the above quote, would you please let me know when this condition was included under section 22(6) of the FOI Act as I can't recall your previous communications you've had with me. Perhaps I'm wrong? Thank you.

In their decision letter states in part, "There is no indication from the searches conducted that these documents were subsequently developed for internal audit plans."

is a blatant lie as it contradicts everything they have stated so far as detailed in my Final Report.

Regards,
M. Landers

Wednesday, November 6, 2019, 10:35:59 AM EST, OIC Applications Shared Mailbox <applications@oic.ie> wrote:

Reference: OIC-58612-G9F7Z0

Reference: 2019/5/IR

November, 2019

Application for review under the Freedom of Information Act 2014 (the FOI Act)

Yahoo Mail - Re: Your OIC Application / Case Number: OIC-58612-G9F7Z0

Landers,

u for your application for review, received by this Office on **6 November, 2019** relating to your request for access to records held by the **Management Agency**. The matter is being examined and the Office will notify you as soon as the Information Commissioner has decided to accept your application for review. Please note that the Office is required under section 22(6) of the FOI Act to give a copy of your application to the Information Commissioner.

Sincerely,

Higgins

The Information Commissioner
89

Freagra ar an ríomhphost seo ach an rogha 'tabhair freagra do' a úsáid nó seol ríomhphost chuig applications@oic.ie, agus an Úrúil a á lua agat i líne ábhair an ríomhphoist.

Respond to this email by using the reply to option or email applications@oic.ie with the Reference No. in the email Subject line.

The Information Commissioner, 18 Lower Leeson Street, Dublin 2, D02 HE97 | * applications@oic.ie | ((+353-1) 639 5689 | www.oic.ie

9.5.IR - signed review letter 8.11.2019.pdf

kB



Gníomhaireacht Bainistíochta an Chisteáin Náisiúnta
National Treasury Management Agency

8 November 2019

Mr Maurice Landers

E-mail: mauricelanders@yahoo.com

Re: IR Request Ref 2019/5/IR

Dear Mr Landers

I refer to your application pursuant to the Freedom of Information Act, 2014 (the "FOI Act"), for an internal review of the original decision in respect of FOI request reference 2019/44/FOI.

I, Ian Black, have reviewed your original request and the initial decision letter.

Your original request sought access to the following:

"Internal audit plans for the financial years ending 31 December 2009, 2010 and 2011 as per your engagement with PwC".


I note that the initial decision maker advised you that PwC audit plan presentations were located for 2009, 2010 and 2011 and released those records in full to you via email on 25 September 2019. Your request for an internal review requested a copy of the internal audit plans.


For the reasons outlined below, this internal review decision constitutes a variation of the original decision made in relation to your request.


I confirm that upon receipt of your internal review application, additional searches were carried out for PwC audit plans for the years in question. I have been advised that no audit plans have been located. It is evident from the searches that were carried out (both at initial decision stage and at this internal review stage), that the internal audit plan presentations previously released to you are the only records held by the NTMA in this regard. These documents were presented by PwC to the NPRF Audit Committee for their approval. There is no indication from the searches conducted that these documents were subsequently developed into separate internal audit plans.


Accordingly, I am refusing this request on administrative grounds pursuant to Section 15(1)(a) of the FOI Act (set out below for ease of reference) on the basis that the records that you have requested do not exist, and the records with the most relevance to your request have been released to you in full already, namely the internal audit plan presentations.

You may make an 'application for review' of this decision to the Information Commissioner no later than 6 months from the date of this notification. There is a fee of €50 which must accompany your application. Payment should be made by way of bank draft, money order, postal order or personal cheque: crossed and made payable to the 'Office of the Information Commissioner'. Details of how to make your payment electronically can be found on the OIC website, www.oic.gov.ie.

 Duga an Stáitchiste, Cé an Phoirt Thuaidh, Baile Átha Cliath 1, D01 A9T8, Éire
Treasury Dock, North Wall Quay, Dublin 1, D01 A9T8, Ireland.

 +353 1 238 4000

 +353 1 238 4890

 @NTMA_IE


 www.ntma.ie

 info@ntma.ie

Should you wish to make such an 'application for review' in writing please use the contact details below.

Office of the Information Commissioner,
18 Lower Lesson Street,
Dublin 2,
D02 HE97.

Yours sincerely,

A handwritten signature in black ink that reads "Ian Black". The signature is written in a cursive style with a large, stylized "I" and "B".

Ian Black

Chief Financial & Operating Officer

Extract from the Freedom of Information Act 2014

Refusal on administrative grounds to grant FOI requests

15. (1) A head to whom an FOI request is made may refuse to grant the request where—

(a) the record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken,

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "21" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

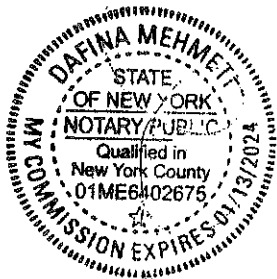
Sworn before me by the said *Maurice D. Lander*

on the *8th* day of *September* 2020, at *Citibank*

in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*MS 113*
560 560 6981) containing a photograph



[Signature]

Commissioner for Oaths/Practicing Solicitor

Yahoo Mail - Re: FOI Request 2019/44/FOI

request 2019/44/FOI

ice landers (mauricelanders@yahoo.com)

ntma.ie

ay, October 14, 2019, 10:32 AM EDT

deal your decision (request a review), and request a copy of the internal audit plan.

table that you would tell me that "...searches were conducted and the only records located were the three audit plan presentations which v
you in full in the email dated 25 September 2019."

being truthful, and nobody would believe that you don't have a copy.

my Final Report.

s,
Landers

y, October 1, 2019, 11:50:55 AM EDT, NTMAFOI <FOI@ntma.ie> wrote:

landers

your email below I can confirm that upon receipt of your FOI request, searches were conducted and the only records located were the three
ntations which were released to you in full in the email dated 25 September 2019.

FOI Unit

National Treasury Management Agency

Treasury Dock, North Wall Quay, Dublin 1, D01 A9T8, Ireland

+353 (0) 1 2385050

www.ntma.ie

info@ntma.ie

Maurice Landers <mauricelanders@yahoo.com>

September 2019 13:25

FOI <FOI@ntma.ie>

Re: FOI Request 2019/44/FOI

Unit',

u for an unredacted copy of the audit plan. This was my FOI request. You provided me with a 'brochure' of the audit plan, and only a dra
t that.

appropriate analogy, you have given me a brochure (draft) of a TV set when I asked you for a TV set.

only corroborates what I suggested in my email to you on July 9, 2019, that "Should you still refuse me a copy, you will certainly be emph
s significant part in the fraudulent behavior documented in my Reports,.."

give me what I asked you for, and this brochure represents either a 100% redacted copy of the audit plan or an outright refusal of my f
hy would you provide me with something I never asked for?

Yahoo Mail - Re: FOI Request 2019/44/FOI

don't now tell me that I have to make an appeal to get what I asked for in the first place, I'm not entertaining these types of tricks and I
one of my appeals to get what I should have been given from the get go, whether in full or in part.

think it's pretty clear at this stage that you guys have no intention of providing me with a copy of the audit plan and are going to put me
I again to cover up for this crime.

I'll release my final Report with what I've been give so far and hopefully somebody else can take it from there.

Landers

Monday, September 25, 2019, 10:42:28 AM EDT, NTMAFOI <FOI@ntma.ie> wrote:

Landers

and attached correspondence regarding your FOI request.

Regards,

FOI Unit

National Treasury Management Agency

Treasury Dock, North Wall Quay, Dublin 1, D01 A9T8, Ireland
+353 (0) 1 2385050 www.ntma.ie info@ntma.ie

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If it is confidential or legally privileged. If you have received this message in error,
do not disclose, copy or use any part of it - you should immediately delete it from your computer
(your deleted items folder) and contact both the sender and ITSecurity@ntma.ie <<mailto:ITSecurity@ntma.ie>>.
All data received will be processed in accordance with our Data Protection Statement, which is available on our website

Is é seo amháin an teachtaireacht seo, aon cheangaltáin san áireamh. D'fhéadfadh sí a bheith faoi rún nó faoi phribhléid de réir dlí.
Is é seo an teachtaireacht seo trí thimpiste, níor chóir duit í a nochtadh, í a chóipeáil ná aon chuid di a úsáid.
Ní í a scríosadh ó do ríomhaire (fillteán na nithe scríosta san áireamh)
Teagmháil leis an seoltóir agus le ITSecurity@ntma.ie <<mailto:ITSecurity@ntma.ie>>.
Sonraí pearsanta a gheofar de réir ár mBeartais Cosanta Sonraí, atá ar fáil ar ár suíomh gréasáin.

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All data received will be processed in accordance with our Data Protection Statement, which is available on our website

Is é seo amháin an teachtaireacht seo, aon cheangaltáin san áireamh. D'fhéadfadh sí a bheith faoi rún nó faoi phribhléid de réir dlí.
Is é seo an teachtaireacht seo trí thimpiste, níor chóir duit í a nochtadh, í a chóipeáil ná aon chuid di a úsáid.
Ní í a scríosadh ó do ríomhaire (fillteán na nithe scríosta san áireamh)
Teagmháil leis an seoltóir agus le ITSecurity@ntma.ie <<mailto:ITSecurity@ntma.ie>>.
Sonraí pearsanta a gheofar de réir ár mBeartais Cosanta Sonraí, atá ar fáil ar ár suíomh gréasáin.

Report.pdf

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "22" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

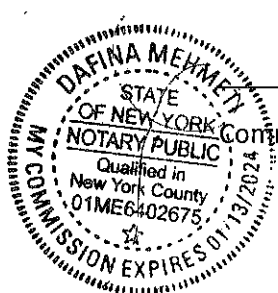
Sworn before me by the said *Maurice D. Landers*

on the *8th* day of *September* 2020, at *CitiBank*

in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*M/S 10*) containing a photograph *860 566 698*



Dafina Mehmet

Commissioner for Oaths/Practicing Solicitor

Strategic Planning, Decision Making & Performance Management

The Offices of the Ombudsman and Information Commissioner published a revised Strategic Statement in 2016, in which three high level objectives were identified as primary enablers in the achievement of their vision, as follows:

- We will drive improvements in the wider public service
- We will deliver a customer focused service that reflects our core values
- We will develop and enhance our management and administrative frameworks to enable and underpin our objectives of improving the wider public service and delivering an excellent customer focused service

A separate strategic statement exists for the CPSA. While the plan is concerned only with the Offices of the Ombudsman and Information Commissioner (incorporating the OCEI), given the sharing of staff across all four Offices, in accordance with the needs and priorities of each Office, many aspects of this plan are clearly relevant to all staff. The statement also identified organisational values, as set out on page 6 of this document.

Business Planning

Each area of the Office is required annually to produce a Business Plan, which set out the key outputs that will be delivered in order to achieve the objectives of the Strategic Plans. The plans are reviewed on a quarterly basis by the Management Team. Formal progress updates are also provided to all staff on a biannual basis.

Annual Reports

Annual Reports are prepared by each Office, under the appropriate legislation, and laid before the Houses of the Oireachtas. The reports review the business progress of the preceding year and outline significant Office developments and achievements

Irish Language Scheme

All divisions of the Office seek to ensure that they provide a high quality service to Irish language speakers. In this regard the service provided by the Office of the Information Commissioner and the Office of the Ombudsman is underpinned by a Language Scheme (2016-2019) under the terms of the Official Languages Act 2003.

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "23" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

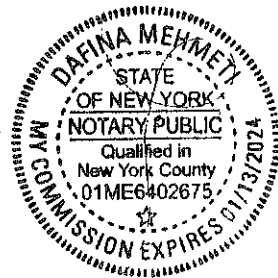
Sworn before me by the said *Maurice D. Landers*

on the *9th* day of *September* 2020, at *Citibank*

in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*NY ID*)
containing a photograph *560 566 698*



[Handwritten Signature]

Commissioner for Oaths/Practicing Solicitor

o we are

About (/about/) | Who we are

Office of the Information Commissioner is the appeals body for Freedom of Information in Ireland. It is to review decisions which public bodies make on freedom of information requests. We are located at Leeson Street in Dublin.

eam

In addition to the Information Commissioner and the Director General, we have a team of around twenty staff which includes investigators, Stephen Rafferty and Elizabeth Dolan. Further support comes from the shared services provided by the Ombudsman (for example, human resource management and information and communications technology).

about/who-we-are/

THE HIGH COURT

RECORD NO. 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACTS

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "24" referred to in Maurice D. Landers's REPLY TO POINTS OF OPPOSITION AND AFFIDAVIT OF STEPHEN RAFFERTY

Sworn before me by the said *Maurice D Landers*

on the *8th* day of *September* 2020, at *Citi bank*

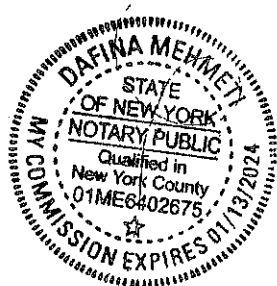
in the city/county of *NY*

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (*MS10*) containing a photograph *560 566 698*

[Handwritten Signature]

Commissioner for Oaths/Practicing Solicitor



Re: Request for information

From: maurice landers (mauricelanders@yahoo.com)

To: FOI@ntma.ie

Cc: Lorraine.Sibley@ntma.ie; eocallaghan@ntma.ie; kieran.bristow@ntma.ie; cathal.fitzgerald@ntma.ie; michael.lee@ntma.ie; fergal.mcaleavey@ntma.ie; donal.murphy@ntma.ie; paul.saunders@ntma.ie; annemarie.whelehan@ntma.ie; martin.w.whelan@ntma.ie; complaints@ntma.ie; mlangstrom@ntma.ie; info@isif.ie; info@ntma.ie

Date: Friday, September 6, 2019, 5:25 PM EDT

Dear Orla,

Not having heard back from you since my email communication to you (sent to fourteen emails) approximately two months ago, I reasonably assumed you were not going to reply. What a pleasant surprise to see your response earlier today. Perhaps some Irish Government official was on to you recently that prompted your reply? Surely, it didn't have to take the NTMA almost two months to strongly reject my allegations and send this simple email reply? Did the NTMA have to give these allegations some serious consideration?

But thank you for letting me know on a Friday evening coincidentally just before the deadline I had given the Irish Government.

Okay, I'll entertain your FOI process one last time, but I'd like this processed immediately. I had planned on publishing my Final Report on September 9, 2019, but will extend this a week to give you plenty of time to review the audit plan document.

Otherwise, I'll issue my Final Report without it and let others make their own determination based on the Report's contents.

The released document will give some indication of the conviction behind your rejection of my allegations should I be unable to determine PwC's complete scope of services from it i.e. if PwC's scope of services is in any way redacted.

Kind regards,
Maurice D. Landers

p.s. immediately below is copy of my email communication to you on July 17, 2019, which you didn't include in your email string below, just FYI. Better to keep everything in proper order.

From: maurice landers <mauricelanders@yahoo.com>
To: Lorraine.Sibley@ntma.ie <Lorraine.Sibley@ntma.ie>; Eugene O'Callaghan <eocallaghan@ntma.ie>; kieran.bristow@ntma.ie <kieran.bristow@ntma.ie>; cathal.fitzgerald@ntma.ie <cathal.fitzgerald@ntma.ie>; michael.lee@ntma.ie <michael.lee@ntma.ie>; fergal.mcaleavey@ntma.ie <fergal.mcaleavey@ntma.ie>; donal.murphy@ntma.ie <donal.murphy@ntma.ie>; paul.saunders@ntma.ie <paul.saunders@ntma.ie>; annemarie.whelehan@ntma.ie <annemarie.whelehan@ntma.ie>; martin.w.whelan@ntma.ie <martin.w.whelan@ntma.ie>; complaints@ntma.ie <complaints@ntma.ie>; mlangstrom@ntma.ie <mlangstrom@ntma.ie>; Isif Info <info@isif.ie>; Ntma Info <info@ntma.ie>
Sent: Wednesday, July 17, 2019, 09:31:38 AM EDT
Subject: Re: Request for information

Dear Mr. Conor O'Kelly, Chief Executive of the NTMA,

NTMA Governance and Management Team,

and ISIF Governance and Management Team,

I would like to get a response from you regarding my prior email communication.

Now that I have informed you that I believe ICAEW, ICAI and PwC lied about the internal audit plan's scope of services, I would like to know what you are going to do about it?

According to PwC:

"As referred in your correspondence, PwC Ireland was appointed by the National Treasury Management Agency (the "Agency") as internal auditors for the financial years ending 31 December 2009, 2010 and 2011."

Therefore, you have to be aware whether the internal audit plan is legitimate or not, and have to take action based upon my credible accusation that the above mentioned bodies lied to **you** and me?

Kind regards,
Maurice D. Landers

On Friday, September 6, 2019, 12:16:21 PM EDT, NTMAFOI <FOI@ntma.ie> wrote:

Dear Mr Landers

As my colleague Lorraine is currently out of the office I have been asked to pass on the NTMA response to your e-mails of 9 and 17 July 2019.

The NTMA strongly rejects the allegations made against the NTMA/NPRF in your e-mail of 9 July 2019. As indicated to you previously, we are satisfied that the particular investment referred to in your recent e-mail correspondence was made in accordance with the legislation which governed the NPRF, i.e. the National Pensions Reserve Fund Act 2000 (as amended). We also reject any suggestion of fraudulent practices or wrongdoing on the part of the NTMA or NPRF Commission.

In relation to your request for a copy of the PwC internal audit plans for the financial years ended 31 December 2009, 2010 and 2011, you are entitled to request those records from the NTMA under the Freedom of Information Act 2014. As suggested previously, you might confirm by e-mail that your request for these internal audit plans should be considered as a request to the NTMA for records under the FOI Act. This will enable the NTMA to process your request in accordance with the terms of that Act.

Yours sincerely

Orla Yeates

FOI Officer

FOI Unit

National Treasury Management Agency

Treasury Dock, North Wall Quay, Dublin 1, D01 A9T8, Ireland

+353 (0) 1 2385050www.ntma.ieinfo@ntma.ie**From:** maurice landers <mauricelanders@yahoo.com>**Sent:** 09 July 2019 17:14**To:** Lorraine Sibley <Lorraine.Sibley@ntma.ie>; Eugene O'Callaghan <EOCallaghan@ntma.ie>; Kieran Bristow <Kieran.Bristow@ntma.ie>; Cathal Fitzgerald <Cathal.Fitzgerald@ntma.ie>; michael.lee@ntma.ie; Fergal McAleavey <Fergal.McAleavey@ntma.ie>; Donal Murphy <Donal.Murphy@ntma.ie>; Paul Saunders <Paul.Saunders@ntma.ie>; annemarie.whelehan@ntma.ie; Martin W Whelan <Martin.W.Whelehan@ntma.ie>; Complaints NTMA <Complaints@ntma.ie>; Mikael Langstrom <MLangstrom@ntma.ie>; ISIF Enquiries <Info@isif.ie>; Information <Info@ntma.ie>**Subject:** Fw: Request for information

Dear Mr. Conor O'Kelly, Chief Executive of the NTMA,

NTMA Governance and Management Team,

and ISIF Governance and Management Team,

Thank you Lorraine .

First, I'm surprised that you won't provide me with a copy of the audit plan even if you're not required to do so. Just because you're not required to do something doesn't mean you shouldn't do it. In this case, this document is critical to exonerating the NPRF, NTMA and other organizations, therefore I'm at a serious loss as to why you would choose to go the FOI route, which in Ireland often is just a euphemism for the covering up of fraudulent acts on the part of the Irish Government and other bodies or organizations it has done business with, particularly since I granted very generous examination and confidentiality provisions.

That said, I'll ask you a second time if you'll provide me with a copy even if you're not required to, with all the generous confidentiality provisions I've previously granted in effect (thereby removing any confidentiality or other issues from the equation), and prove my claim wrong that the document either never existed or ICAEW, ICAI and PwC lied about its scope of services (most likely the latter).

I'm not yet sure what your angle is when you offer to commence processing my request for a copy of the audit plan as a FOI request, but I know one thing, you're not making this offer to help me in any way, so it's likely your intention is to get the NTMA/NPRF off the hook by having the Irish Government do its dirty work by allowing it to hide behind the FOI process where, as you know very well, it will be impossible to prove that the aforementioned bodies lied about the audit plan's scope of services in any released version of the document due to the well known prejudiced redaction by the Irish Government.

Additionally, when the NTMA suggests the only way I can retrieve a copy of the audit plan is via the FOI process, it reminds me of Enterprise Ireland's shredding of evidence pertaining to my case using the FOI process (p. 62 of my Update Report - see link below), so please forgive me if I decline your 'very generous' offer.

Should you still refuse me a copy, you will certainly be emphasizing the NTMA's significant part in the fraudulent behavior documented in my Reports, which emphasis I will document in my upcoming Final Report as representative of the **continuing** fraudulent practices by the NTMA and critical oversight bodies in Ireland, and corroborating that which I stated towards the end of my recent Update Report (p. 220 'END' - link below) that nothing has, or ever will, change in such Irish institutions.

I no longer consider the NTMA a very reputable body, but I hope it can redeem itself by doing the right thing here regardless of the consequences to the Irish Government and Irish oversight bodies, although I'm pretty confident that it won't, but I want international institutions and readers to have a record of your response.

You certainly don't need the FOI process to do what the NTMA is more qualified to do and well capable of doing itself, so lets be honest here, your FOI suggestion is just another sham, like the NTMA/NPRF's use of Innovation Fund Ireland and the many other Irish Government shams out there.

Although the NPFR has been dissolved, the NTMA is still a **going concern**. You may, and very likely will, get away with this type of unethical behavior, I'm sure it won't deter others of like mind from doing business with you, but be careful who you attract into Ireland and into your business life is my advice to you for what it's worth. Many reputable people and bodies reading your response in my Final Report will know that you're not being honest and that there are many other options that would allow someone like me to verify the authenticity of this document that will preserve client confidentiality or indeed any other concern you might have (I have offered these options in my prior email), and that a reputable body would be more than happy to accommodate my request. The only reason your're refusing is because you know that the above bodies have lied about the audit plan's scope of services and that this document will definitively prove my entire case. After many years, I have finally been able to distill the proof of my case down to just one document, hence **everyone's** effort to stop me getting my hands on it.

Your reputation is in your hands. If you want it to mean nothing, that's on you.

And remember, this is no longer a 2010/2011 crime, it's now a 2019 crime based upon the recent cover up of fraud on the part of many of the bodies I have mentioned in my Reports.

Kind regards,

Maurice D. Landers

<http://www.eoi.at/d/EOI%20-%20Jahresberichte/Irland/Irl-update%20Report%20February%202018.pdf>

On Thursday, July 4, 2019, 01:38:12 PM EDT, Lorraine Sibley <Lorraine.Sibley@ntma.ie> wrote:

Dear Mr Landers,

The National Treasury Management Agency (the "NTMA") is not required to publish its internal audit plans. The NTMA is a partially included body for the purposes of the Freedom of Information Act 2014 (the "FOI Act"), accordingly you are entitled to request these records pursuant to the FOI Act.

I can commence processing this as a FOI request based on your email below following confirmation that you are happy for me to do so. I would appreciate if you could confirm your agreement with same by email.

Kind regards,

Lorraine

From: maurice landers [<mailto:mauricelanders@yahoo.com>]

Sent: 01 July 2019 16:36

To: Lorraine Sibley; Information; Eugene O'Callaghan; Kieran Bristow; Cathal Fitzgerald; Mikael Langstrom; michael.lee@ntma.ie; Fergal McAleavey; Donal Murphy; Paul Saunders; annemarie.whelehan@ntma.ie; Martin W Whelan; ISIF Enquiries; Complaints NTMA

Subject: Re: Request for information

Dear Mr. Conor O'Kelly, Chief Executive of the NTMA,

NTMA Governance and Management Team,

and ISIF Governance and Management Team,

As per my request below dated June 5, 2019, could you please provide me with a copy of the internal audit plan for the financial years ending 31 December 2009, 2010 and 2011 as per your engagement with PwC. This information should be publicly accessible.

My last email to you was approx. one month ago, does it always take this long for a reply?

Kind regards,

Maurice D. Landers

On Wednesday, June 5, 2019, 10:25:47 AM EDT, maurice landers <mauricelanders@yahoo.com> wrote:

Dear Mr. Conor O'Kelly, Chief Executive of the NTMA,
NTMA Governance and Management Team,
and ISIF Governance and Management Team,

Could you please provide me with a copy of the internal audit plan for the financial years ending 31 December 2009, 2010 and 2011 as per your engagement with PwC. This information should be publicly accessible.

Should you claim confidentiality (we all know how confidentiality agreements potentially can be, and very often are, used to cover-up), I offer you the option of having a reputable independent body of my choosing verify its authenticity while preserving its 'confidentiality'. Anyhow, it being only a technical document describing "scope" areas, and therefore not confidential in the normal sense of the word, I can't imagine you refusing me a copy. However, if this is still not acceptable to you, I give you the flexibility to redact the 'confidential' information as this should still leave enough technical information available for a reputable independent oversight body or anyone else for that matter to determine whether the audit plan copy is legitimate, and by legitimate I mean that the date the audit plan was prepared can be verified (time stamped), and the non-redacted content (although I see no reason for you to redact any of it) will verify the decision I received from Chartered Accountants Ireland (ICAI) regarding my case (link at end), i.e.

"The scope of the internal audit work undertaken by the member firm was specific scope and the scope was agreed with and approved by the Audit Committee of the National Treasury Management Agency (NTMA) and the National Pension Reserve Fund (NPRF) Commission each year. The member firm provided us with a copy of internal audit plan for the NPRF as presented to, and subsequently agreed with, the NPRF Commission and the NTMA and the matter complained of appears to have been outside the scope of the internal audit work undertaken by the member firm."

<http://www.eoi.at/d/EOI%20-%20Jahresberichte/Irland/Irl-update%20Report%20February%202018.pdf>

Kind regards,

Maurice D. Landers

On Monday, October 2, 2017, 8:22:08 AM EDT, Lorraine Sibley <Lorraine.Sibley@ntma.ie> wrote:

Dear Mr Landers,

I apologise for the delay in reverting to you in relation to your query, which Eugene O'Callaghan has asked me to respond to on his behalf.

I can confirm that the PricewaterhouseCoopers (PwC) branch referenced in the NPRF Commission's Annual Report and Financial Statements 2010 is the Dublin branch.

Kind Regards,

Lorraine Sibley,
FOI Manager.

National Treasury Management Agency

Treasury Building, Grand Canal Street, Dublin 2, D02XN96, Ireland

www.ntma.ie | [@NTMA_IE](#) | [LinkedIn](#)

E: Lorraine.Sibley@ntma.ie | T: +353 (0)1 2384000

From: maurice landers [<mailto:mauricelanders@yahoo.com>]

Sent: 29 September 2017 05:15

To: Information; Eugene O'Callaghan; Kieran Bristow; Cathal Fitzgerald; Mikael Langstrom; Michael Lee; Fergal McAleavey; Donal Murphy; Paul Saunders; Anne-Marie Whelehan; Martin W Whelan; ISIF Enquiries; Complaints NTMA

Subject: Fw: Request for information

Dear Mr. Conor O'Kelly, Chief Executive of the NTMA,

NTMA Governance and Management Team,

and ISIF Governance and Management Team,

I requested the information below from Mr. Eugene O'Callaghan approx. one month ago, but have not heard back from him.

You have an obligation, indeed a legal one, to the Irish public to provide me with this public information.

In addition, I will soon be publishing an update to my 2015 Report (attached), so please reassure me before then that you're not illegally refraining from providing me with this public information. One might get this impression based upon Mr. O'Callaghan's lack of a response so far to this simple request.

Kind regards,

Maurice D. Landers

On Friday, September 1, 2017 4:22 AM, maurice landers <mauricelanders@yahoo.com> wrote:

Dear Mr. O'Callaghan,

Would you be so kind as to let me know which PricewaterhouseCoopers (PwC) branch is referenced in the NPRF Commission's Annual Report and Financial Statements 2010, specifically on pages 29/30 and 42 of this document.

Thank you in advance.

Kind regards,

Maurice D. Landers

On Tuesday, March 31, 2015 9:10 AM, Eugene O'Callaghan <EOCallaghan@ntma.ie> wrote:

Dear Mr Landers

As you were recently informed, the investment in question (\$50 million, not €50 million as referenced in your email) was approved by the National Pensions Reserve Fund Commission (the "Commission") in 2010. The NTMA acted as the manager of the National Pensions Reserve Fund (the "NPRF"), and presented this investment to the Commission for approval.

During its period of operation, the Commission consisted of seven commissioners, and the identity of these commissioners changed from time to time. The identity of the persons who were the appointed commissioners in 2010 is contained in the Annual Report for that year, a copy of which is attached for your convenience.

Pursuant to modifications made to the NPRF Act 2000 the Commission now consists of a sole commissioner, being the Chief Executive of the NTMA (who took up office earlier this year). This reflects the cessation of the investment activities of the NPRF and the transition of assets from the NPRF to the Ireland Strategic Investment Fund.

We are satisfied that this investment was made in accordance with the legislation governing the NPRF, i.e. the NPRF Act 2000, as amended.

Yours sincerely

Eugene O'Callaghan
Director
Ireland Strategic Investment Fund
Treasury Building, Grand Canal Street, Dublin 2, Ireland
Tel: +353 (1) 238 4066
Email: eocallaghan@ntma.ie
www.nprf.ie

From: maurice landers [<mailto:mauricelanders@yahoo.com>]
Sent: 27 March 2015 00:03
To: Eugene O'Callaghan; Pensions
Subject: Request for information

Dear Mr. Eugene O'Callaghan, Director NPRF/ISIF,

Specifically, please provide me with the name(s) of the person(s) at the NPRF Commission who made the decision to award Euro 50 million, under Innovation Fund Ireland in 2010, to Polaris Partners.

The background upon which my request is based can be accessed in the documents provided (links below), which detail my experience applying for funding under Innovation Fund Ireland in 2010.

Thank you for your attention to this matter.

Kind regards

Maurice D. Landers

[My experience of bringing new Investor Groups to Ireland, and Irish Government business practices. | Failte32 connecting the Irish in NYC](#)

[Part 2: My experience of bringing new Investor Groups to Ireland, and Irish Government business practices. | Failte32 connecting the Irish in NYC](#)

[Failte32.org – Part 3 \(final part\): My experience of bringing new Investor Groups to Ireland, and Irish Government business practices. | Failte32 connecting the Irish in NYC](#)

This message, including any attachments, is intended for the addressee only.
It may be confidential or legally privileged. If you have received this message in

A. TRUE COPY OF THE ORIGINAL

THE HIGH COURT

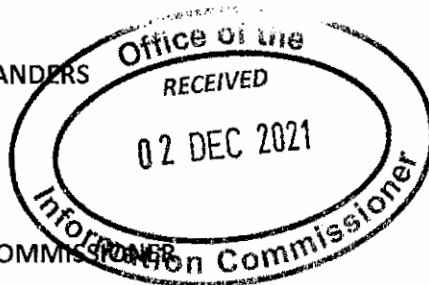
RECORD NO. 2020/53MCA

In the matter of the Freedom of Information Acts

BETWEEN:



MAURICE D. LANDERS



APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Affidavit of Maurice D. Landers

I **Maurice D. Landers** a Fire Safety Director of 3 Talbot Court, Millview Road, Malahide, Co. Dublin and 3080 33rd St., Astoria, New York 11102, aged eighteen years and upwards MAKE OATH and say as follows:

Below are additional Exhibits/points I would like to include in my Affidavit:

- 1 Exhibit J - NPRF/NTMA final decision on my FOI request where they refused my request on the basis that the records I requested do not exist.
- 2 Exhibit K - My application for review (appeal) to the Information Commissioner of the NPRF/NTMA final decision (Exhibit J). This proves that the Information Commissioner was furnished by me proof that the internal audit plan existed, yet he concurred with the NTMA's final decision. The very fact that the Information Commissioner's decision contradicts PwC and ICAI is credible grounds for this honorable court to compel the release of the internal audit plan.
- 3 Exhibit L - Included are the three PwC/NTMA internal audit plan presentations I received from the NTMA in lieu of the internal audit plan itself. While PwC and ICAI communications prove the existence of the internal audit plan, they won't release it to me as they effectively claim that my allegations are outside the scope of the audit plan.
- 4 Exhibit M - Included is my analysis of these audit plan presentations that proves that my allegations are indeed within the scope of the audit plan.
- 5 Exhibit N - Addition to Exhibit C, last page, for further context.
6. Exhibit O - Addition to Exhibits A and B. On Dec. 23, 2016, I copied and pasted the 'Powers of the Information Commissioner' directly from the Office of the Information Commissioner website.

- I make this affidavit from facts within my own knowledge save where otherwise stated and where so stated I believe those facts to be true.
- Accordingly I pray this Honourable Court for an Order in the terms of the Notice of Motion herein.

Mark J. L.

Sworn before me by the said

on the 12 day of 11 2020, at

in the city/county of

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (NYS Driver License
containing a photograph

#560566698

Andrew Almonte
Notary Public, State of New York
No. 01AL6392824
Qualified in Queens County
Commission Expires 06/03/20 23

[Signature]

Commissioner for Oaths/Practicing Solicitor

Filed this 26th day of November 2021 by the Applicant

THE HIGH COURT

RECORD NO. 2020/53MCA

In the matter of the Freedom of Information Acts

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "J" referred to in the Affidavit of Maurice D. Landers

Sworn before me by the said



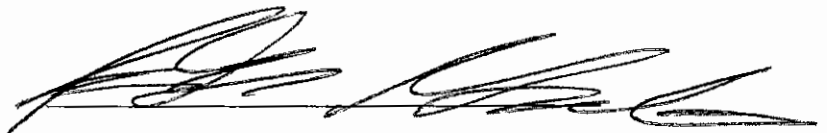
on the 12 day of November 2020, at

in the city/county of New York

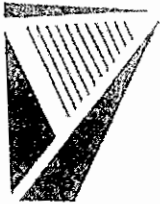
before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (NYS Driver License # 560566698) containing a photograph

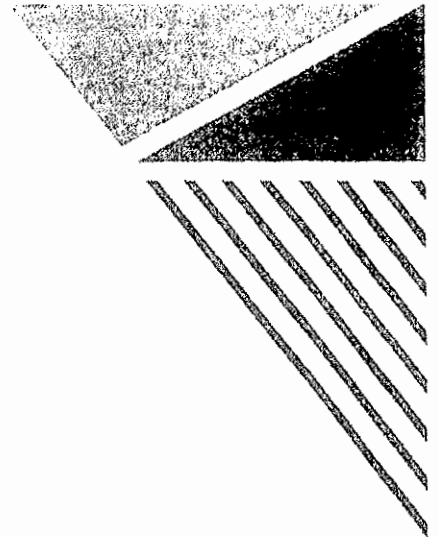
Andrew Almonte
Notary Public, State of New York
No. 01AL6392824
Qualified in Queens County
Commission Expires 06/03/2023



Commissioner for Oaths/Practicing Solicitor



Gníomhaireacht Bainistíochta an Chisteáin Náisiúnta
National Treasury Management Agency



8 November 2019

Mr Maurice Landers

E-mail: mauricelanders@yahoo.com

Re: IR Request Ref 2019/5/IR

Dear Mr Landers

I refer to your application pursuant to the Freedom of Information Act, 2014 (the "FOI Act"), for an internal review of the original decision in respect of FOI request reference 2019/44/FOI.

I, Ian Black, have reviewed your original request and the initial decision letter.

Your original request sought access to the following:

"internal audit plans for the financial years ending 31 December 2009, 2010 and 2011 as per your engagement with PwC".

I note that the initial decision maker advised you that PwC audit plan presentations were located for 2009, 2010 and 2011 and released those records in full to you via email on 25 September 2019. Your request for an internal review requested a copy of the internal audit plans.

For the reasons outlined below, this internal review decision constitutes a variation of the original decision made in relation to your request.

I confirm that upon receipt of your internal review application, additional searches were carried out for PwC audit plans for the years in question. I have been advised that no audit plans have been located. It is evident from the searches that were carried out (both at initial decision stage and at this internal review stage), that the internal audit plan presentations previously released to you are the only records held by the NTMA in this regard. These documents were presented by PwC to the NPRF Audit Committee for their approval. There is no indication from the searches conducted that these documents were subsequently developed into separate internal audit plans.

Accordingly, I am refusing this request on administrative grounds pursuant to Section 15(1)(a) of the FOI Act (set out below for ease of reference) on the basis that the records that you have requested do not exist, and the records with the most relevance to your request have been released to you in full already, namely the internal audit plan presentations.

You may make an 'application for review' of this decision to the Information Commissioner no later than 6 months from the date of this notification. There is a fee of €50 which must accompany your application. Payment should be made by way of bank draft, money order, postal order or personal cheque: crossed and made payable to the 'Office of the Information Commissioner'. Details of how to make your payment electronically can be found on the OIC website, www.oic.gov.ie.

Should you wish to make such an 'application for review' in writing please use the contact details below.

Office of the Information Commissioner,
18 Lower Lesson Street,
Dublin 2,
D02 HE97.

Yours sincerely,

A handwritten signature in black ink that reads "Ian Black". The signature is written in a cursive style with a large, stylized "I" and "B".

Ian Black
Chief Financial & Operating Officer

Extract from the Freedom of Information Act 2014

Refusal on administrative grounds to grant FOI requests

15. (1) A head to whom an FOI request is made may refuse to grant the request where—

- (a) the record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken,

THE HIGH COURT

RECORD NO. 2020/53MCA

In the matter of the Freedom of Information Acts

BETWEEN:

MAURICE D. LANDERS

APPLICANT

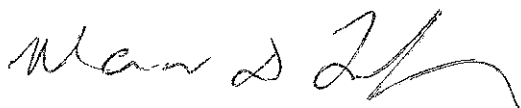
and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "K" referred to in the Affidavit of Maurice D. Landers

Sworn before me by the said



on the 12 day of November 2020, at

in the city/county of New York

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (NYS Driver License # 560566698) containing a photograph

Andrew Aimonte
Notary Public, State of New York
No. 01AL6392824
Qualified in Queens County
Commission Expires 06/03/2023



Commissioner for Oaths/Practicing Solicitor

Application for review

From: maurice landers (mauricelanders@yahoo.com)

To: info@oic.ie

Date: Wednesday, November 6, 2019, 09:07 AM EST

Dear Information Commissioner,

I would like to appeal the decision by the NTMA (attached), and therefore request a review of the matter by you.

I'm appealing because a review decision was not made within the time permitted. The NTMA for some peculiar reason couldn't provide a final decision on my appeal, preferring instead to pass the buck to you (obviously, I know all of this is coordinated with you behind the scenes, but I'll play along as I have from the beginning).

Also attached is my Final Report for context.

Additionally, I refer you to p.24 of my Update Report (link below) where I quote from your own website (earlier version):

"Powers of the Information Commissioner

The FOI Act 2014 provides the Information Commissioner with significant powers to allow him to carry out his function of reviewing the decisions of FOI bodies. If he considers a decision to be inadequate, he may, under Section 23, require that a new one be issued.

Under Section 45, he may also require any person who he considers has information relevant to a case or investigation to provide it to him. Furthermore, he may require the person to attend before him to present the information. He can enter any premises occupied by an FOI body and require any person found on the premises to provide him with records (documents) which he may copy and retain for a reasonable period.

Anyone who hinders the Commissioner in the performance of his review or investigative functions is guilty of an offence and, in accordance with Section 45, may have a fine imposed or be imprisoned for a term not more than 6 months."

<http://www.eoi.at/wp-content/uploads/2018/09/ri-update-Report-February-2018.pdf>

Although I know that such powers will allow you to compel the release of the audit plan unredacted, I've no doubt you will find some excuse not to provide it or provide it in such redacted form as to make it impossible for anyone to determine PwC's scope of services. But it's important for me to exhaust all my appeals (my appeal to you being my last) and juxtapose your powers with your response/decision.

I will mention in my 'one pager' to my readers to be sent out in December (in fact, I'll do so by including this email) that I'm awaiting your decision, and if they don't receive a brief email from me with the audit plan attached (scope of services not redacted) by the latest end of May, 2020 (six months appeal period), they can take it that you decided not to release it and have once again lied to everyone, including them.

This should be my final communication with you.

Maurice D. Landers



Final Report.pdf
393KB



2019.5.JR - Signed ack letter 29.10.19.pdf
207.7KB

Re: Your OIC Application / Case Number: OIC-58612-G9F7Z0

From: maurice landers (mauricelanders@yahoo.com)

To: applications@oic.ie; info@oic.ie

Date: Monday, November 18, 2019, 10:36 AM EST

Dear Information Commissioner,

I'd like to forward you the decision letter I received from the NTMA on the 8th of November, 2019 (received three days late), which is a variation of the original decision made in relation to my request. I deem their response a blatant lie as a review decision was not made by them within the time permitted, and they waited until I had requested a review of the matter by you, and your subsequent response (see quote below), before responding. Perhaps you are involved in this blatant lie?

"Please note that the Office is required under section 22(6) of the FOI Act to give a copy of your application to the FOI body."

Regarding the above quote, would you please let me know when this condition was included under section 22(6) of the FOI Act as I can't recall you mentioning in any previous communications you've had with me. Perhaps I'm wrong? Thank you.

Additionally, their decision letter states in part, "There is no indication from the searches conducted that these documents were subsequently developed into separate internal audit plans."

This is also a blatant lie as it contradicts everything they have stated so far as detailed in my Final Report.

Kind regards,
Maurice D. Landers

On Wednesday, November 6, 2019, 10:35:59 AM EST, OIC Applications Shared Mailbox <applications@oic.ie> wrote:

Our Reference: OIC-58612-G9F7Z0

Your Reference: 2019/5/IR

6 November, 2019

Re: Application for review under the Freedom of Information Act 2014 (the FOI Act)

Dear Mr. Landers,

Thank you for your application for review, received by this Office on **6 November, 2019** relating to your request for access to records held by the **National Treasury Management Agency**. The matter is being examined and the Office will notify you as soon as the Information Commissioner has decided whether or not to accept your application for review. Please note that the Office is required under section 22(6) of the FOI Act to give a copy of your application to the FOI body.

Yours Sincerely,

Gregory Higgins

Office of the Information Commissioner
01-6395689

Tabhair freagra ar an ríomhphost seo ach an rogha 'tabhair freagra do' a úsáid nó seol ríomhphost chuig applications@oic.ie, agus an Uimhir Thagartha á lua agat i líne ábhair an ríomhphoist.

Please respond to this email by using the reply to option or email applications@oic.ie with the Reference No. in the email Subject line.

Office of the Information Commissioner, 18 Lower Leeson Street, Dublin 2, D02 HE97 | * applications@oic.ie | ((+353-1) 639 5689 | www.oic.ie



2019.5.IR - signed review letter 8.11.2019.pdf
432KB

THE HIGH COURT

RECORD NO. 2020/53MCA

In the matter of the Freedom of Information Acts

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "L" referred to in the Affidavit of Maurice D. Landers

Sworn before me by the said



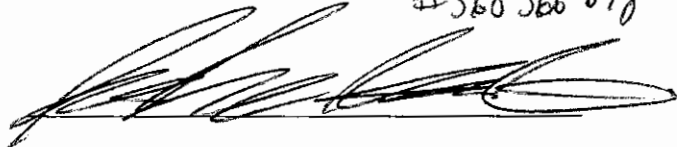
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before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (NYS Driver License)
containing a photograph

#560 566 698



Commissioner for Oaths/Practicing Solicitor

Andrew Almonte
Notary Public, State of New York
No. 01AL6392824
Qualified in Queens County
Commission Expires 06/03/20 23

National Pensions Reserve Fund

Internal audit plan presentation

For the year ended 31 December 2009



*connectedthinking


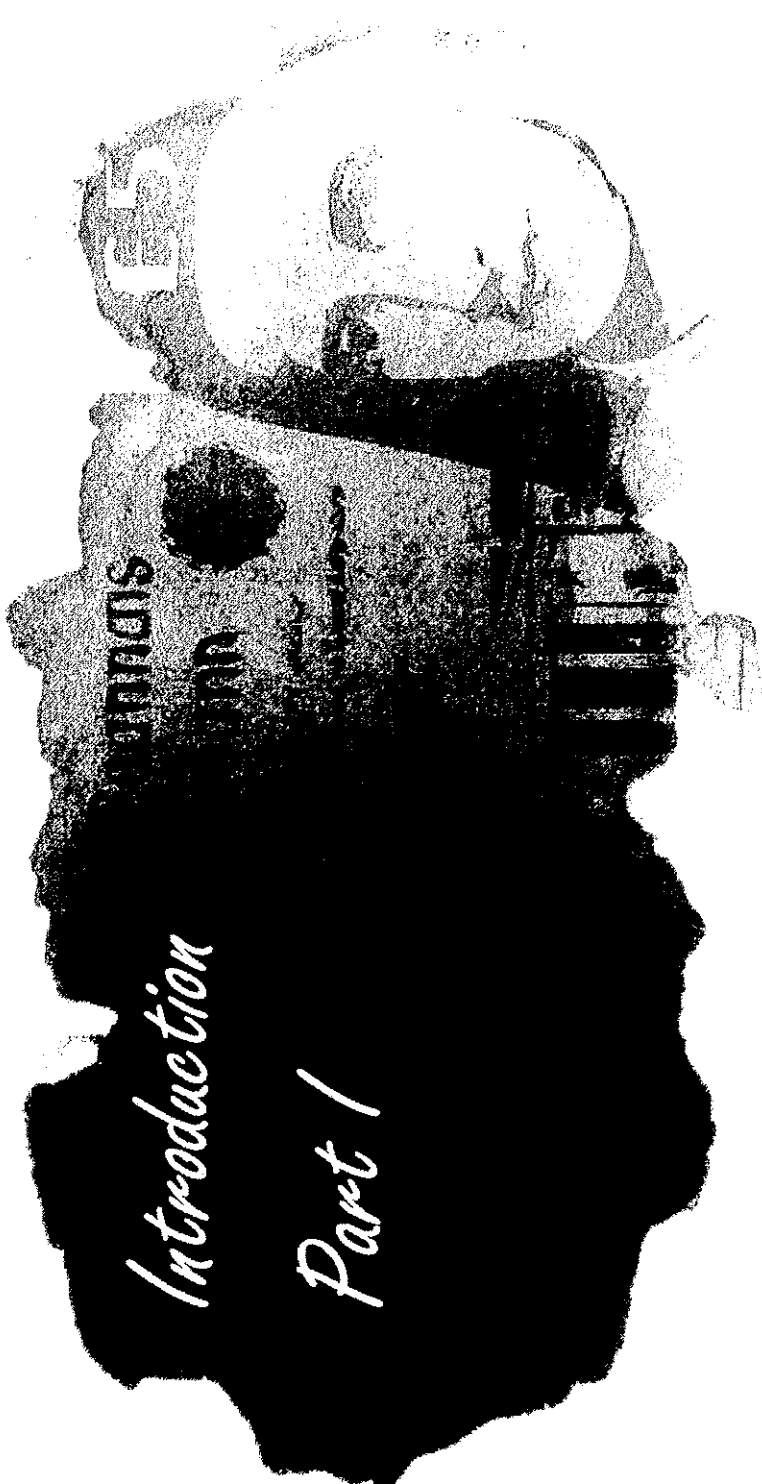
PRICEWATERHOUSECOOPERS 

Table of contents

Part I	Introduction
Part II	Summary of internal audit approach
Part III	Testing of year-end balances
Part IV	Our engagement team
Part V	Reporting requirements and timetable



Introduction

We are currently planning the internal audit of the National Pensions Reserve Fund (the 'NPRF') for the year ending 31 December 2009. We welcome this opportunity to present a brief summary of our expected procedures and to discuss our approach for the current year with the Audit Committee.

Our plan for 2009 builds on the knowledge and experience we gained from the testing and the results of the work performed in 2008 and prior years. However, as outlined in the our proposal, we have also taken the opportunity to refresh our approach and we have proposed some changes in emphasis from prior years. This is discussed in greater detail in Section II.

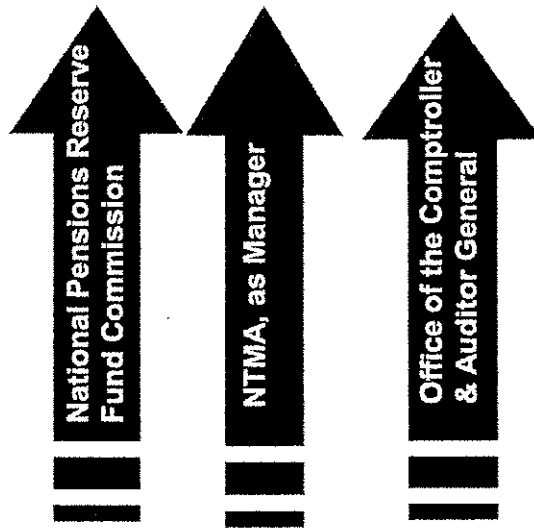
We have also begun our transition plan to introduce Patricia Johnston to the engagement team and she will work closely with the rest of the team this year before taking over the role as engagement leader next year.

We welcome the views of the Audit Committee and greatly appreciate discussion and its input during this planning phase. This will assist us in addressing other areas of interest to the Audit Committee.

Introduction

Internal audit objectives

Our internal audit work is directed towards delivering assurance at three levels:

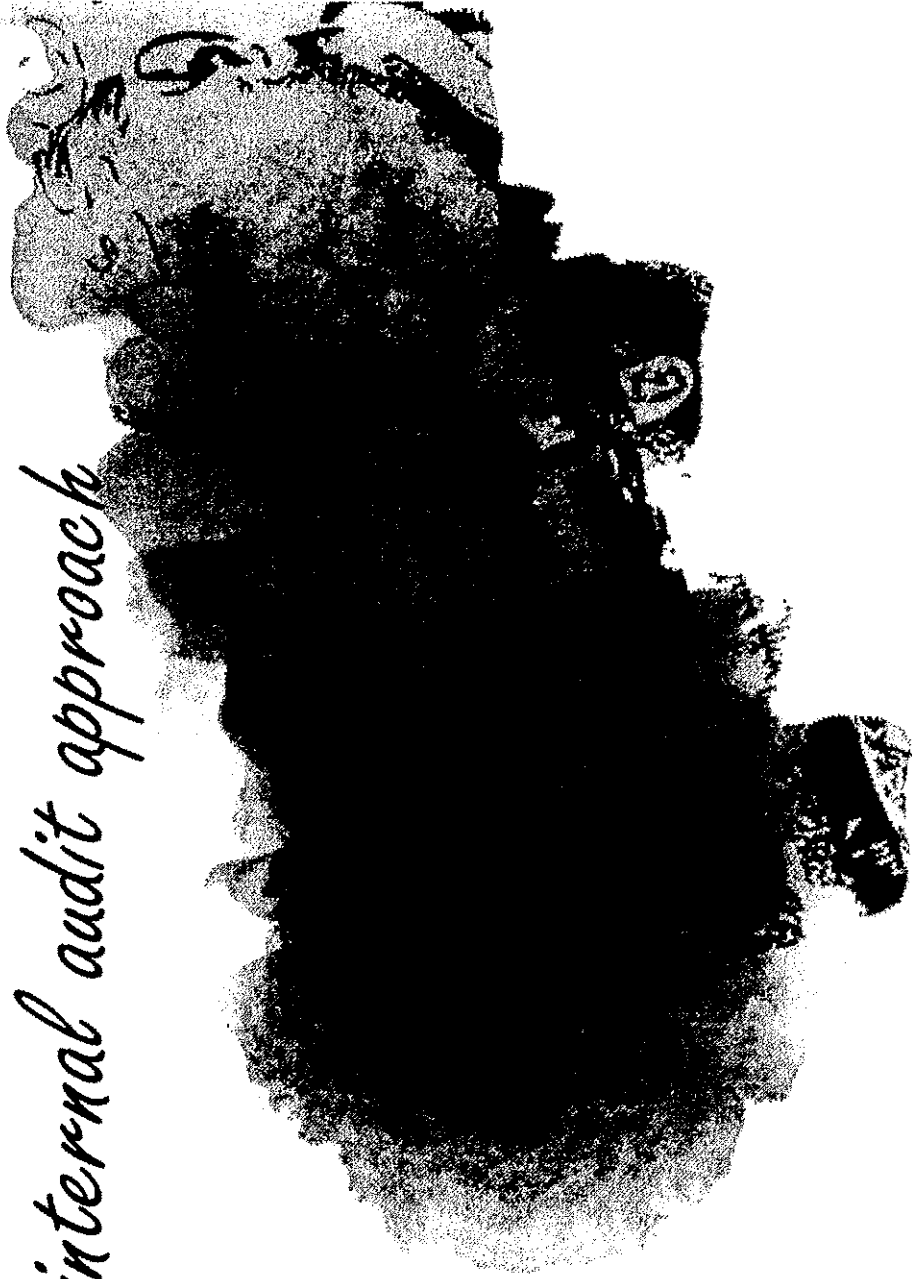


Independent opinion and findings report on the control environment of the NTMA, as Manager, the Global Custodian and the investment managers;

Assistance to the NTMA in discharging their responsibilities as Manager to the NPRF;

Assistance with the year-end audit of the NPRF in relation to the existence and valuation of NPRF assets.

Summary of internal audit approach
Part 11



Summary of internal audit approach

In our proposal document we outlined our internal audit methodology. We perform our risk assessment and share this with the Audit Committee. Our internal audit procedures are then designed to understand and test how these risks are managed.

As a result of our risk assessment, we believe that the key risks faced by the NPRF are:

- Properly safeguarding the assets of the NPRF
- Properly valuing the assets of the NPRF
- Monitoring controls to ensure that the NPRF's transactions are completely and accurately recorded
- Ensuring that investment transactions are performed in accordance with investment restrictions.

Furthermore, in accordance with the wishes of the Commission where possible we will identify areas where we believe that the internal controls operated are not in accordance with our knowledge of best practices in the investment management industry.

Summary of internal audit approach

The scope of our internal audit services takes into account the overall control environment of the NPRF. In summary, the control environment may be divided into four distinct areas:

- The governance and control framework of the NPRF Commission,
- The controls and monitoring framework of the National Treasury Management Agency (“NTMA”),
- The control environment of the Global Custodian, and
- The respective control environments of the investment managers to the NPRF.

For each of the areas above, we have detailed overleaf the procedures to be performed in more detail.

Summary of internal audit approach

Activity	Key Audit Procedures
<p>CONTROL FRAMEWORK OF THE NPRF COMMISSION</p>	<p>We will review the minutes of the NPRF Commission and the NPRF Audit Committee to assess the overall governance framework and determine any further internal audit procedures as a result of matters arising in those minutes.</p> <p>We also review the overall monitoring of the NPRF risk profile and fund performance.</p>
<p>CONTROL FRAMEWORK OF THE NTMA</p>	<p>The control framework of the NTMA is split between the responsibilities for monitoring the operations of the Global Custodian and the investment managers to the NPRF.</p> <ul style="list-style-type: none"> ➤ <i>Monitoring of Global Custodian</i> ➤ <i>Monitoring of Equity and Fixed Income Investment Managers and Currency Fund Managers</i> ➤ <i>Management of Alternative Asset Classes</i> ➤ <i>General IT controls at the NTMA</i>

Summary of internal audit approach

Activity	Key Audit Procedures
<p>ROLE OF NATIONAL TREASURY MANAGEMENT AGENCY – GLOBAL CUSTODIAN</p>	<p>The National Treasury Management Agency in its role as Manager to the Fund has established a specific group within Financial Control to monitor and control the operations of the Global Custodian. We plan to update our understanding and document the controls in operation, assess their contribution to the overall control environment and validate their operation. Our work will focus on testing:</p> <ul style="list-style-type: none"> ➢ Controls in place to monitor the overall performance of the Global Custodian ➢ 'Map' the SAS 70 of the Global Custodian to the activities of the NPRF and review for completeness ➢ Controls over the administration of the cash sweep and the uninvested cash of the Fund; ➢ Controls over the monitoring of foreign exchange exposures; ➢ Controls over the monthly review of Global Custodian valuations and the reconciliation of these valuations to the investment manager positions.

Summary of internal audit approach

Activity	Key Audit Procedures
<p>ROLE OF NATIONAL TREASURY MANAGEMENT AGENCY – EQUITY, FIXED INCOME AND CURRENCY FUND INVESTMENT MANAGERS</p>	<p>The National Treasury Management Agency in its role as Manager to the Fund, through the NPRF Unit, monitors and controls the operations of the investment managers and other service providers. We plan to update our understanding and document the controls in operation, assess their contribution to the overall control environment and where necessary validate their operation. Our work in this area will focus on:</p> <ul style="list-style-type: none"> ➢ Controls in place over the overall monitoring of investment managers performance, including the policy for the detailed manager review to ensure consistency with best practice. ➢ Performing a 'deep dive' for a selection of investment managers to ensure that the process is performed and is appropriate to requirements of the NPRF. <p>This is a change in emphasis from the prior year where we reviewed specific controls in operation, but not a review of the entire detailed process as applied to a selection of investment managers. This will allow us to identify the effectiveness of the overall process and potentially areas for efficiency.</p>

Summary of internal audit approach

Activity	Key Audit Procedures
<p>ROLE OF NATIONAL TREASURY MANAGEMENT AGENCY</p> <p>–</p> <p>ALTERNATIVE INVESTMENT CLASSES (INCLUDING INVESTMENTS NOT CUSTODIED BY THE GLOBAL CUSTODIAN)</p>	<p>We will review the current procedures in place for the management of Alternative Investments including the investments in Private Equity and Property as well as others which fall under the remit of the Alternative Investment Classes. We will update our understanding of the processes being used, identify, document and validate the key controls and assess their contribution to the overall control environment of the fund.</p> <p>We plan to focus on work on:</p> <ul style="list-style-type: none"> ➢ Controls in place at the due diligence stage (limited requirement for 2009) ➢ Controls over monitoring of performance within the Alternative Investment Classes ➢ Updating our understanding of systems in use

Summary of internal audit approach

Activity	Key Audit Procedures
<p>ROLE OF NATIONAL TREASURY MANAGEMENT AGENCY</p> <p>–</p> <p>DIRECTED INVESTMENTS</p>	<p>During 2009 the NPRF was directed by the Minister for Finance to invest €7 billion in Bank of Ireland and AIB Bank.</p> <p>As part of our internal audit work, we will consider:</p> <ul style="list-style-type: none"> ➤ the management of these investments and compliance by the NPRF with directions issued by the Minister for Finance; ➤ compliance with the policy and procedures adopted by the Commission to value these investments.

Summary of internal audit approach

Activity	Key Audit Procedures
<p>REVIEW OF GLOBAL CUSTODIAN</p>	<p>The Global Custodian operates the safekeeping / custody and fund accounting role for the NPRF. The custodian is responsible for ensuring that the assets of the NPRF are correctly valued and held in accordance with the governing documents of the NPRF.</p> <p>We will review the SAS 70 report in order to assess the level of reliance we can expect to place on certain control functions of the custody operations. We intend to 'map' the SAS 70 report and its controls to the NPRF and assess where there are control overlays in place with respect to any specific requirements of the NPRF.</p> <p>We will also review the user control considerations of the SAS 70 and the controls in place at the NPRF to manage these.</p> <p>From the results of the mapping and review of the user control considerations, we plan to visit certain locations of the Global Custodian (for the current year, this will consist of London and Pittsburgh) and confirm and, where possible, test NPRF specific controls and procedures performed by the Global Custodian that are supplemental to the controls in the SAS 70.</p>

Year-end testing

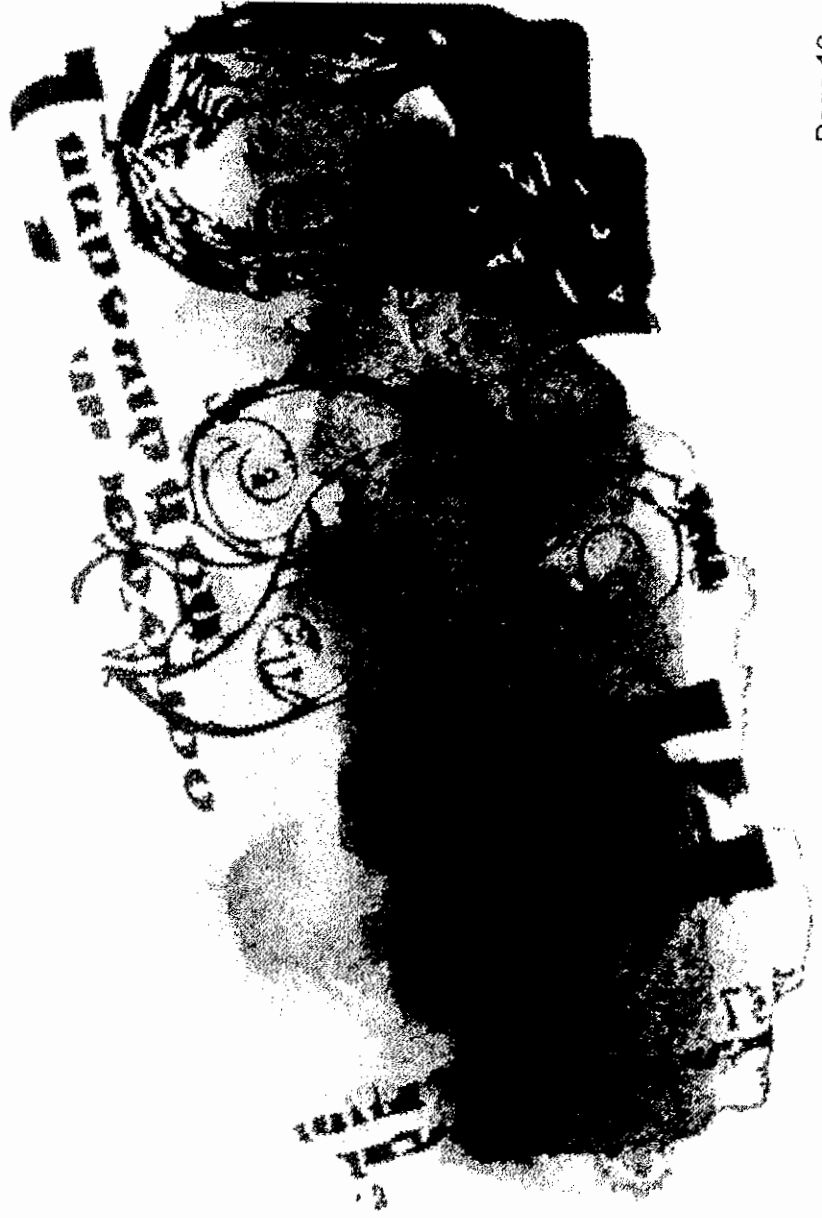
Part III



Year-end testing

<p>At year-end we plan to perform existence and valuation testing on the NPRF's investments using our proprietary automated Investment Management pricing and custody reconciliation software.</p> <p>On 31 December 2009, in accordance with the provisions of the Financial Measures (Miscellaneous Provisions) Act 2009, the Minister for Finance will transfer the assets of a number pension to the NPRF. These assets will not be transferred to the NPRF's Global Custodian until after the year-end. We have agreed with the NTMA that our year-end testing will include testing the valuation and existence of these investments. Our audit approach for these assets will follow the same principles outlined below. We are currently working with the NTMA to assess the quantity and type of assets and associated investment managers and administrators .</p>	<p>Valuation of Investments</p> <p>For "non alternative" investments security positions will be downloaded directly from the Global Custodian's or relevant administrator's fund accounting system and transmitted to our investment pricing group.</p> <p>The software will also run the prices against a number of other security pricing vendor feeds and will create a detailed analysis of how prices used differ from those obtained from other sources.</p> <p>For alternative investments we will review the valuations to ensure compliance with the pricing policies and procedures adopted by the Commission.</p>
<p>Existence of Investments</p> <p>Again, security positions are downloaded from the Global Custodian's or relevant administrator's custody system and compared to the information received from the fund accounting department using descriptions and security identifiers. A list of exceptions is automatically produced for follow up of reconciling items.</p> <p>For alternative investments we will request and obtain confirmation of the investment directly from the underlying administrator/Investment Manager and compare to the NPRF's records.</p>	

Our engagement team
Part IV



Our engagement team

Tony Weldon – Senior Relationship Partner
Phone: +353 1 792 6309
Fax: +353 1 792 8729
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Patricia Johnston-Transition Engagement Partner
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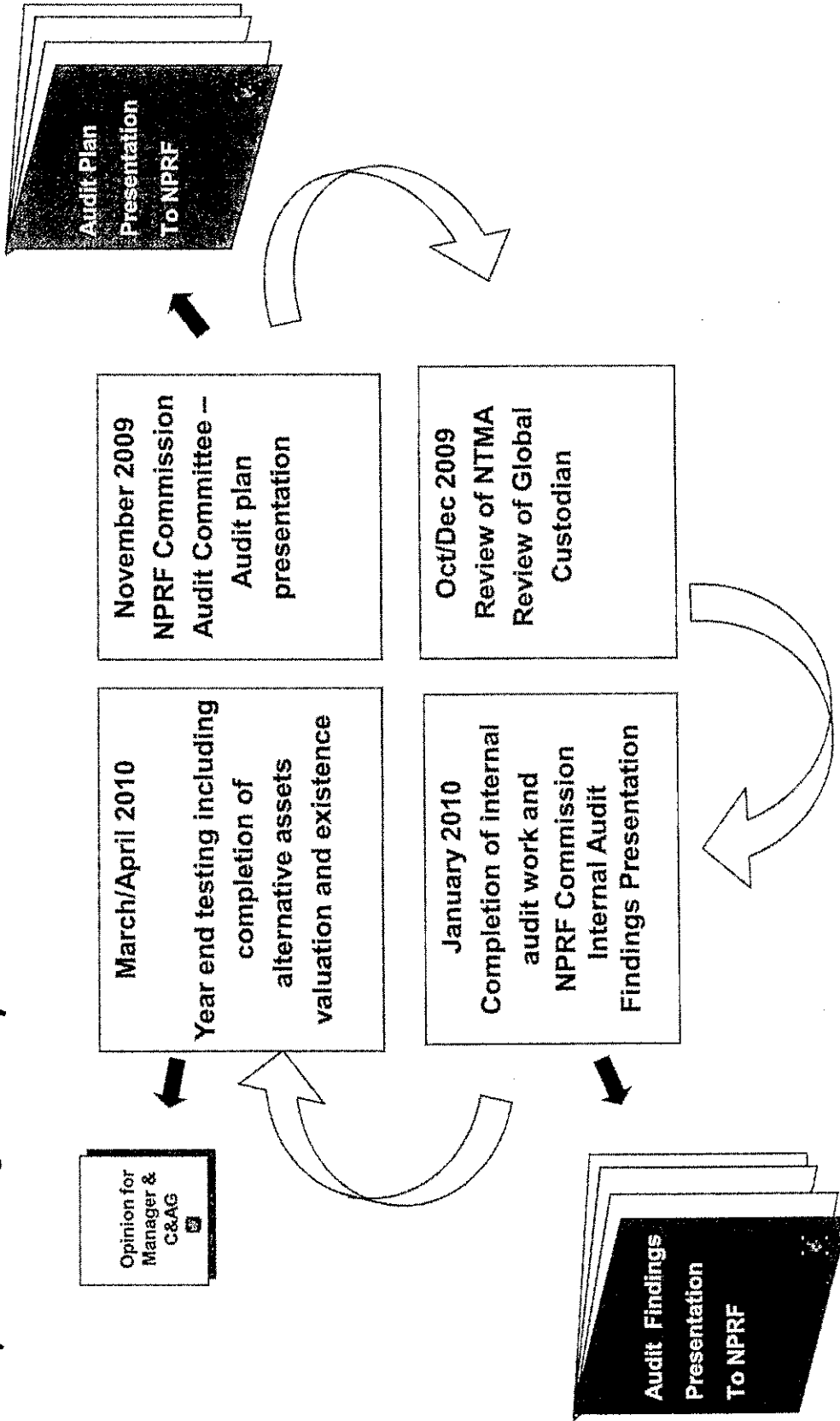
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Reporting requirements and timetable Part V



Reporting requirements and timetable



The matters discussed in this report are based on the information provided to us by the client. We have not conducted an audit and we cannot be held responsible for any errors or omissions. This report is for informational purposes only and should not be used as a basis for any financial or business decisions. No responsibility is assumed by the firm for any consequences arising from the use of this report.

National Pensions Reserve Fund

Internal audit plan presentation

For the year ended 31 December 2010



*connectedthinking


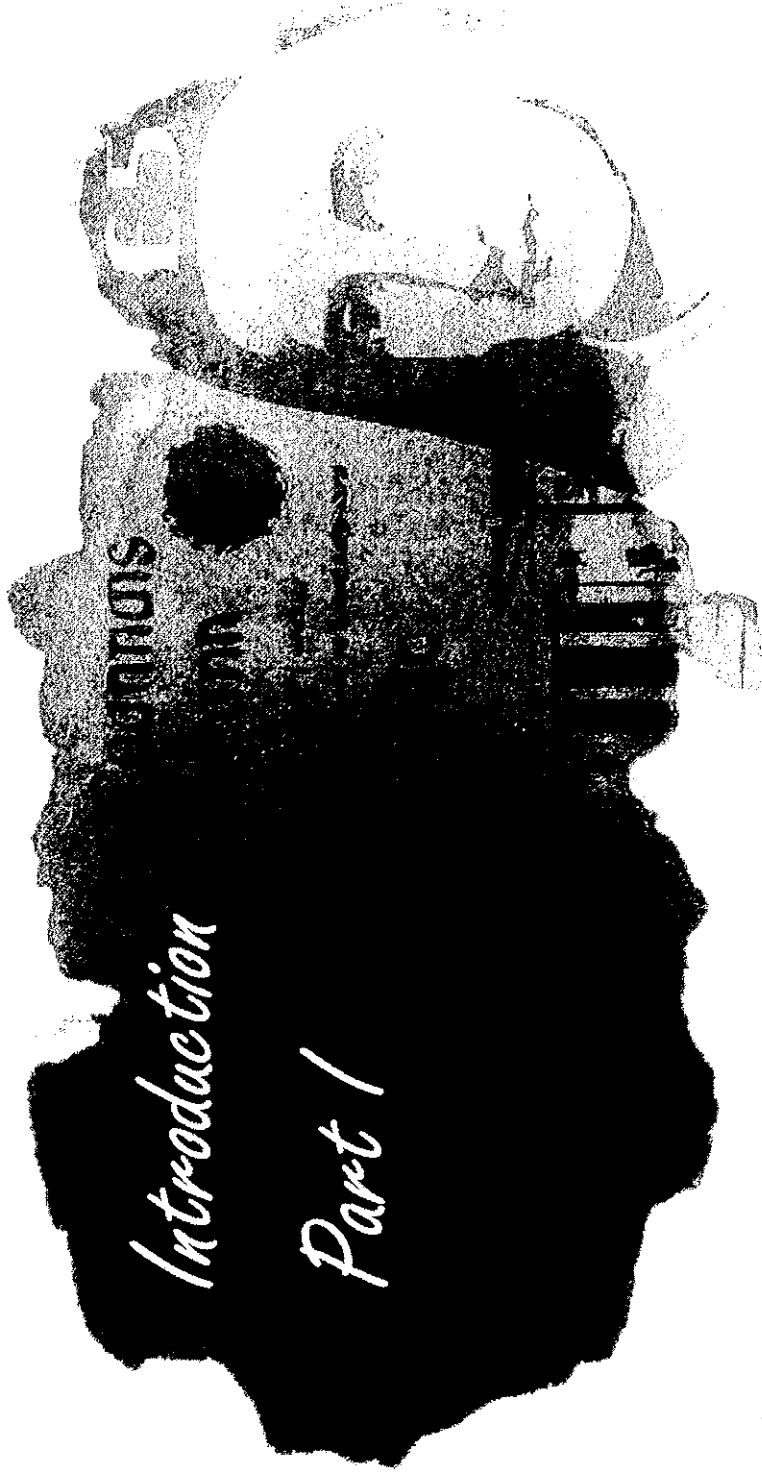
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Introduction

We are currently planning the internal audit of the National Pensions Reserve Fund (the 'NPRF') for the year ending 31 December 2010. We welcome this opportunity to present a brief summary of our expected procedures and to discuss our approach for the current year with the Audit Committee.

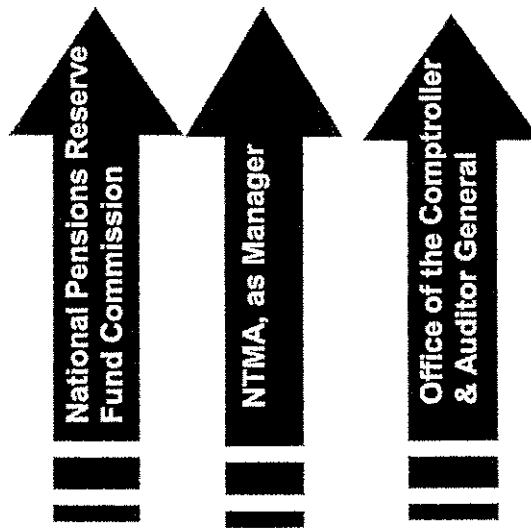
Our plan for 2010 builds on the knowledge and experience we gained from the testing and the results of the work performed in 2009 and prior years. We also incorporate changes in the NPRF's operations and investment strategy into our audit plan. This is discussed in more detail in Section III and IV where this impacts the year-end testing.

We welcome the views of the Audit Committee and greatly appreciate discussion and its input during this planning phase. This will assist us in addressing other areas of interest to the Audit Committee.

Introduction

Internal audit objectives

Our internal audit work is directed towards delivering assurance at three levels:



Independent opinion and findings report on the control environment of the NTMA, as Manager, the Global Custodian and the investment managers;

Assistance to the NTMA in discharging their responsibilities as Manager to the NPRF;

Assistance with the year-end audit of the NPRF in relation to the existence and valuation of NPRF assets.

Summary of internal audit approach
Part 11



Summary of internal audit approach

In our proposal document we outlined our internal audit methodology. We perform our risk assessment and share this with the Audit Committee. Our internal audit procedures are then designed to understand and test how these risks are managed.

As a result of our risk assessment, we believe that the key risks faced by the NPRF are:

- Properly safeguarding the assets of the NPRF
- Properly valuing the assets of the NPRF
- Monitoring controls to ensure that the NPRF's transactions are completely and accurately recorded
- Ensuring that investment transactions are performed in accordance with investment restrictions.

Furthermore, in accordance with the wishes of the Commission where possible we will identify areas where we believe that the internal controls operated are not in accordance with our knowledge of best practices in the investment management industry.

Summary of internal audit approach

The scope of our internal audit services takes into account the overall control environment of the NPRF. In summary, the control environment may be divided into four distinct areas:

- The governance and control framework of the NPRF Commission,
- The controls and monitoring framework of the National Treasury Management Agency (“NTMA”),
- The control environment of the Global Custodian, and
- The respective control environments of the investment managers to the NPRF.

For each of the areas above, we have detailed overleaf the procedures to be performed in more detail.

Summary of internal audit approach

Activity	Key Audit Procedures
<p>CONTROL FRAMEWORK OF THE NPRF COMMISSION</p>	<p>We will review the minutes of the NPRF Commission and the NPRF Audit Committee to assess the overall governance framework and determine any further internal audit procedures as a result of matters arising in those minutes.</p> <p>We also review the overall monitoring of the NPRF risk profile and fund performance.</p>
<p>CONTROL FRAMEWORK OF THE NTMA</p>	<p>The control framework of the NTMA is split between the responsibilities for monitoring the operations of the Global Custodian and the investment managers to the NPRF.</p> <ul style="list-style-type: none"> > <i>Monitoring of Global Custodian</i> > <i>Monitoring of Equity and Fixed Income Investment Managers and Currency Fund Managers</i> > <i>Management of Alternative Asset Classes</i> > <i>General IT controls at the NTMA</i>

Summary of internal audit approach

Activity	Key Audit Procedures
<p>ROLE OF NATIONAL TREASURY MANAGEMENT AGENCY – GLOBAL CUSTODIAN</p>	<p>The National Treasury Management Agency in its role as Manager to the Fund has established a specific group within Financial Control to monitor and control the operations of the Global Custodian. We plan to update our understanding and document the controls in operation, assess their contribution to the overall control environment and validate their operation. Our work will focus on testing:</p> <ul style="list-style-type: none"> ➢ Controls in place to monitor the overall performance of the Global Custodian ➢ 'Map' the SAS 70 of the Global Custodian to the activities of the NPRF and review for completeness ➢ Controls over the administration of the cash sweep and the uninvested cash of the Fund; ➢ Controls over the monitoring of foreign exchange exposures; ➢ Controls over the monthly review of Global Custodian valuations and the reconciliation of these valuations to the investment manager positions.

Summary of internal audit approach

Activity	Key Audit Procedures
<p>ROLE OF NATIONAL TREASURY MANAGEMENT AGENCY – EQUITY, FIXED INCOME AND CURRENCY FUND INVESTMENT MANAGERS</p>	<p>The National Treasury Management Agency in its role as Manager to the Fund, through the NPRF Unit, monitors and controls the operations of the investment managers and other service providers. We plan to update our understanding and document the controls in operation, assess their contribution to the overall control environment and where necessary validate their operation. Our work in this area will focus on:</p> <ul style="list-style-type: none"> > Controls in place over the overall monitoring of investment managers' performance, including the policy for the detailed manager review to ensure consistency with best practice. > Performing a 'deep dive' for a selection of investment managers to ensure that the process is performed and is appropriate to requirements of the NPRF. > Performing testing of the 'transition manager' process given the increased activity in this area during the year

Summary of internal audit approach

Activity	Key Audit Procedures
<p>ROLE OF NATIONAL TREASURY MANAGEMENT AGENCY</p> <p>—</p> <p>ALTERNATIVE INVESTMENT CLASSES (INCLUDING INVESTMENTS NOT CUSTODIED BY THE GLOBAL CUSTODIAN)</p>	<p>We will review the current procedures in place for the management of Alternative Investments including the investments in Private Equity and Property as well as others which fall under the remit of the Alternative Investment Classes. We will update our understanding of the processes being used, identify, document and validate the key controls and assess their contribution to the overall control environment of the fund.</p> <p>We plan to focus on work on:</p> <ul style="list-style-type: none"> ➢ Controls in place at the due diligence stage ➢ Controls over monitoring of performance within the Alternative Investment Classes ➢ Updating our understanding of systems in use ➢ Controls in place over ongoing monitoring alternative assets received as part of the Universities Pension Schemes transfers during 2010, where material.

Summary of internal audit approach

Activity	Key Audit Procedures
<p>ROLE OF NATIONAL TREASURY MANAGEMENT AGENCY</p> <p>- DIRECTED INVESTMENTS</p>	<p>During 2009 the NPRF was directed by the Minister for Finance to invest €7 billion in Bank of Ireland and AIB Bank.</p> <p>As part of our internal audit work, we will discuss and agree with you the scope of the work to be performed regarding:</p> <ul style="list-style-type: none"> ➢ the management of these investments and compliance by the NPRF with directions issued by the Minister for Finance; ➢ compliance with the policy and procedures adopted by the Commission to value these investments.

Summary of internal audit approach

Activity	Key Audit Procedures
<p>REVIEW OF GLOBAL CUSTODIAN</p>	<p>The Global Custodian operates the safekeeping / custody and fund accounting role for the NPRF. The custodian is responsible for ensuring that the assets of the NPRF are correctly valued and held in accordance with the governing documents of the NPRF.</p> <p>We will review the SAS 70 report in order to assess the level of reliance we can expect to place on certain control functions of the custody operations. We intend to 'map' the SAS 70 report and its controls to the NPRF and assess where there are control overlays in place with respect to any specific requirements of the NPRF.</p> <p>We will also review the user control considerations of the SAS 70 and the controls in place at the NPRF to manage these.</p> <p>From the results of the mapping and review of the user control considerations, we plan to visit certain locations of the Global Custodian (for the current year, this will consist of London and Boston) and confirm and, where possible, test NPRF specific controls and procedures performed by the Global Custodian that are supplemental to the controls in the SAS 70.</p>

Year-end testing

Part III



Year-end testing

<p>At year-end we plan to perform existence and valuation testing on the NPRF's investments using our proprietary automated Investment Management pricing and custody reconciliation software.</p> <p>During 2010, in accordance with the provisions of the Financial Measures (Miscellaneous Provisions) Act 2009, the Minister for Finance has transferred the assets of a number of pensions to the NPRF. We have agreed with the NTMA that our year-end testing will include testing the valuation and existence of these investments where they remain in the portfolio as at 31 December 2010. Our audit approach for these assets will follow the same principles outlined below.</p> <p>We understand that there may be new structures in place by 31 December 2010 which may include fund of hedge funds. We will confirm the audit approach when the new structures and hence scope of the year-end testing has been finalised.</p>	<p>Valuation of Investments</p> <p>For "non alternative" investments security positions will be downloaded directly from the Global Custodian's or relevant administrator's fund accounting system and transmitted to our investment pricing group.</p> <p>The software will also run the prices against a number of other security pricing vendor feeds and will create a detailed analysis of how prices used differ from those obtained from other sources.</p> <p>For alternative investments we will review the valuations to ensure compliance with the pricing policies and procedures adopted by the Commission.</p> <p>Existence of Investments</p> <p>Again, security positions are downloaded from the Global Custodian's or relevant administrator's custody system and compared to the information received from the fund accounting department using descriptions and security identifiers. A list of exceptions is automatically produced for follow up of reconciling items.</p> <p>For alternative investments we will request and obtain confirmation of the investment directly from the underlying administrator/Investment Manager and compare to the NPRF's records.</p>
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Our engagement team
Part IV



Our engagement team

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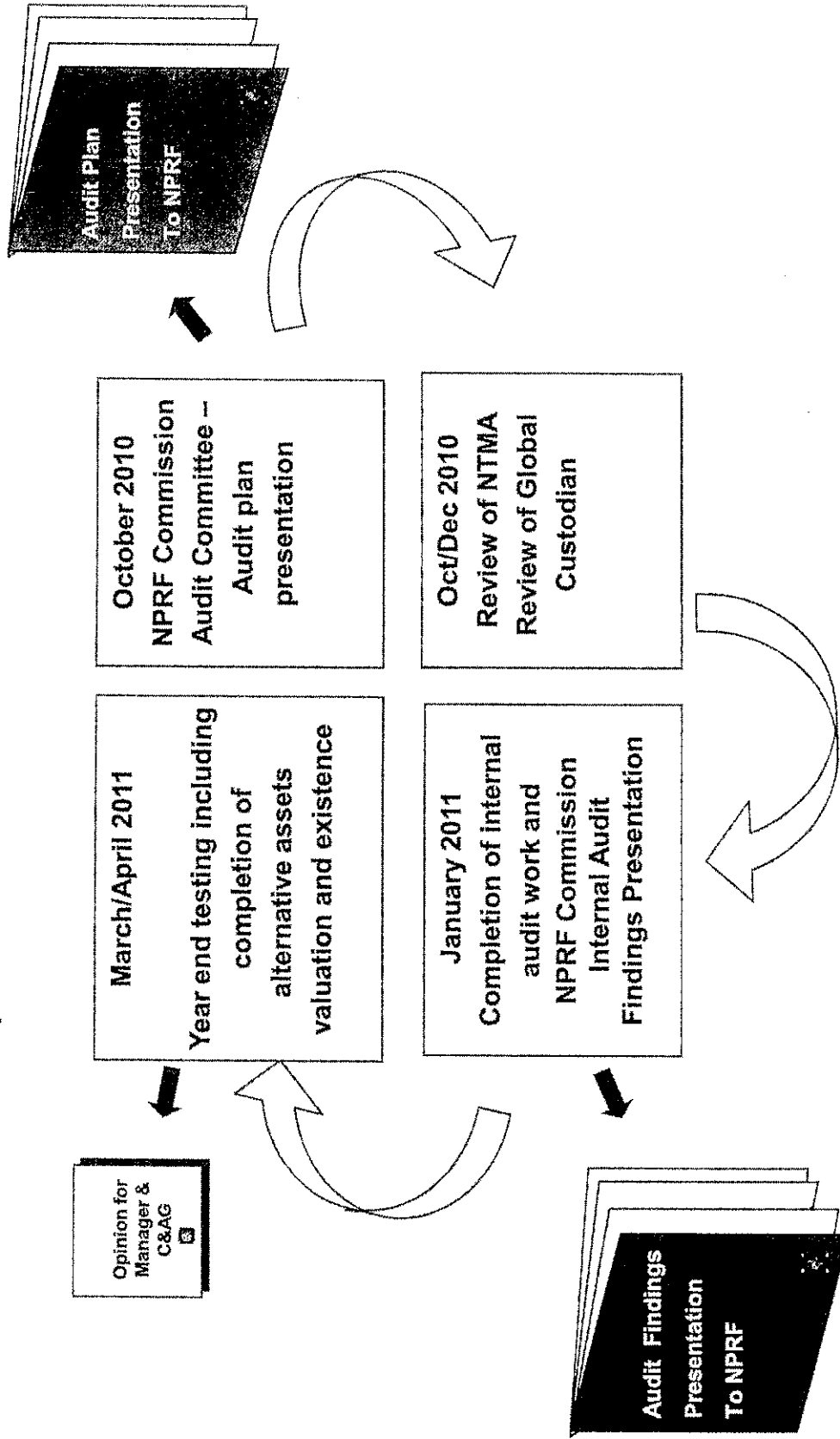
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Reporting requirements and timetable
Part V



Reporting requirements and timetable



This matters as if this is another report that will flow from the internal audit process and any issues that arise will have to be brought to the attention of the relevant authority. We believe need to be brought to your attention. They are not a comprehensive record of the matters arising, and in particular we cannot be held responsible for reporting all risks in your business or all internal control weaknesses. This report has been prepared solely for your use and should not be published or made available to any third party without our written consent. No responsibility for any third party's acceptance of the report has been prepared or should be prepared for any other purpose.

THE HIGH COURT

RECORD NO. 2020/53MCA

In the matter of the Freedom of Information Acts

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "M" referred to in the Affidavit of Maurice D. Landers

Sworn before me by the said



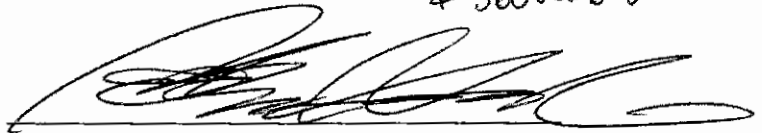
on the 12 day of November 2020, at

in the city/county of New York

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (NYS Driver License)
containing a photograph # 560566698

Andrew Almonte
Notary Public, State of New York
No. 01AL6392824
Qualified in Queens County
Commission Expires 06/03/2023



Commissioner for Oaths/Practicing Solicitor

It looks like Guaranteed Irish has been making strong recent efforts to build its membership base, which is very important.

Third, I, and I'm speaking as an individual here as opposed to on behalf of Opportunity Ireland, submitted complaints against PwC, ICAI and the NPRF/NTMA to the Office of the Director of Corporate Enforcement (ODCE) in the hope that any decision/ruling by them on my complaints would corroborate my case before the High Court in early 2022. Attached are the decision letters I received from the ODCE (not to be confused with the OECD above). Also attached are my replies and my earlier communications with the Office - Attachment A provides the correct sequence of communications/attachments which you can follow. **The ODCE has effectively refused to investigate my complaints, thereby protecting those involved.** If the ODCE does not do an investigation, **they will have broken the law**, simple as that.

I have not heard back from the ODCE since their second decision letter and my reply to it. They would have replied by now based on the time it took them to reply to my first reply to their first decision letter. So, what does this mean? It means they're either not going to do an investigation no matter what even though they're obligated under law to do one and my complaints end with their decision letters (remember, if they investigate I believe they will have no choice but to hold PwC and ICAI accountable and this will open up a can of worms - a domino effect - because it will reveal all the other bogus decisions/rulings on my case by all the other Irish Government oversight bodies) OR they're going to wait it out until after my High Court hearing (even though the reason I had approached the ODCE was to try and get them to corroborate my High Court case) and then copy the judge's ruling, that is, which way the wind blows, in which case they will pick up where their letters left off and claim to have been doing an investigation all along even though who the hell needs them at that point. There's independence for you!

Fourth, in one of my replies to the ODCE, I state in part:

"In the case of Chartered Accountants Ireland (ICAI), I have alleged/proven a clear case of fraud on their part as detailed in my final Report (<https://www.failte32.org/wp-content/uploads/2019/10/Final-Report.pdf>), which you have already received? In the case of PwC, I have alleged they **lied about the scope** of their engagement as internal auditor of the National Pensions Reserve Fund (NPRF) in 2010."

Let's take the PwC allegation immediately above.

I attach to this email all three internal audit plan presentations for **2009, 2010 and 2011** (FYI, I only included the presentation for 2010 in my Final Report, under Recent Developments, attachment F, as the crime on the part of the Irish Government relates to this period). While I believe I will need the actual internal audit plan itself to definitively prove that PwC **lied about its scope** (hence the reason why those who can access it either won't release it to me or deny its existence), upon reading the 2010 **presentation**, I believe it does nevertheless corroborate my complaint that **PwC lied about the scope of the actual internal audit plan**. In other words, it reflects to some extent the scope of the internal audit plan. It does seem that even without having possession of the actual internal audit plan, the allegations I made in my **complaints** to the ODCE and also in my **Reports** are within the scope of PwC's internal audit plan, contrary to PwC's position. For a summary of the allegations I made in my Reports (similar to my complaints to the ODCE) if you're interested, see p.4 of my 'one pager' Report, <https://www.failte32.org/wp-content/uploads/2019/12/One-Pager-A-Case-Of-Mismanagement-Of-Irish-Government-Funds.pdf>

I did state however in my Final Report (2019), link further above, p.30:

"I finally received 'something' from the NTMA FOI Unit, a 'power point' presentation seemingly of PwC's audit plan for the NPRF for the year ended December 2010 (Attachment F). I don't know what to make of this document, whether it was put together last month, what was added/subtracted from it. But, because it's not even close to what I had asked for, you can be sure that all the suspicions I had of the NTMA's motives were correct and on point (Attachment C and Attachment F)."

i.e "...whether it was put together last month, what was added/subtracted from it."

If you look at the audit plan presentation for 2009, you will see that it was patchworked together from audit plan presentations from other years because if you look at each page starting on the second, you'll notice that the year of the document identification on the bottom left corner of each page, which states, "Internal Audit Plan for the year ended 31 December 2009 Pricewaterhouse Coopers", changes to the year 2008 on pages 18 and 19. Likewise, if you look at the 2010 presentation, the year of the document identification on page 9 is different from all other pages. So, PwC/NPRF just patched these presentations together just to give me something and we have no way of knowing how authentic they are or what has been added/subtracted.

Nevertheless, following, I'll make a few points, by quoting from the PwC/ NPRF 2010 audit plan **presentation**, that I believe at a minimum the ODCE could have made themselves in a ruling on my complaint/s to corroborate my upcoming High Court case. They could have also included in their ruling the presentation patchwork as detailed above, and in fact they could have used their enforcement powers to request a copy of the actual internal audit plan from PwC which I believe will prove the two allegations I made in my complaint against PwC, that is, PwC was neglectful in its duties, and it lied about the scope of the 2010 internal audit plan.

The ODCE was provided this audit plan presentation (2010) by me. But with all the enforcement powers the ODCE has at its disposal, which the Irish public has bestowed upon its members, including Ian Drennan and Marian Lynch, to serve the public interest, the ODCE isn't going to do a damn thing about it. It will instead protect those who have lied to and cheated the Irish public. I have even done most of the work for them as regards holding ICAI accountable by **proving fraud on ICAI's part** as mentioned further above and they won't even pursue this matter.

Part I of the internal audit plan presentation states:

"Internal audit objectives

Our internal audit work is directed towards delivering assurance at three levels:

Independent opinion and findings report on the control environment of the NTMA, as Manager, the Global Custodian and the investment managers;

Assistance to the NTMA in discharging their responsibilities as Manager to the NPRF;

Assistance with the year-end audit of the NPRF in relation to the existence and valuation of NPRF assets."

Re. first level assurance above, the internal audit plan itself therefore had a control aspect to it, which would include the disbursement of funds from the NPRF i.e. where the money is going. Had this aspect been practiced by PwC, they could have prevented the NPRF/NTMA from circumventing its mandate and doling out \$50M of Irish tax payer funds to an entity that it seems invested very little of it in Ireland (I made this allegation against the NPRF/NTMA in one of my complaints to the ODCE, but they claimed the NPRF/NTMA is outside their remit).

And, as per the third level assurance above, I allege in my complaint that PwC was neglectful in its duties, and likely committed a fraudulent act, by not informing the appropriate bodies that the NPRF Commission misrepresented a transfer of funds from the NPRF to IFI (i.e. from one public entity to another) in the NPRFC Annual Report and Financial Statements 2010 as being an investment in a private entity under the NPRF's private equity mandate. <https://www.failte32.org/wp-content/uploads/2015/08/NPRFReport2010.pdf>

Clearly, the "existence and valuation of NPRF assets" was within PwC's scope of engagement with the NPRF. If you're going to transfer out \$50M from the NPRF or indeed any organization, while I'm not a CPA, I'm guessing it would affect the existence and valuation of NPFR assets. So how could PwC have missed this?

PwC's letter to me states:

"We were not engaged to prepare or review the financial statements of the NPRF for the year ended 31 December 2010."

https://www.failte32.org/wp-content/uploads/2018/02/PwC_1.pdf

Obviously, this is incorrect as the third level of assurance above links PwC's internal audit work with the financial statements of the NPRF to the extent that PwC had to provide "Assistance with the year-end audit of the NPRF in relation to the existence and valuation of NPRF assets."

Part II

The first line of the 'Summary of internal audit approach' states:
"In our proposal document we outlined our internal audit methodology."

Therefore, there was an engagement letter/internal audit plan document before the audit plan presentation. This is important because the NPRF/NTMA made the excuse that there was never an actual internal audit plan, only the presentations. While they referred to the part in the FOI Act that allows them to refuse a request based upon whether a document **does not exist** or **cannot be found**, that is:

"Refusal on administrative grounds to grant FOI requests, 15.(1) A head to whom an FOI request is made may refuse to grant the request where - (a) the record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken."

the actual decision by the NPRF/NTMA was that it **did not exist** as opposed to **cannot be found**. Obviously, you can only chose one or the other (you can't claim it doesn't exist just because you cannot find it?) It stated in its decision letter on Nov. 8, 2019:

"Accordingly, I am refusing this request on administrative grounds pursuant to Section 15(1)(a) of the FOI Act (set out below for ease of reference) on the basis that the records that you have requested do not exist, and the records with the most relevance to your request have been released to you in full already, namely the internal audit plan presentations."

(you can only laugh when they say "with the most relevance" even though I can only definitively prove my allegation that PwC lied about the scope of the internal audit plan by being provided access to the internal audit plan itself...they're as slippery as the ODCE!)

By choosing the "do not exist" option over the "cannot be found" option in the Act, the NPRF/NTMA cleverly tries to avoid the possibility of a higher authority subsequently doing an onsite search for the actual plan itself. Even just based on the first line of the 'Summary of internal audit approach' above, we all know now that it does in fact exist.

The 'Summary of internal audit approach' continues:

"As a result of our risk assessment, we believe that the key risks faced by the NPRF are:
Properly safeguarding the assets of the NPRF
Properly valuing the assets of the NPRF
Monitoring controls to ensure that the NPRF's transactions are completely and accurately recorded
Ensuring that investment transactions are performed in accordance with investment restrictions."

Let's take the first one, "Properly safeguarding the assets of the NPRF". **Is that a fact?**

PwC allowed the NPRF to dole out \$50M under Innovation Fund Ireland (IFI) to another Irish Government entity under the guise of a private equity investment, who then doled it out to a venture capital fund who then it seems took most of the \$50M out of the country (Ireland), likely to Russia so that a former Irish Government Minister overseeing IFI could pay his way, on a quid pro quo basis, into the Russian biotech scene after he (and his party) was kicked out of Government.

Let's take the second one, "Properly valuing the assets of the NPRF". **Is that a fact?**

According to the NPRF's Annual Report and Financial Statements 2010 (link above **Part 1**), they allocated Euro 66.8M to IFI, an Irish Government entity, under the NPRF's private equity allocation. Are we meant to believe that PwC doesn't know the difference between a private entity and a public one!

Let's take the third and fourth ones, "Monitoring controls to ensure that the NPRF's transactions are completely and accurately recorded" and

"Ensuring that investment transactions are performed in accordance with investment restrictions." **Is that a fact?**

Both risk statements have the word "transactions" in them. One of my allegations against the NPRF/NTMA is that they misrepresented a transfer of funds from the NPRF/NTMA to IFI (one government entity to another) as an investment in a private equity fund in their 2010 accounts. Are we meant to believe that PwC doesn't know what a transaction is!

Additionally, PwC, had it practiced the fourth risk statement above, could have determined, before I did (my very first allegation back in 2014 <https://www.failte32.org/wp-content/uploads/2014/05/Appendix-C-My-own-analysis.pdf>), that funds were being disbursed by the NPRF/NTMA under a competitive tender process (IFI) before all other applicants were fairly evaluated. As per my first Report, I state:

"I believe the NPRF unfairly and unjustly awarded \$50M of Irish taxpayer money to a U.S. based venture capital firm (VC firm) under Innovation Fund Ireland (IFI) before all other investor applicants were fairly evaluated i.e. the NPRF and EI should have followed the same evaluation process required under law for competitive tenders/expressions of interest such as IFI."

PwC's internal audit could have prevented this.

Part III

Under 'Year-end testing' it states, "We understand that there may be new structures in place by 31 December 2010 which may include fund of hedge funds. We will confirm the audit approach when the new structures and hence scope of the year-end testing has been finalised."

Obviously, if the scope of the internal audit plan applies to fund of hedge funds, then it also applies to private equity, both of which are **alternative investments**. So, PwC's terms of reference (scope) in their engagement letter (i.e. internal audit plan - referenced as "engagement letter" by PwC in their letter to me, link above in **Part 1**) clearly includes year-end testing of the NPRF/NTMA's private equity portfolio (PwC was obligated to do this year-end testing), and therefore PwC should be held accountable under the allegations I have made. PwC's letter states in part, "Our work was performed in accordance...with the terms of reference as set out in our engagement letter."

Testing by PwC of private equity positions (valuation/existence of investments) under the internal audit plan would clearly have revealed that IFI was a government structure and not a private equity one.

Under the Valuation of Investments' box, it states:

"For alternative investments we will review the valuations to ensure compliance with the pricing policies and procedures adopted by the Commission."

and under the Existence of Investments' box, it states:

"For alternative investments we will request and obtain confirmation of the investment directly from the underlying administrator/Investment Manager and compare to the NPRF's records."

Therefore, testing alternative investments (private equity) was a core function of the internal audit plan.

If these testing requirements were carried out by PwC for the private equity portfolio, PwC would have easily determined that IFI was a government entity and not a private one. Obviously, PwC ignored these testing requirements likely to cover up for the NPRF/NTMA (there is no difficulty in doing this type of testing nor is there any excuse for not doing it) even though the Irish taxpayer paid PwC to do this testing.

Part V

I'm not an expert or a CPA but as regards reporting requirements in Part V of the audit plan presentation (2010), I find it hard to believe that the NTMA could only find these internal audit plan presentations in its 'exhaustive' (I feel exhausted myself!) FOI search and not any other reporting documents as shown in the timetable. I believe the timetable also supports the first part of **Part II** above i.e. Therefore, there was an engagement letter/internal audit plan document before the audit plan presentation.

Incidentally, as regards the internal audit plan, the NPRF/NTMA claimed that it **never existed** while PwC **lied about its scope** (I know, it both exists and doesn't exist depending on who you ask!).

The only document the National Pensions Reserve Fund (NPRF/NTMA) provided me after I exhausted their FOI process, as detailed in my Final Report, was an internal audit plan **presentation** (three in fact, but the 2010 presentation is related to the year upon which my case is based) as opposed to the actual internal audit **plan**. The NPRF/NTMA claimed that the internal audit plan **never existed**. My Reports (all of which the ODCE has received) have proven that it does indeed exist and my upcoming High Court hearing in 2022 will also prove this, and that the NPRF lied, as did the Information Commissioner when he supported the NPRF's position in his final ruling on the matter. My Notice of Motion to the Irish High Court includes an order that the internal audit plan document if released be authenticated so that

whichever body has to provide it cannot release a forged or backdated document in its place, which is a strong possibility based on my experience with these bodies so far.

Although I submitted a complaint which included the above allegation that the NPRF/NTMA lied about the existence of the internal audit plan, the ODCE's decision letter stated in part, "Issues relating to the NPRF/NTMA/ISIF are not a matter for this Office."

Finally, we hope we have further convinced the international community of how organizations like the ODCE are absolutely meaningless and as compromised as all other Irish oversight bodies we have reached out to. Another case of accountability denied in Ireland by the use of word play in the formal communications of Irish Government agencies in order to avoid having to do an investigation. The Irish Government has treated the Irish people in general in a disrespectful manner for many decades, repeatedly lying to them and covering up for the crimes of their members, and the ODCE certainly seems to be continuing to facilitate this type of behavior/culture. According to the article (link) below, the Irish Government has even: "Ireland, for its own benefit, has robbed poor working people around the world of tens of trillions of dollars. Huge quantities."

<https://www.irishtimes.com/culture/noam-chomsky-ireland-has-robbed-poor-working-people-of-tens-of-trillions-of-dollars-1.4697373>

i.e. "around the world"!

At the risk of sounding too forward, we now sincerely believe that such behavior/culture is arguably a psychiatric condition, that has even been assimilated into statute in terms of protection of corruption. That's why, in large part, this behavior/culture never changes. Shouldn't research be done on this? We literally have adults in their 30's, 40's, 50's and upwards acting out behaviors (perpetrators of cover ups, cheating, stealing, lying etc.) that should have been addressed and gotten out of their systems as adolescents. While there's never an excuse to behave this way at any age, it certainly is a psychiatric condition when you behave like this outside of adolescence.

Do we accept that we elect our representative to behave this way? When did this become the norm? Since when did our elected representatives become untouchable? Why do 'We the People' allow this? I never voted for anyone to rob taxpayer dollars or to lie to me. Did any of you? As we stated at the end of our first Report back in 2015:

"Clearly nothing much has changed in practice in Ireland since the worst financial crisis in our history, which just goes to show you how resilient corruption really is. So what are you prepared to do? (a quote by Sean Connery in the movie The Untouchables, better heard in his accent)"

During the recent financial crisis, many in Ireland attacked (and we commend them for doing so) the 'Cute Hoor' mentality, which according to Wikipedia is:













"Cute Hoor and, by extension, "cute hoorism", is a cultural concept in Ireland where a certain level of corruption is forgiven - or sometimes even applauded^[1] - of politicians or businessmen."

We're quite familiar with its use having heard it being used all too often back in the 80's. The only people who should be applauded are those who have become successful by behaving in an honest and ethical manner (and we're referring to monetary success here, which isn't easy for most of us, as money is what members of the Irish Government are always trying to get their hands on...there are of course many other non-monetary measures of success that are much more important in life in general)

We'll end by referring to remarks the Tánaiste (Irish Deputy Prime Minister) made recently, quoted in the Irish Times, where he warned other governments about the UK. We know, we found it humorous too :)

The Irish Times stated:

"His remarks came after Tánaiste Leo Varadkar warned other governments doing trade deals with the UK that it has shown that it is a nation that "doesn't necessarily keep its word and doesn't honour agreements that it makes."

-  Attachment A.pdf
205.2kB
- ✓  PwC_1.pdf
283.6kB
- ✓  ODCE_Complaint_Form_June_2021.docx *PwC (in part)*
145.2kB
- ✓  ODCE_Complaint_Form_June_2021 (1).docx *ICAI (in part)*
145.3kB
- ✓  ODCE_Complaint_Form_June_2021 (2).docx *NTMA (in part)*
145.6kB
-  2021 Acknowledgement to M Landers.pdf
64.5kB
-  2021 acknowledgement 16 Sept to Mr Landers.pdf
64.3kB
-  2021 letter dated 4 October (1).pdf
163kB
-  2021 Letter dated 11 Oct.pdf
124kB
- ✓  Audit plan 2009.pdf
6.9MB
- ✓  Audit plan 2010.pdf
6.6MB
-  Audit Plan 2011.pdf
327.2kB

} Exhibit L



pwc

Private and confidential

Mr Maurice Landers
(by e-mail to failte32@gmail.com)

3 June 2019

Dear Mr Landers,

I note receipt of your e-mail to my colleague, Ms Kate O'Dowd of 22 May 2019 and 23 May 2019.

I have been advised that this matter has been considered and closed by the professional standards unit of Chartered Accountants Ireland.

We are not in a position to provide client confidential information to any third party, nor to comment on client specific affairs.

Yours sincerely,


PricewaterhouseCoopers

*PricewaterhouseCoopers, One Spencer Dock, North Wall Quay, Dublin 1, Ireland, I.D.E. Box No. 137
T: +353 (0) 1 792 6000, F: +353 (0) 1 792 6200, www.pwc.ie*

Faergal O'Rourke (Managing Partner - PricewaterhouseCoopers Ireland)

Oliwyn Alexander Paul Barrie Brian Bergin Fidelma Boyce Donal Boyle Damian Byrne Pat Candon John Casey Mary Cleary Siobhán Collier Thérèse Cragg Richard Day Fiona de Búrca John Dillon Ronan Doyle John Dunne FCCA Kevin Egan Martin Freyne Aisla Hayden FCCA Olivia Hayden Gerath Hynes Ken Johnson Patricia Johnston Parale Joyce Andraea Kelly Joanne P. Kelly John Loughlin Gillian Lowth Vincent MacMahon Declan Maunsell Enda McDonagh Shane McDonald John McDonnell Dairdre McGrath Ivan McLoughlin Declan Murphy Damian Neylin Andy O'Callaghan Jonathan O'Connell Aoife O'Connor Daris O'Connor Paul O'Connor Irene O'Keefe Ger O'Mahoney Padraig Osborne Ken Owens Anthony Reidy Mary Ruane Emma Scott Mike Sullivan Billy Sweetman Paul Tuite

Located at Dublin, Cork, Galway, Kilkenny, Limerick, Waterford and Wexford

Chartered Accountants

Are you prepared to make a formal statement and attend court to provide evidence in relation to issues arising from this complaint?

YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
-----	-------------------------------------	----	--------------------------

Please note that such cooperation will often be necessary.

DETAILS OF THE COMPANY/PERSON(S) THE SUBJECT OF YOUR COMPLAINT

Company Name: PricewaterhouseCoopers (PwC) Company
Number: _____

Address: PricewaterhouseCoopers, One Spencer Dock, North Wall Quay, Dublin 1, Ireland,
I.D.E. Box No. 137

Postal Code/Eircode: _____

First Name: Feargal Last Name: O'Rourke

Title Mr/Mrs/Ms/Miss/ if other please state: Mr

Address: Same as
above

Postal Code/Eircode: _____

Phone Number: +353 (0) 1 792 8552 Email: kate.odowd@ie.pwc.com

Have you complained to the company or director in writing?

YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
-----	-------------------------------------	----	--------------------------

Before contacting us, you should complain to the company/director in writing and allow 14 days to respond. Please attach copies of any correspondence with the company.

Has there been any Court action relating to your complaint or is any planned:

If so, please provide full details of your complaint".

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	<u>See</u> <u>'Details of</u> <u>Your</u> <u>Complaint'</u> <u>below</u>
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on the page "Details of your

Have you brought your complaint on this matter:

to the attention of another body

YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
-----	-------------------------------------	----	--------------------------

If the Garda Siochana: please provide the name of the station, the member's name and PULSE number: See <https://www.failte32.org/2019/12/new-development-after-my-reports-published/>

Section (F) (3)

If the Revenue: please provide address to which the complaint was sent:

NATURE OF ALLEGED BREACHES OF COMPANY LAW

The following is a list of common concerns under company law. To the extent that this is relevant to your complaint, please tick 'YES' in the box(es) which most closely correspond to your concerns. **In any event, proceed on the following page to describe the substance of your complaint:**

- | | | |
|--------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Acting as an auditor, liquidator, etc., while unqualified: |
| <input type="checkbox"/> | <input type="checkbox"/> | Acting as a director or officer of a company while restricted, disqualified or an undischarged bankrupt, whether in this State or elsewhere: Please provide the date of restriction/disqualification and, if overseas, the Court and address concerned: |
| <input type="checkbox"/> | <input type="checkbox"/> | Failure to provide on request certain company registers for inspection (e.g. the registers of members, debenture holders, directors and secretaries or directors' and secretary's interests): |
| <input type="checkbox"/> | <input type="checkbox"/> | Failure to provide access to the minutes of AGM/EGM (members and others are not entitled to the minutes of a Board of Directors meeting): |
| <input type="checkbox"/> | <input type="checkbox"/> | Failure to maintain company registers or to file statutory documents with the CRO: |
| <input type="checkbox"/> | <input type="checkbox"/> | Failure to provide full details of directors' and company secretaries' names, residential addresses, dates of birth, other directorships or interests in company registers or in filings to the CRO: |
| <input type="checkbox"/> | <input type="checkbox"/> | Failure to keep adequate accounting records: |
| <input type="checkbox"/> | <input type="checkbox"/> | Failure to hold an Annual General Meeting at the required time: |
| <input type="checkbox"/> | <input type="checkbox"/> | Failure to register a prospectus before offering shares to the public: |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Failure by an auditor, liquidator, receiver or examiner to comply with statutory obligations: |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Providing false information or documentation in purported compliance with a company law provision: |
| <input type="checkbox"/> | <input type="checkbox"/> | Providing/presenting false information or documentation to the CRO: |

- Destroying, mutilating or falsifying documents:
- Trading as a company with limited liability while not so incorporated:
- Trading whilst dissolved (invoice or statement **should be attached**):
- Incorrect registered office address:
- Knowingly carrying on company business with intent to defraud creditors or for a fraudulent purpose:
- Company having no directors resident within a Member State of the European Economic Area (E.E.A.). See appendix 1 for list of E.E.A. members:
- Inaccurate, inadequate or misleading address of a company and or a director or company secretary.

DETAILS OF YOUR COMPLAINT (Please be as precise as possible and type if feasible)

Copy of letter received from PwC - see Exhibit 15, p.182, update Report. Please also see attached letter from Ronan Doyle, PwC.

Regarding the X's in the section immediately above titled, '**NATURE OF ALLEGED BREACHES OF COMPANY LAW**', I just thought these might apply here. However, I assume you will reference my complaint against the Companies Act in its totality.

There is a Court action 'relating' to my complaint. I have brought a case to the Irish High Court that, although not directly against PwC, might be corroborated by your decision on my complaint.

My complaint, in summary, is as follows:

I asked PwC to investigate my allegation that the NPRF Commission misrepresented a transfer of funds from the National Pensions Reserve Fund (NPRF/NTMA) to Innovation Fund Ireland (IFI) (i.e. from one public entity to another) in the NPRFC Annual Report and Financial Statements 2010 as being an investment in a private entity under the NPRF's private equity mandate. See update Report, Section 2, EMAIL 2

No investigation was conducted.

PwC in its only response to my request lied about its scope of services thereby avoiding responsibility for the above allegation. See update Report, Section 3, Reply H - PwC

Since PwC was the internal auditor for the NPRF in 2010 (see 'NPRF Commission Annual Report and Financial Statements 2010' in my update Report, p.29), and is clearly referred to in the 'Oversight' and 'Key Control Procedures' sections (p.29/30 & 42), it was neglectful in its duties, and likely committed a fraudulent act, by not informing the appropriate bodies that the NPRF Commission misrepresented a transfer of funds from the NPRF to IFI (i.e. from one public entity to another) in the NPRFC Annual Report and Financial Statements 2010 as being an investment in a private entity under the NPRF's private equity mandate.

Therefore, PwC violated the Companies Acts on two counts.

The "engagement letter" referenced by PwC in its only letter to me will I believe be able to prove my allegations above, however all those who have this document in their possession, including PwC, have refused to provide it to me. The NTMA has claimed that it doesn't exist, which is a lie, as other oversight bodies as detailed in my Reports have confirmed its existence (e.g. Final Report, Attachment 1, Attachment A and Attachment D).

Although I reference certain Reports above, I submit to the ODCE all of my Reports (first, update, final and 'one pager') to further support my allegations. Additionally, perhaps you may be able to determine from my Reports further violations on the part of PwC and any of the oversight bodies mentioned in my Reports that I, not being entirely familiar with the Companies Act, might have missed.

The ODCE can compel the release of this audit plan/engagement letter from PwC based upon its enforcement powers under the Companies Acts.

My complete complaint can be accessed on my website, Failte32.org, specifically my four Reports at <https://www.failte32.org/2019/12/new-development-after-my-reports-published/> i.e. first (inc. summary docs), update, final and 'one pager'.

My signature is typed above and below. You can accept this as my signed by hand signature (sent via my email address). If you require an actual signed by hand signature, please let me know asap and I can provide it.

To support your case, please send copies of any letter, email or contact with the company. Include any information you think is helpful. **If you need more space**, please use extra pages and attach to this form

DETAILS OF OTHER PERSONS WHO CAN PROVIDE ASSISTANCE

Title Mr/Mrs/Ms/Miss _____

First Name: _____ Last Name: _____

Are you prepared to make a formal statement and attend court to provide evidence in relation to issues arising from this complaint?

YES NO

Please note that such cooperation will often be necessary.

DETAILS OF THE COMPANY/PERSON(S) THE SUBJECT OF YOUR COMPLAINT

Company Name: Chartered Accountants Ireland _____ Company
Number: _____

Address: __Chartered Accountants House, 47-49 Pearce St., Dublin 2, DO2
YN40 _____

Postal Code/Eircode: _____

First Name: __Carine_____ Last Name:
_____Pessers_____

Title Mr/Mrs/Ms/Miss/ if other please state: __Ms_____

Address: _____Same as
above_____

Postal Code/Eircode: _____

Phone Number: __01 637 7200_____ Email:
Carine.Pessers@charteredaccountants.ie

Have you complained to the company or director in writing?

YES NO

Before contacting us, you should complain to the company/director in writing and allow 14 days to respond. Please attach copies of any correspondence with the company.

Has there been any Court action relating to your complaint or is any planned:

If so, please provide full details
complaint”.

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	See <u>Details of Your Complaint’ below</u>

on the page “Details of your

Have you brought you complaint
on this matter:

to the attention of another body

YES NO

If the Garda Siochana: please provide the name of the station, the member’s name and PULSE number: See <https://www.failte32.org/2019/12/new-development-after-my-reports-published/>

Section (F) (3)

If the Revenue: please provide address to which the complaint was sent:

NATURE OF ALLEGED BREACHES OF COMPANY LAW

The following is a list of common concerns under company law. To the extent that this is relevant to your complaint, please tick 'YES' in the box(es) which most closely correspond to your concerns. **In any event, proceed on the following page to describe the substance of your complaint:**

- Acting as an auditor, liquidator, etc., while unqualified:
- Acting as a director or officer of a company while restricted, disqualified or an undischarged bankrupt, whether in this State or elsewhere: Please provide the date of restriction/disqualification and, if overseas, the Court and address concerned:
- Failure to provide on request certain company registers for inspection (e.g. the registers of members, debenture holders, directors and secretaries or directors' and secretary's interests):
- Failure to provide access to the minutes of AGM/EGM (members and others are not entitled to the minutes of a Board of Directors meeting):
- Failure to maintain company registers or to file statutory documents with the CRO:
- Failure to provide full details of directors' and company secretaries' names, residential addresses, dates of birth, other directorships or interests in company registers or in filings to the CRO:
- Failure to keep adequate accounting records:
- Failure to hold an Annual General Meeting at the required time:
- Failure to register a prospectus before offering shares to the public:
- Failure by an auditor, liquidator, receiver or examiner to comply with statutory obligations:
- Providing false information or documentation in purported compliance with a company law provision:
- Providing/presenting false information or documentation to the CRO:
- Destroying, mutilating or falsifying documents:

- Trading as a company with limited liability while not so incorporated:
- Trading whilst dissolved (invoice or statement **should be attached**):
- Incorrect registered office address:
- Knowingly carrying on company business with intent to defraud creditors or for a fraudulent purpose:
- Company having no directors resident within a Member State of the European Economic Area (E.E.A.). See appendix 1 for list of E.E.A. members:
- Inaccurate, inadequate or misleading address of a company and or a director or company secretary.

DETAILS OF YOUR COMPLAINT (Please be as precise as possible and type if feasible)

Correspondence between Maurice D. Landers and Chartered Accountants Ireland (ICAI) can be found in my Reports, specifically my update and final reports, accessible at <https://www.failte32.org/2019/12/new-development-after-my-reports-published/>

Regarding the X's in the section immediately above titled, '**NATURE OF ALLEGED BREACHES OF COMPANY LAW**', I just thought these might apply here. However, I assume you will reference my complaint against the Companies Act in its totality.

There is a Court action 'relating' to my complaint. I have brought a case to the Irish High Court that, although not directly against ICAI, might be corroborated by your decision on my complaint. See section (F) <https://www.failte32.org/2019/12/new-development-after-my-reports-published/>

My complaint, in summary, is as follows:

My prior complaint to the ODCE relating to PwC is also tied into this complaint, and vice versa.

I asked Chartered Accountants Ireland (ICAI) to investigate my case, including the allegation I made that the NPRF Commission misrepresented a transfer of funds from the National Pensions Reserve Fund (NPRF/NTMA) to Innovation Fund Ireland (IFI) (i.e. from one public entity to another) in the NPRFC Annual Report and Financial Statements 2010 as being an investment in a private entity under the NPRF's private equity mandate. See update Report, Section 2, EMAIL 1

In my request for an investigation, I stated:

"Therefore, I would like to find out if, based upon the information I am providing you (this email and subsequent emails I will forward you), particularly the allegations I made in my second formal complaint to SIPO (to follow), the statement by the Comptroller and Auditor General on page 43 of the National Pensions Reserve Fund Commission's Annual Report and Financial Statements 2010 (see attached) that "My audit is carried out in accordance with the International Standards on Auditing (UK and Ireland) and in compliance with the Auditing Practices Board's Ethical Standards for Auditors." is a true and correct representation, and the National Pensions Reserve Fund Commission's Annual Report and Financial Statements 2010 meets all applicable and appropriate accounting/auditing standards (ethics, good governance etc.)?"

and

"Since PricewaterhouseCoopers was the internal auditor of the National Pensions Reserve Fund Commission's Annual Report and Financial Statements 2010, and is clearly referred to in the 'Oversight' and 'Key Control Procedures' sections (p.29/30 & 42), I would also like to find out if PwC adhered to all applicable and appropriate accounting/auditing standards (ethics, good governance etc.)?"

Replies from ICAI (prior to its more formal decisions on my case as detailed in my Final Report) to my request for an investigation are in my update Report, Section 3, Reply G.

I believe I have proven fraud on the part of ICAI. See Final Report.

I also believe that ICAI lied about the scope of the internal audit work undertaken by PwC, thereby avoiding responsibility to hold accountable them accountable. See Final Report, Attachment 1, Attachment A

Therefore, ICAI violated the Companies Acts on two counts.

Although I reference certain Reports above, I submit to the ODCE all of my Reports (first, update, final and 'one pager') to further support my allegations. Additionally, perhaps you may be able to determine from my Reports further violations on the part of any of the oversight bodies mentioned in my Reports that I, not being entirely familiar with the Companies Act, might have missed.

The ODCE can compel the release of this audit plan/engagement letter from ICAI based upon its enforcement powers under the Companies Acts.

My complete complaint can be accessed on my website, Failte32.org, specifically my four Reports at <https://www.failte32.org/2019/12/new-development-after-my-reports-published/> i.e. first (inc. summary docs), update, final and 'one pager'.

My signature is typed above and below. You can accept this as my signed by hand signature (sent via my email address). If you require an actual signed by hand signature, please let me know asap and I can provide it.

To support your case, please send copies of any letter, email or contact with the company. Include any information you think is helpful. **If you need more space**, please use extra pages and attach to this form

Are you prepared to make a formal statement and attend court to provide evidence in relation to issues arising from this complaint?

YES	X	NO	
-----	---	----	--

Please note that such cooperation will often be necessary.

DETAILS OF THE COMPANY/PERSON(S) THE SUBJECT OF YOUR COMPLAINT

Company Name: National Pensions Reserve Fund (NPRF)/National Treasury Management Agency (NTMA)/Ireland Strategic Investment Fund (ISIF) _____ Company Number: _____

Address: Treasury Dock, North Wall Quay, Dublin 1 DO1 A9T8 _____

Postal Code/Eircode: _____

First Name: Conor _____ Last Name: O' Kelly _____

Title Mr/Mrs/Ms/Miss/ if other please state: Mr. _____

Address: Same as above _____

Postal Code/Eircode: _____

Phone Number: 01 238 4000 _____ Email: info@ntma.ie

Have you complained to the company or director in writing?

YES	X	NO	
-----	---	----	--

Before contacting us, you should complain to the company/director in writing and allow 14 days to respond. Please attach copies of any correspondence with the company.

Has there been any Court action relating to your complaint or is any planned:

If so, please provide full details of your complaint.

YES		NO	See 'Details of Your Complaint' below
-----	--	----	---------------------------------------

on the page "Details of your

Have you brought your complaint on this matter:

to the attention of another body

YES	X	NO	
-----	---	----	--

If the Garda Siochana: please provide the name of the station, the member's name and PULSE number: See <https://www.failte32.org/2019/12/new-development-after-my-reports-published/>

Section (F) (3)

If the Revenue: please provide address to which the complaint was sent:

NATURE OF ALLEGED BREACHES OF COMPANY LAW

The following is a list of common concerns under company law. To the extent that this is relevant to your complaint, please tick 'YES' in the box(es) which most closely correspond to your concerns. **In any event, proceed on the following page to describe the substance of your complaint:**

- Acting as an auditor, liquidator, etc., while unqualified:
- Acting as a director or officer of a company while restricted, disqualified or an undischarged bankrupt, whether in this State or elsewhere: Please provide the date of restriction/disqualification and, if overseas, the Court and address concerned:
- Failure to provide on request certain company registers for inspection (e.g. the registers of members, debenture holders, directors and secretaries or directors' and secretary's interests):
- Failure to provide access to the minutes of AGM/EGM (members and others are not entitled to the minutes of a Board of Directors meeting):
- Failure to maintain company registers or to file statutory documents with the CRO:
- Failure to provide full details of directors' and company secretaries' names, residential addresses, dates of birth, other directorships or interests in company registers or in filings to the CRO:
- Failure to keep adequate accounting records:
- Failure to hold an Annual General Meeting at the required time:
- Failure to register a prospectus before offering shares to the public:
- Failure by an auditor, liquidator, receiver or examiner to comply with statutory obligations:
- Providing false information or documentation in purported compliance with a company law provision:

- Providing/presenting false information or documentation to the CRO:
- Destroying, mutilating or falsifying documents:
- Trading as a company with limited liability while not so incorporated:
- Trading whilst dissolved (invoice or statement **should be attached**):
- Incorrect registered office address:
- Knowingly carrying on company business with intent to defraud creditors or for a fraudulent purpose:
- Company having no directors resident within a Member State of the European Economic Area (E.E.A.). See appendix 1 for list of E.E.A. members:
- Inaccurate, inadequate or misleading address of a company and or a director or company secretary.

DETAILS OF YOUR COMPLAINT (Please be as precise as possible and type if feasible)

All of what I believe to be the pertinent correspondence between Maurice D. Landers and the NPRF/NTMA is in my Reports. If there is a request for other possible correspondence that I might not have included in my Reports, I can search for this in my emails.

Regarding the X's in the section immediately above titled, '**NATURE OF ALLEGED BREACHES OF COMPANY LAW**', I just thought these might apply here. However, I assume you will reference my complaint against the Companies Act in its totality.

There is a Court action 'relating' to my complaint. I have brought a case to the Irish High Court that, although not directly against the NPRF/NTMA, might be corroborated by your decision on my complaint. See section (F) <https://www.failte32.org/2019/12/new-development-after-my-reports-published/>

My complaint, in summary, is as follows:

My prior complaints to the ODCE relating to PwC and ICAI are also tied into this complaint, and vice versa.

The crime I had been pursuing from the beginning (first complaint to SIPO) related to the Irish Government's treatment of applications for funding by U.S. and other investors under a competitive tender/expression of interest program called Innovation Fund Ireland (IFI). The National Pensions Reserve Fund (NPRF) and Enterprise Ireland (EI) it seems did not follow correct processes and possibly unjustly awarded tens of millions of Euros to one of the applicants to the IFI program, a U.S.-based Venture Capital Firm (VC), outside the parameters of the IFI program, and just before the collapse of the Fianna Fail Government (see my first complaint to SIPO in update Report, Section 2, EMAIL 3).

However, during my efforts to prove this, I came across an even more serious, related crime (second complaint to SIPO) – which is what I'm now vigorously pursuing – where the NPRF circumvented its mandate, resulting in potentially the inappropriate disbursement of € 125 million (NPRF's contribution to IFI) of Irish taxpayer funds (see p. 22-23 first Report, and my second complaint to SIPO in update Report, Section 2, EMAIL 5. Please also see the additions I made to my second SIPO complaint as detailed in my Final Report, pages 8 and 9).

My first Report, which also includes links to my original three summary documents, provides the basis of my two complaints/submissions to SIPO. The more serious allegation made in my second complaint was fortuitously revealed while compiling evidence for it.

See also my 'one pager' Report, pages 3 and 4, for further summary.

THE HIGH COURT

RECORD NO. 2020/53MCA

In the matter of the Freedom of Information Acts

BETWEEN:

MAURICE D. LANDERS

APPLICANT

and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "N" referred to in the Affidavit of Maurice D. Landers

Sworn before me by the said

Maurice D. Landers

on the 12 day of November 2020, at

in the city/county of New York

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (NYS Driver License) containing a photograph

560566 698

Andrew Almonte
Notary Public, State of New York
No. 01AL6392824
Qualified in Queens County
Commission Expires 06/03/2023

[Signature]

Commissioner for Oaths/Practicing Solicitor



Failte32 Failte32 <failte32@gmail.com>

Our Ref 17/058: PwC and the National Pensions Reserve Fund Commission

Tue, Dec 5, 2017 at 3:27 AM

Failte32 Failte32 <failte32@gmail.com>

To: Derek Dee <Derek.Dee@charteredaccountants.ie>

Dear Derek,

Yes, I received PwC's letter.

Thank you for clarifying that "PwC have referred in their reply to the fact that the internal audit work they were engaged to undertake for the years ending 31 December 2009 to 2011 was set out in the terms of reference in their engagement letter and that they were not engaged to carry out any work in relation to the preparation or review of the financial statements of the National Pensions Reserve Fund for the year ended 31 December 2010."

So what does this mean from ICAI's perspective? Does ICAI accept PwC's statement above as accurate and true in terms of PwC's oversight role as internal auditor of the NPPRF?

Regarding PwC's role in all of this, while the NPPRF Commission's Annual Report and Financial Statements 2010 was perhaps the sole responsibility of the Office of the Comptroller and Auditor General, the document/report itself is I believe evidence of a serious lack of action on the part of PwC in terms of their responsibilities as internal auditor (see my first email to you, 8th paragraph down, extract below).

"Since PricewaterhouseCoopers was the internal auditor of the National Pensions Reserve Fund Commission's Annual Report and Financial Statements 2010, and is clearly referred to in the 'Oversight' and 'Key Control Procedures' sections (p.29/30 & 42), I would also like to find out if PwC adhered to all applicable and appropriate accounting/auditing standards (ethics, good governance etc.)?"

Therefore, regardless of whether PwC had any responsibility with regards to the contents or preparation of the Annual Report and Financial Statements, it's not the contents per se that are at issue here, but rather the serious lack of action they reflect on the part of PwC. Actions speak louder than words, and it's the action, or lack thereof in this case, by PwC that's in question here. It's irrelevant whether or not they participated in the actual preparation of the Annual Report and Financial Statements.

I think most people would agree there's little argument here.

The excuse PwC's gave me in its letter does not adhere to the highest of ethical standards, indeed any ethical standards, rather it does a tremendous amount of 'ducking and diving' contrary to the integrity and ethics PwC claims to have. It's pretty disgraceful, and anyone reading it in the context of all the information I have provided will no doubt come to the same conclusion. Attached are some additional points I would like to make.

As per your email dated October 24, 2017, where you state "Even if it does deal with it through its own complaints handling procedure it would not preclude you from subsequently submitting a complaint to ourselves if the matter is not resolved to your satisfaction."

Therefore, since I have already initiated a complaint with ICAI, which according to your email dated October 23, 2017, is still at the assessment stage, I would like to request that you complete your assessment in light of the information provided by PwC in its letter to me dated November 3, 2017, to determine whether or not my compliant concerns a disciplinary matter in so far as it relates to your member firm, PwC Dublin.

If I find that any of the PAB's, within whose jurisdiction my case falls, try to protect anyone involved in the inappropriate practices I have alleged, I will expose that PAB as behaving discriminatory towards any individual or firm they have previously taken action against. No auditing standards body or the like can retain credibility going forward if it is even perceived that they have given preferential treatment to any member. Those individuals or firms that have been previously reprimanded (or even those in process) would be able to use my case to claim discrimination on the part of the PAB.

Finally, I find it unusual that I received no response from you regarding the statement you made to me in your email dated October 23, 2017:

"I wrote to the member firm on 5 and 13 September enclosing copies of the correspondence received from you. I have asked the member firm in Dublin if it was aware of the issues which you had raised by correspondence forwarded to Mike Davies and Shelly Ko Van Pelt in PwC Global Communications in the UK and US. I also asked the member firm if it intended to deal with your complaint through the firm's complaints handling procedure. I am still awaiting the member firm's reply."


I will communicate with you further on receipt of the firm's reply.

The only communication I received from you (immediately below) informed me that you received a copy of the letter PwC sent to me, which you then regurgitated in part for me, and I received this communication only after I had followed up with you three weeks after PwC sent this letter (you seem to have been sick). I assume you received a copy of this letter the same day as I did, perhaps even earlier? What had PwC to say regarding the above statement i.e. "I also asked the member firm if it intended to deal with your complaint through the firm's complaints handling procedure. I am still awaiting the member firm's reply."

Did PwC not first let you know that they intended to deal with my complaint through their own complaints handling procedure before sending you a copy of the letter they sent to me dated November 3, 2017? Does the PwC letter represent the outcome of their complaints handling procedure?

Kind regards,
Maurice D. Landers

[Quoted text hidden]

 **Attachment to email to ICAI December 5 2017.pdf**
448K



Failte32 Failte32 <failte32@gmail.com>

Our Ref 17/058: PwC and the National Pensions Reserve Fund Commission

Derek Dee <Derek.Dee@charteredaccountants.ie>

To: Failte32 Failte32 <failte32@gmail.com>

Fri, Dec 8, 2017 at 4:51 AM

Dear Mr Landers,

I acknowledge receipt of your email dated 5 December 2017 with attachment.

As you have expressed your dissatisfaction with the reply you have received from the member firm, PwC, I confirm that I am proceeding to carry out my assessment of your complaint to determine if it concerns a disciplinary matter. You will be notified in due course of my determination following the completion of my assessment.

If I determine it does concern a disciplinary matter we will commence an investigation of that matter. If I determine it does not concern a disciplinary matter you will be notified of the reasons for my determination and you will be entitled, within 14 days of receiving such notification, to notify me in writing of any further representations you wish to make in relation to the Complaint. If further representations are received, the Head of Professional Conduct will consider the matter in light of such representations, decide whether or not the Complaint concerns a Disciplinary Matter and notify you of her decision and the reasons for the decision.

[Quoted text hidden]

THE HIGH COURT

RECORD NO. 2020/53MCA

In the matter of the Freedom of Information Acts

BETWEEN:

MAURICE D. LANDERS

APPLICANT

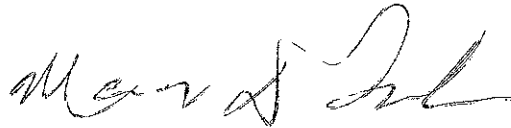
and

THE INFORMATION COMMISSIONER

RESPONDENT

Exhibit "O" referred to in the Affidavit of Maurice D. Landers

Sworn before me by the said



on the 12 day of November 2020, at

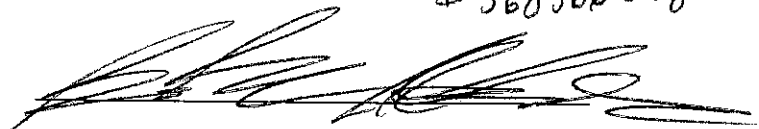
in the city/county of New York

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

whose identity has been established by reference to a relevant document (WPS Drive License)
containing a photograph

#560566698

Andrew Almonte
Notary Public, State of New York
No. 01AL6392824
Qualified in Queens County
Commission Expires 06/03/20 23



Commissioner for Oaths/Practicing Solicitor

Powers of the Information Commissioner

The FOI Act 2014 provides the Information Commissioner with significant powers to allow him to carry out his function of reviewing the decisions of FOI bodies. If he considers a decision to be inadequate, he may, under Section 23, require that a new one be issued.

Under Section 45, he may also require any person who he considers has information relevant to a case or investigation to provide it to him. Furthermore, he may require the person to attend before him to present the information. He can enter any premises occupied by an FOI body and require any person found on the premises to provide him with records (documents) which he may copy and retain for a reasonable period.

Anyone who hinders the Commissioner in the performance of his review or investigative functions is guilty of an offence and, in accordance with Section 45, may have a fine imposed or be imprisoned for a term not more than 6 months.

Related Links:

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[Re-use of Public Sector Information](#)

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[Powers of the Information Commissioner](#)

[The review of FOI Decisions of Public Bodies](#)

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[Regulation of Lobbying Act 2015](#)

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[View Report Online](#)



Failte32 Failte32 <failte32@gmail.com>

oic

1 message

Failte32 Failte32 <failte32@gmail.com>
To: Failte32 Failte32 <failte32@gmail.com>

Sat, Nov 19, 2016 at 6:04 AM

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Role, Functions and Powers

The Information Commissioner is completely independent of the Government in the performance of his functions. This independence is underpinned by the Freedom of Information Act 2014.

The main functions of the Commissioner can be summarised as :

- reviewing (on application) decisions of public bodies in relation to FOI requests and where necessary, making binding new decisions
- reviewing the operation of the Freedom of Information Act to ensure that FOI bodies comply with the provisions of the legislation
- fostering of an attitude of openness among FOI bodies by encouraging the voluntary publication of information above and beyond the minimum requirements of the Act
- preparing and publishing commentaries on the practical operation of the Act
- the publication of an Annual Report

The FOI Act 2014 provides the Commissioner with certain powers to facilitate him in carrying out his functions.

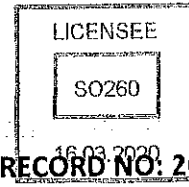
Related Links:

- Powers of the Information Commissioner
- The review of FOI Decisions of Public Bodies
- Reviewing the operation of the Freedom of Information Acts
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 - Fostering an Attitude of Openness
 - Legislation, FOI Act & Regulations
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140097651
35449



RECORD NO: 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACT 2014

**AND IN THE MATTER OF AN APPEAL PURSUANT TO SECTION 24 OF THAT ACT AND
ORDERS 130 AND 84C OF THE RULES OF THE SUPERIOR COURTS**

BETWEEN:

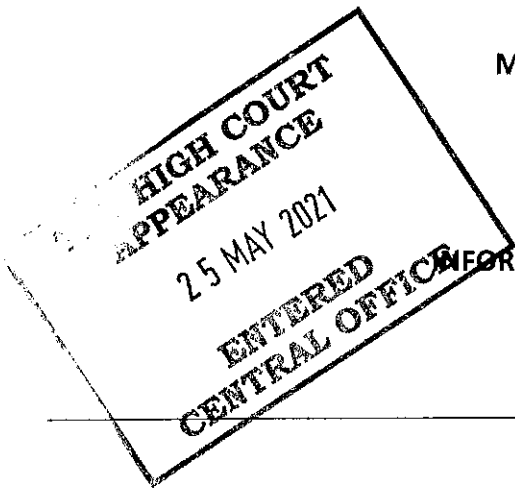
MAURICE D. LANDERS

APPELLANT

AND

INFORMATION COMMISSIONER

RESPONDENT



APPEARANCE

Enter an Appearance for the Information Commissioner, the respondent in this action.

Dated: 12 March 2020

Signed: A Fitzgerald

Legal Services Unit

Solicitor for the Respondent

Office of the Ombudsman and Information Commissioner

Dublin 2.

The registered place of business of the Legal Services Unit is 6 Earlsfort Terrace, Dublin 2 and the Legal Services Unit consents to the service of documents in the proceedings by electronic mail to legal@ombudsman.ie.

To: The Registrar of the Central Office.

IN THE MATTER OF THE FREEDOM OF INFORMATION ACT 2014

AND IN THE MATTER OF AN APPEAL PURSUANT TO SECTION 24 OF THAT ACT

BETWEEN:

MAURICE D. LANDERS

APPELLANT

AND

INFORMATION COMMISSIONER

RESPONDENT

POINTS OF OPPOSITION

The Respondent (“the Commissioner”) opposes this Appeal on the following grounds:

1. The Appellant requested copies of internal audit plans for the National Pension Reserve Fund from the National Treasury Management Agency (the NTMA). The NTMA refused this request under s. 15(1)(a) of the Freedom of Information Act 2014 on the basis that the records did not exist or could not be found after all reasonable steps were taken to ascertain their whereabouts. The Appellant sought an internal review of this decision. On 6th November 2019 the Appellant applied to the Commissioner for a review of the deemed refusal of his request for an internal review. On 8th November 2019 the NTMA issued the internal review decision and arrived at the same conclusion as the original decision.
2. For the avoidance of doubt the term “Commissioner” includes the investigator appointed to carry out the review requested by the Appellant.

3. The Commissioner issued his decision OIC-58612 (the Decision) on 24th January 2020 affirming the decision of the NTMA to refuse access to the documents requested on the basis of s. 15(1)(a). It is this Decision that that Appellant has challenged in these proceedings.
4. By way of preliminary objection, the Notice of Motion does not disclose any grounds on which the Appellant is seeking the reliefs sought.

Failure to disclose a point of law

5. Section 24 of the Act 2014 provides for the bringing of a statutory appeal against a decision of the Commissioner following a review by the Commissioner of a decision of an FOI body under the 2014 Act. An appeal pursuant to section 24 is restricted to an appeal on a point of law. The Act does not allow for a merits-based appeal. The jurisdiction of the High Court in such an appeal is limited to reviewing the specific decision challenged in the appeal on the basis of the point (or points) of law identified by the Appellant relating to the exercise by the Commissioner of his functions under the 2014 Act and to no other matters.
6. The Appellant has failed to identify any point of law or any point with sufficient precision to ground a statutory appeal pursuant to s. 24 and fails to disclose any justiciable complaint to which the Commissioner can properly respond. The grounding affidavit does not specify, clearly or at all, any particular alleged error or errors of law which would entitle the Appellant to seek to appeal the Commissioner's Decision. In the circumstances, this appeal fails to disclose any or any stateable case and is bound to fail and, accordingly, ought to be dismissed.

Proceedings are misconceived

7. The Notice of Motion seeks three orders. Only the first order is directed at the Commissioner. It is denied that Appellant is entitled to the relief sought in this order.

8. It appears to be the Appellant's case that the Commissioner should have used his powers under s. 45 of the 2014 Act to request that third party entities provide him with a copy of the documents he had sought from the NTMA and to compel the NTMA to release those documents, or for the Commissioner to release them directly to him. This is a fundamental misconception about the role of the Commissioner under a s. 22 review and the powers of the Commissioner under s. 45.
9. It is accepted that the Commissioner has powers under s. 45 but it is denied that it was necessary for the Commissioner to have used those powers in this case in the manner suggested.
10. As a creature of statute, the Commissioner can only do what he is permitted to do under the 2014 Act. The right of access under the 2014 Act is limited to documents held by public bodies as defined in the Act. His powers under s.45 do not extend to compelling third parties to provide him with copies of records that a public body cannot locate and to proceed to determine whether the requester has a right of access to those records. In this case the Commissioner was conducting a review under s. 22 of the 2014 Act into a refusal of an FOI body of a request for information under s. 15(1)(a) of the 2014 Act on the ground that the records sought do not exist or cannot be found.
11. It is settled law that it is not generally the role of the Commissioner in such an appeal to search for records. The Commissioner was required to review the decision of the public body and in so doing to have regard to the evidence which was available to the decision-maker and to the reasoning used by the decision-maker in arriving or failing to arrive at a decision. It is clear from the Decision that this is precisely what the Commissioner did in this case.

Miscellaneous matters

12. For the avoidance of doubt, it is denied that that Appellant is entitled to any of the other reliefs sought. Order 2 is directed at two bodies that are not covered by the 2014 Act. Even if they were covered by the 2014 Act, the Appellant has not made a

request to those bodies and the Commissioner has not made any decision in relation to them. Thus this Court cannot make any order against either body in these proceedings.

13. In making the Decision the Commissioner acted reasonably at all material times. There was sufficient evidence before the Commissioner to allow him to make the Decision and this evidence is set out in the Decision and was communicated to the Appellant.

14. The Appellant has not identified any error on the part of the NTMA in how it dealt with his request, or any deficiency in how it searched for the documents requested. He has not shown that the NTMA has failed to take all reasonable steps to ascertain the whereabouts of the documents requested. The Appellant has not joined the NTMA as a Notice Party to these proceedings.

15. It is denied that the Appellant is entitled to any further orders, or the costs of this appeal.

Signed: 

Legal Services Unit
Solicitors for the Respondent
Office of the Ombudsman and Information Commissioner
6 Earlsfort Terrace
Dublin 2

To: Maurice D. Landers
3 Talbot Court
Millview Road
Malahide
County Dublin

And to: The Chief Registrar,
Central Office of the High Court
The Four Courts
Inns Quay
Dublin 7

THE HIGH COURT

RECORD NO: 2020/53/MCA

BETWEEN:

MAURICE D. LANDERS

APPELLANT

AND

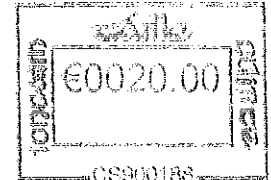
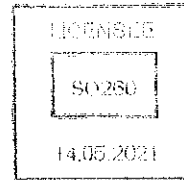
INFORMATION COMMISSIONER

RESPONDENT

POINTS OF OPPOSITION



15903561
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RECORD NO: 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACT 2014

AND IN THE MATTER OF AN APPEAL PURSUANT TO SECTION 42 OF THAT ACT

BETWEEN:

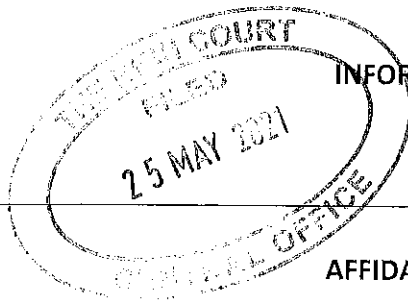
MAURICE D. LANDERS

APPELLANT

AND

INFORMATION COMMISSIONER

RESPONDENT



AFFIDAVIT OF STEPHEN RAFFERTY

I, Stephen Rafferty, Senior Investigator in the Office of the Information Commissioner, 5-6 Earlsford Terrace, Dublin 2, aged 18 and upwards do MAKE OATH and say as follows:

1. I am the Senior Investigator in the Office of the Information Commissioner within the meaning of section 43 of the Freedom of Information Act 2014 (the 2014 Act).
2. I swear this affidavit on behalf of the Information Commissioner ("the Commissioner") and with his authority and consent. The purpose of the affidavit is to respond to the appeal against the decision of the Commissioner and to verify the Points of Opposition to that appeal. I make this affidavit based on a review of the files and records of the Commissioner and from facts within my own knowledge, save where so otherwise appears, and where so appearing, I believe the same to be true and accurate.
3. One of the functions of the Commissioner is to carry out an independent review of decisions made by public bodies of requests for information made under the 2014 Act and, where necessary, make binding new decisions. He will examine the records in question and will also invite submissions from the requester and the public body. The Commissioner may also consult any third parties whom he considers might be affected by his decision. The Office generally seeks to conduct reviews in an informal manner subject to the requirements of the 2014 Act.

4. Following a review pursuant to section 22 of the 2014 Act, the Commissioner may then uphold (affirm) or vary the decision of the public body, or annul it and make a new decision. Paragraph 9 of the Second Schedule of the Acts makes provision for the delegation of this function by the Commissioner to a Senior Investigator. The decision is final and binding on the parties, subject only to a right of appeal on a point of law to the High Court pursuant to section 42 of the 2014 Act.
5. The facts of this case are set out in the Points of Opposition and the decision being challenged by the Appellant. The National Treasury Management Agency (NTMA) refused the Appellant's request for documents under s. 15(1)(a) of the 2014 Act:

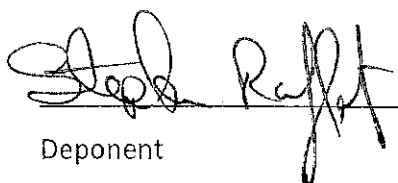
"15. (1) A head to whom an FOI request is made may refuse to grant the request where . . . the record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken..."

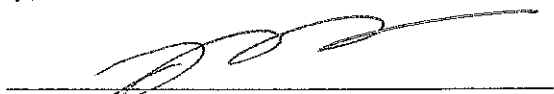
6. I am advised that the role of the Commissioner in a s. 22 review of a refusal under s. 15(1)(a) is to review the decision of the public body and to have regard to the evidence which was available to the decision-maker and to the reasoning used by the decision-maker in arriving at the decision being challenged. It is not generally the role of the Commissioner to conduct searches for the records.
7. In this case I examined the steps taken by the NTMA to ascertain if it had taken all reasonable steps to find the documents requested. Those steps are set out in the Decision and in the submissions of the NTMA to the Commissioner. I enclose of copy of those submissions upon when I have marked my initials "SR 1" prior to the swearing of this affidavit.
8. As stated in the Decision, the Appellant was provided with details of the steps taken by the NTMA to find the documents requested. This was done by letter dated 17th January 2020. He has not identified any deficiency in the searches undertaken by the NTMA. I enclose of copy this letter upon when I have marked my initials "SR 2" prior to the swearing of this affidavit.
9. The Appellant appears to misunderstand the powers of the Commissioner set out in s. 45 of the 2014 Act. That section allows the Commissioner to require the production of documents in certain circumstances. The Appellant appears to believe that the Commissioner could use this power to order third party private entities to produce documents. But s. 45 can only be used for the proposes of a s. 22 review or s. 44 investigation. It does not give a wide, general power of production to the Commissioner. This is a point that will be set out in more detail in legal submissions.

10. In the opinion of the Commissioner in this dispute, it was not necessary for him to use the powers in s. 45. The question before the Commissioner in this review was whether the NTMA was justified in saying that it took all reasonable steps to find the documents requested. As set out in the Decision, I was satisfied that there was sufficient evidence before the NTMA to arrive at this conclusion.
11. The fact that other parties might hold the documents in question is not relevant and is a misconstruction of the powers and role of the Commissioner.
12. At paragraph 7 in the grounding affidavit, Mr Landers averred that the Commissioner concurred with the NTMA that the documents never existed. This is not correct. The Decision concurs with the NTMA's reliance on s. 15(1)(a) of the 2014 Act. It may be that the documents are held by private third party entities not covered by the FOI regime. This is outside the scope of the 2014 Act and therefore outside the jurisdiction of the Commissioner and this Court on appeal.
13. The Decision used the phrase "*the records do not exist*". This language is drawn directly from s. 15(1)(a). It does not mean that the records do not exist at all, anywhere in the world, but that they do not exist in the records of the public authority to which the initial request was made.
14. As per the Points of Opposition, I do not think that Mr Landers is entitled to the reliefs sought, or any reliefs.

Sworn by the said **STEPHEN RAFFERTY** this
 10th day of May 2020, at
 23 Main Street, Swords
 Co. Dublin
 before me, a Practising Solicitor/

~~Commissioner for Oaths~~ and I know the
 Deponent *having been identified to me*
 by passport no PL 7593 474 issued
 in Dublin on the 25/05/2016


 Deponent


 Practising Solicitor/ Commissioner for Oaths

BRIAN D. O'BRIEN
 Practising Solicitor /Comm. for Oaths
 23 MAIN STREET,
 SWORDS, CO. DUBLIN.

Filed on the _____ day of _____, 2020 on behalf of the Respondent by Legal Services Unit, Office of the Ombudsman and the Information Commissioner, Solicitors for the Respondent.

THE HIGH COURT

RECORD NO: 2020/53/MCA

BETWEEN:

MAURICE D. LANDERS

APPELLANT

AND

INFORMATION COMMISSIONER

RESPONDENT

AFFIDAVIT OF STEPHEN RAFFERTY

THE HIGH COURT

RECORD NO: 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACT 2014

AND IN THE MATTER OF AN APPEAL PURSUANT TO SECTION 42 OF THAT ACT

BETWEEN:

MAURICE D. LANDERS

APPELLANT

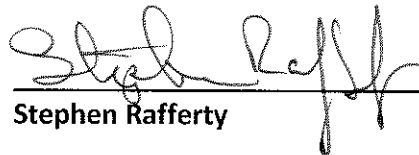
AND

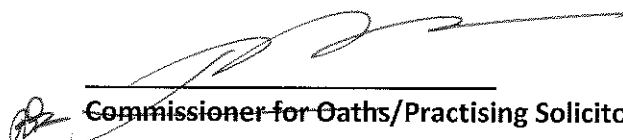
INFORMATION COMMISSIONER

RESPONDENT

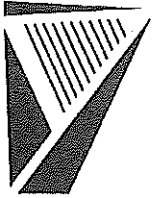
AFFIDAVIT OF STEPHEN RAFFERTY

EXHIBIT "SR 1"


Stephen Rafferty


Commissioner for Oaths/Practising Solicitor

BRIAN D. O'BRIEN
Practising Solicitor /Comm. for Oaths
23 MAIN STREET,
SWORDS, CO. DUBLIN.



Gníomhaireacht Bainistíochta an Chisteáin Náisiúnta
National Treasury Management Agency

15 January 2020

Ms Anne Greenalgh,
Investigator,
Office of the Information Commissioner.

By email to applications@oic.ie

Your Ref: OIC-58612-G9F7Z0

Dear Ms Greenalgh

I refer to the application for review by the Information Commissioner in the decision of the National Treasury Management Agency (the "NTMA") FOI Request (our reference numbers 2019/44/FOI and 2019/5/IR). As requested in your letter of 12 December 2019, we have set out below our submission regarding the steps taken to search for the relevant records relating to this request.

Responses to specific questions

1. ***"Is it [the NTMA's] position that no further records sought in the request exist? If so, please explain the background to this case and the reasons why [the NTMA] came to the conclusion that no relevant records exist."***

Yes, it is the NTMA's position that no further records within the scope of Mr Landers' FOI request exist.

The background to this case is as follows.

General query

Mr Landers contacted the NTMA by email on 5 June 2019 seeking copies of the internal audit plans for the National Pensions Reserve Fund (the "NPRF") for the years ending 31 December 2009, 2010 and 2011.

The NPRF was established pursuant to the National Pensions Reserve Fund Act 2000 (as amended) and the NTMA was appointed as the manager of the NPRF and acts as the agent of the National Pensions Reserve Fund Commission (the "Commission") in the performance of its statutory functions. Following the commencement of the relevant provisions of the National Treasury Management Agency (Amendment) Act 2014, the assets of the NPRF became assets of the Ireland Strategic Investment Fund (the "ISIF") which was established on 22 December 2014. As of 31 December 2018, all foreign assets other than certain withholding tax reclaims had transferred from the NPRF to the ISIF. Once all the assets have been transferred, it is envisaged that the Commission will be dissolved. The Commission consists of one commissioner, the Chief Executive of the NTMA.

Duga an Státhchiste, Cé an Phoirt Thuaidh, Baile Átha Cliath 1, D01 A9T8, Éire
Treasury Dock, North Wall Quay, Dublin 1, D01 A9T8, Ireland

+353 1 238 4000

+353 1 238 4890

@NTMA_IE

www.ntma.ie

info@ntma.ie

Mr Lander's email of 5 June 2019 was formulated as a general query and treated as such by the NTMA. Mr. Landers' email made clear that he was seeking these plans in order to verify the decision that he received from Chartered Accountants Ireland (ICAI) regarding his case, which he stated was as follows:

"The scope of the internal audit work undertaken by the member firm was specific scope and the scope was agreed with and approved by the Audit Committee of the National Treasury Management Agency (NTMA) and the National Pension Reserve Fund (NPRF) Commission each year. The member firm provided us with a copy of internal audit plan for the NPRF as presented to, and subsequently agreed with, the NPRF Commission and the NTMA and the matter complained of appears to have been outside (sic) the scope of the internal audit work undertaken by the member firm."

Upon receipt of Mr Landers' general query, enquiries were made in order to establish what records were held relating to the scope of audit work undertaken by PwC during the relevant years.

The staff member that previously performed the role of NPRF Commission Secretary (who is now assigned to the ISIF Unit) was contacted and asked to locate any relevant records held in relation to audit plans of the NPRF for the relevant years. This staff member carried out electronic searches for these records. No records categorised as internal audit plans were located. The only records located that were relevant to the scope of audit work undertaken by PwC were the internal audit plan presentations for 2009, 2010 and 2011, which were presented to the NPRF Audit Committee.

Based on these searches, the knowledge of the former NPRF Commission Secretary and the content of the applicable Audit Committee minutes, the NTMA's understanding is that PwC did not submit 'final' or 'formal' audit plans once an audit plan presentation was agreed at Audit Committee level.

Accordingly, the NTMA was satisfied that no other records comprising internal audit plans for the relevant years would be located, and that the internal audit plan presentations were the only records held by the NTMA that were relevant to Mr Landers' query concerning the scope of work undertaken by PwC.

Mr Landers was subsequently advised that he was entitled to request access to the requested records from the NTMA under the FOI Act. Mr Landers was also advised that, if he confirmed that his request could be considered as a FOI request, this would enable the NTMA to process his request in accordance with the terms of the FOI Act.

FOI request

Following a series of emails with Mr Landers, he subsequently agreed to the NTMA processing his request as an FOI request in his email of 6 September 2019, a copy of which was provided to your office on 11 November 2019.

The NTMA was satisfied that the searches previously conducted for the purposes of Mr Landers' general query had located all records held by the NTMA within the scope of Mr Landers' request;

namely the internal audit plan presentations for 2009, 2010 and 2011. On this basis, the NTMA's original decision-maker notified Mr Landers by letter of 25 September 2019 that the searches conducted had located these three records, and granted access to them, in full.

Internal review

Mr Landers proceeded to appeal this decision by way of internal review, which was received by the NTMA on 15 October 2019. In his internal review request, Mr Landers again requested copies of the internal audit plans, and indicated that he did not believe that the NTMA did not hold any records other than the presentations previously provided. Accordingly, further enquiries were undertaken at this stage to identify and locate any records entitled or comprising the final, agreed 'internal audit plans'.

As detailed above, given the previous searches carried out, the knowledge of the former NPRF Commission Secretary and the content of the applicable Audit Committee minutes, there was no expectation that any audit plans would be located. However, to validate this position, the staff members considered most likely to have had involvement in the NPRF internal audit process were requested to undertake manual and electronic searches for any relevant records.

The outcome of these searches did not identify any additional records entitled or comprising internal audit plans for the NPRF for the years in question. Accordingly, the NTMA's internal reviewer decided to vary the original decision, and to administratively refuse access to the request pursuant to section 15(1)(a) of the FOI Act. This was on the basis that the requested 'internal audit plans' did not exist, and the records with the most relevance to the request had already been released to Mr Landers in full.

2. "What areas were searched and can [the NTMA] outline whether this was done manually or by computer?"

As mentioned above, the former NPRF Commission Secretary carried out electronic searches in response to Mr Landers' initial, general query. The relevant network folder entitled 'National Pensions Reserve Fund' was searched electronically.

On receipt of the internal review further manual and electronic searches were carried out by the staff members considered most likely to have had involvement in the NPRF, namely NPRF Commission Secretary and certain former NPRF staff. These searches comprised electronic searches of personal mailboxes and network folders as well as manual searches of records held in filing cabinets. Finally, as another potential area of relevance, staff from the Finance section also carried out searches.

In relation to the above electronic searches, each staff member was advised to use key words when conducting their searches, such as 'internal audit 2009', 'internal audit 2010', 'internal audit 2011', 'audit committee' and 'audit plan'.

3. "Were the relevant individuals consulted?"

Yes. See number 2 above.

4. "Did PwC submit audit plans following the audit presentations?"

As detailed above, based on the searches carried out to date, the knowledge of the former NPRF Commission Secretary and the content of the applicable Audit Committee minutes, the NTMA's understanding is that PwC did not submit 'final' or 'formal' audit plans once an audit plan presentation was agreed at Audit Committee level.

5. "Section 11(9) of the FOI Act provides that a record held by a service provider, insofar as it relates to the service, shall be deemed to be held by the FOI Body. Can [the NTMA] confirm if PwC were consulted about the records sought in this case?"

The NTMA contacted PwC via email, prior to issuing its original decision on 25 September 2019, notifying PwC of the intention to release the audit plan presentations in full. As mentioned at number 4 above the NTMA's understanding is that PwC did not submit 'final' or 'formal' audit plans once an audit plan presentation was agreed at Audit Committee level.

6. "Is it possible that any relevant records were destroyed, in accordance with policy or otherwise?"

The NTMA does not believe that internal audit plans were received and subsequently destroyed. Its understanding is that PwC did not submit 'final' or 'formal' audit plans once an audit plan presentation was agreed at Audit Committee level, and that these internal audit plan presentations encompass the scope of the internal audit work for the relevant period.

Conclusion

For the reasons outlined above, the NTMA is satisfied that the searches undertaken to locate any and all relevant records within the scope of Mr Landers' request were appropriate and adequate in the circumstances. The NTMA is also satisfied that no PwC internal audit plans exist for the years in question, and that the only records located relating to the scope of the internal audit work carried out by PwC have already been provided to Mr Landers.

The NTMA is happy to engage with your office to provide any further information required in support of the content set out above and any queries in relation to this application can be made to Orla Yeates, FOI Officer by phone on 01 238 4875 or by email to Orla.yeates@ntma.ie

Yours sincerely,



Orla Yeates

FOI Officer

THE HIGH COURT

RECORD NO: 2020/53/MCA

IN THE MATTER OF THE FREEDOM OF INFORMATION ACT 2014

AND IN THE MATTER OF AN APPEAL PURSUANT TO SECTION 42 OF THAT ACT

BETWEEN:

MAURICE D. LANDERS

APPELLANT

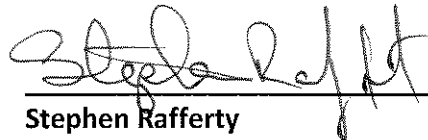
AND



INFORMATION COMMISSIONER

RESPONDENT

AFFIDAVIT OF STEPHEN RAFFERTY

EXHIBIT "SR 2"


Stephen Rafferty


 Commissioner for Oaths/Practising Solicitor

BRIAN D. O'BRIEN
Practising Solicitor /Comm. for Oaths
23 MAIN STREET,
SWORDS, CO. DUBLIN.

Our Reference OIC-58612-G9F7Z0

Mr Maurice Landers
By email: mauricelanders@yahoo.com

17 January 2020

Dear Mr Landers

I refer to a review by this Office of the decision of National Treasury Management Agency (NTMA) on your FOI request for access to records. In particular you requested internal audit plans for the financial years ending 31 December 2009, 2010 and 2011 as per your engagement with PwC”.

This case has been assigned to me for investigation and recommendation. The purpose of this email is to provide you with a summary of NTMA’s submissions in this case and to give you the opportunity to make any final comments, if you so wish.

Section 15(1)(a) – Adequacy of Search

This case involves a search issue under Section 15(1)(a) of the FOI Act. Section 15(1)(a) provides that an FOI body may refuse to grant a request where the records sought either do not exist or cannot be found after all reasonable steps to ascertain their whereabouts have been taken. The Commissioner’s role in such cases is to review the decision of the FOI body and to decide whether the decision was justified. This means that the Commissioner must have regard to the evidence available to the decision maker in arriving at his/her decision. The evidence in “search” cases generally consists of the steps actually taken to search for the records along with miscellaneous and other information about the record management practices of the FOI body, insofar as those practices relate to the records in question.

It is important to note that the FOI Act does not require absolute certainty as to the existence or location of records, as situations arise where records are lost or simply cannot be found. Furthermore, this Office can find that an FOI body has satisfied the requirements of Section 15(1)(a), even where records that an applicant believes ought to exist have not been located.

Please also be advised, that this Office does not examine the manner in which public bodies carry out their functions generally, nor does it investigate complaints.

National Treasury Management Agency’s Submission

In conducting this review, I sought a submission from National Treasury Management Agency ("NTMA") in relation to the details of searches undertaken to locate the records relevant to your request. Provided below is a summary of NTMA's submissions:

- By way of background, the NTMA outlined that The National Pensions Reserve Fund ("NPRF") was established pursuant to the National Pensions Reserve Fund Act, 2000 (as amended) and the NTMA was appointed as the manager of the NPRF and acts as the agent of the National Pensions Reserve Fund Commission in the performance of its statutory function.
- You made a general inquiry to NTMA on 5 June 2019 and on foot of this, enquiries were made in order to establish what records were held relating to the scope of audit work undertaken by PwC during the relevant years. The staff member who performed the role of NPRF Commission Secretary was contacted and asked to locate any relevant records held in relation to audit plans of National Pension Reserve Fund. Electronic searches for these records were carried out and no records categorised as internal audit plans were located. NTMA understands that PwC did not submit final or formal audit plans once an audit plan was agreed at Audit Committee level.
- Following your FOI request to NTMA on 6 September 2019, NTMA was satisfied that the searches previously conducted for your general query had located all records held by NTMA within the scope of your request, i.e., *"internal audit plans for the financial years ending 31 December 2009, 2010 and 2011 as per your engagement with PwC"*.
- This decision was appealed by way of Internal Review on 15 October 2019 and further enquiries were undertaken to identify and locate any records entitled or comprising the final agreed 'internal audit plans'. Staff members considered most likely to have had involvement in the NPRF internal audit process were requested to undertake manual and electronic searches (using key words) for any relevant records. These further searches did not identify any additional records entitled or comprising internal audit plans for the NPRF for the years in question. The internal reviewer decided to vary the original decision and administratively refuse access on the basis that the requested internal audit plans, as sought by you, did not exist.
- It is NTMA's position, based on the appropriate and adequate searches carried out, the knowledge of former NPRF Commission Secretary, relevant staff members and the content of the applicable Audit Committee minutes that no internal audit plans were ever received or subsequently destroyed. Therefore, NTMA is satisfied that no PwC internal audit plans exist for the years in question and that the only records located relating to the scope of the internal audit work carried out by PwC have already been provided to you.

Conclusion

Having carefully examined NTMA's submissions, it would appear that no records exist or can be found in relation to your FOI request. Presently, I am of the view that NTMA has conducted all reasonable searches to locate the relevant records and that Section 15(1)(a) of the FOI Act applies. Therefore, should this case proceed to a formal legally binding decision, I intend to recommend to the Senior Investigator that he affirm the decision of the NTMA under Section 15(1)(a).

Having considered my view above, you may wish to consider withdrawing your application for review at this time. If you choose to do so, this case will be treated as closed. This offer does not affect your rights and if you do not wish to withdraw, this case will progress to a formal, legally binding decision, which will be anonymised and published on our website. This should not in any way be interpreted as an attempt to persuade you to withdraw your application for review. Rather, I am merely ensuring that you are fully informed of all relevant matters before deciding as to how best to proceed.

If you have any further comments in relation to the above or if you wish to withdraw your application for review, please forward your response to this Office at your earliest convenience and by no later than **31 January 2020**.

Please note, that should I not hear from you by **31 January 2020**, this Office may proceed to issue a formal, legally binding decision without further reference to you. Feel free to contact me should you require any clarification on the above.

Yours sincerely

Anne Greenalgh
Office of the Information Commissioner

THE HIGH COURT

Record No.2020/53MCA

Between:

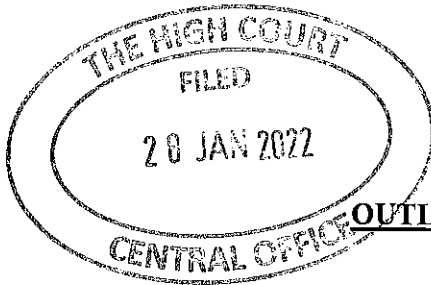
MAURICE D. LANDERS

Applicant / Appellant

-and

THE INFORMATION COMMISSIONER

Respondent



OUTLINE LEGAL SUBMISSIONS OF RESPONDENT

Introduction

1. These legal submissions are prepared on behalf of the Information Commissioner (the “**Commissioner**”), the Respondent to the proceedings.
2. There are essentially two issues in this case which will be addressed in turn.
3. The first is a preliminary issue concerning the nature of the proceedings and the scope of the court’s jurisdiction under s.24 of the Freedom of Information Act 2014 (the “**2014 Act**”).
4. The second concerns the substantive complaint by the Appellant that the Commissioner should have exercised his powers under s.45 of the 2014 Act to compel the release of particular documents, i.e. the Internal Audit Plan or engagement letter for 2009, 2010 and 2011 which the Appellant contends was prepared by Price Waterhouse Cooper (“**PWC**”) in its role as internal auditor of the National Treasury Management Agency (“**NTMA**”).

Factual Background

5. Before dealing with the issues in the case, it might assist to summarise the factual background.
6. On 5 June 2019, the Appellant (“**Mr. Landers**”) submitted a request to the NTMA for copies of the internal audit plans of the National Pensions Reserve Fund (“**NPRF**”) for the financial years of 2009, 2010 and 2011 as per NTMA’s engagement with PWC.

7. In a decision dated 24 September 2019, the NTMA issued its decision and stated that it had conducted searches and located three audit plan presentations for 2009, 2010 and 2011, copies of which were released (the “**initial NTMA decision**”).
8. Mr. Landers sought an internal review of the initial NTMA decision on 15 October 2019. On 8 November 2019, Ian Black, Chief Financial and Operating Officer in the NTMA, issued the internal review decision which noted that searches had been carried out and no audit plans had been located (the “**NTMA review decision**”). Accordingly, the request was refused on grounds pursuant to s.15(1)(a) of the 2014 Act.
9. Meanwhile, on 6 November 2019 Mr. Landers sought a review by the Commissioner of the ‘deemed refusal’ pursuant to s.22 of the 2014 Act. On 17 January 2020, Anne Greenalgh in the Commissioner’s office contacted Mr. Landers and provided him with a summary of the NTMA’s submissions in the case and invited any replying submissions by no later than 31 January 2020. A review was carried out by Stephen Rafferty of the NTMA’s decision, resulting in a decision dated 24 January 2020 which affirmed the NTMA decision to refuse access to the internal audit plans for the NPRF.
10. Mr. Landers subsequently issued a Notice of Motion and filed a Grounding Affidavit on 21 February 2020, and these were received by the Commissioner’s office on 2 March 2020. The Affidavit is somewhat unusual in form as it intersperses averments and extracts from exhibits. Nothing turns on this as such but rather it is difficult to ascertain the precise scope of the statutory appeal.
11. The Commissioner’s case is set out in the Points of Opposition and Affidavit of Stephen Rafferty filed on 25 May 2021 and a subsequent Affidavit of Mr. Landers was filed on 26 November 2021 which exhibits additional documents.

Nature of Statutory Appeal – Relevant Principles

12. As the case before the High Court is a statutory appeal pursuant to s.24 of the 2014 Act, it is perhaps necessary to set out the precise scope of the nature of the appeal and the function of the High Court.
13. Section 24 of the 2014 Act is similar to s.42 of the Freedom of Information Act 1997 (the “1997 Act”), which was the predecessor to the 2014 Act, and provides that a party to an application under s.22 of the 2014 Act or any other person affected by the decision of the Commissioner following a review under that section may appeal to the High Court—
 - a) on a point of law from the decision, or
 - b) where the party or person concerned contends that the release of a record concerned would contravene a requirement imposed by European Union law, on a finding of fact set out or inherent in the decision.
14. In addition, Order 130 of the Rules of the Superior Courts (the “Rules”) provides that every notice of motion for the purposes of an appeal on a point of law under FOI legislation shall be grounded upon the affidavit of the appellant which shall:
 - a) state the nature of the decision against which the appeal is brought
 - b) exhibit a copy of the decision, if any
 - c) state the grounds of the appeal and the point of law, where appropriate
 - d) state the nature of the direction or order sought from the Court
 - e) exhibit all relevant documentation; and
 - f) specify whether the appellant is requesting that the appeal be heard otherwise than in public.
15. The appeal is on a point of law “from the decision” or that arises from the decision.¹ This suggests that new points of law may not be raised before the High Court, although in Minister for Communications, Energy and Natural Resources v Information Commissioner² Baker J. stated that a flexible approach that permits an appeal on a point of law arising from a decision, rather than a strict approach that requires the point to have been expressly mentioned, should be applied as this reflects the fact that the parties at the

¹ *McKillen v Information Commissioner* [2016] IEHC 27, at para.59.

² *Minister for Communications, Energy and Natural Resources v Information Commissioner* [2020] IESC 57 at para.120.

stage of the first instance decision may not often engage lawyers to act on their behalf and the language used in a request, in submissions, or in a decision may not always bear scrutiny as if it were drafted by a lawyer.

16. There is established case-law as to what the term “appeal on a point of law” means. In *Inspector of Taxes v Hummingbird*³, Kenny J. explained the approach that a court should take when examining the determination of an expert body, in that case the Appeal Commissioners, and stated that findings on primary facts should not be set aside by the courts unless there was no evidence whatever to support them although he noted that the position is different where there are mixed questions of fact and law.
17. If the conclusions from the primary facts are ones which no reasonable decision-maker could draw, the court should set aside his findings on the ground that he must be assumed to have misdirected himself as to the law or made a mistake in reasoning. Finally, if his conclusions show that he has adopted a wrong view of the law, they should be set aside. However, if the conclusions are not based on a mistaken view of the law or a wrong interpretation of documents, they should not be set aside unless the inferences which are made from the primary facts were ones that no reasonable decision-maker could draw.
18. This passage was quoted, and the principles therein were applied, by Keane C.J. in *Henry Denny & Sons (Ireland) Ltd. v Minister for Social Welfare*,⁴ which concerned an appeal on a point of law from a decision of the Chief Appeals Officer under the then applicable social welfare statutory provisions.
19. The applicable principles as to how to approach an appeal on a point of law under the 1997 Act were helpfully summarised in *Deely v Information Commissioner*,⁵ where McKechnie J. stated that when a court is considering only a point of law, whether by way of a restricted appeal or *via* a case stated, it is confined as to its remit, in the following manner.

³ [1982] I.L.R.M. 421.

⁴ [1998] 1 I.R. 34.

⁵ [2001] IEHC 91, [2001] 3 I.R. 439 at 452.

20. First, it cannot set aside findings of primary fact unless there is *no* evidence to support such findings.⁶ Secondly, it ought not to set aside inferences drawn from such facts unless such inferences were ones which no reasonable decision-making body could draw. Thirdly, it can reverse such inferences, if the same were based on the interpretation of documents and should do so if incorrect. Finally, if the conclusion reached by such bodies shows that they have taken an erroneous view of the law, then that also is a ground for setting aside the decision.⁷
21. While the *Deely* case was decided under the 1997 Act, those principles equally apply to an appeal under s.24 of the 2014 Act.
22. The principles outlined in *Deely* were endorsed by the Supreme Court in *Sheedy v Information Commissioner*.⁸ In the judgment of Fennelly J., the vehicle of appeal on a point of law cannot have been intended to involve the High Court in a detailed review of the respondent Commissioner's conclusions of fact.⁹ Kearns J. (as he then was) also endorsed the principles in *Deely* but added that it would be incorrect to apply exclusively judicial review principles to matters of statutory interpretation in the way that might be appropriate to issues of fact and stated that a legal interpretation of a statute is either correct or incorrect.¹⁰
23. The judgment of Kearns J. in *Sheedy* also held that once there was some evidence before the Commissioner, the well-established principles of *O'Keeffe v An Bord Pleanála*¹¹ make it clear that his decision is not to be interfered with.
24. Similarly, in *Gannon v Information Commissioner*¹² Quirke J applied the *O'Keeffe* principles to a decision of the Information Commissioner and held that a decision of an administrative body would not be impugned as irrational or unreasonable unless a court was satisfied that either (a) there was no relevant material before the decision

⁶ See also *McKillen v The Information Commissioner* [2016] IEHC 27 at para.52 and *Grange v Information Commissioner* [2018] IEHC 108 at para.22.

⁷ [2001] 3 I.R. 439 at 452.

⁸ [2005] IESC 35, [2005] 2 I.R. 272.

⁹ [2005] 2 I.R. 272 at 284.

¹⁰ [2005] 2 I.R. 272 at 294.

¹¹ [1993] 1 I.R. 39.

¹² *Gannon v Information Commissioner* [2006] IEHC 17, [2006] 1 I.R. 270 at 278.

maker which could reasonably have given rise to the impugned decision or, (b) that the decision maker wholly failed to take into account relevant material or, (c) that the impugned decision flew in the face of fundamental reason and common sense.

25. The decision in *Deely* was also followed in *Westwood Club v Information Commissioner*,¹³ where it was held by Cross J. that the remit of the court in considering an appeal on a point of law was limited and it could not set aside findings of primary fact unless there was no evidence to support such findings and it ought not to set aside inferences drawn from such facts unless such inferences were ones that no reasonable decision-making body could draw.
26. However, it could reverse such inferences if they were based on the interpretation of documents and should do so if incorrect. If the conclusion reached by such bodies showed that they had taken an erroneous view of the law, then that was also a ground for setting aside the resulting decision. Cross J. also noted that a mistake or error of law in the decision would not itself result in that decision being quashed. It was only when the mistakes were material that such a decision could be made.¹⁴
27. The judgment in *McKillen v Information Commissioner*,¹⁵ also provides a useful summary of the principles to be applied in an appeal of this type. It was held by Noonan J. that the standard to be met by an appellant on an appeal pursuant to the 2014 Act is virtually indistinguishable from that applied by the court in judicial review matters. Accordingly, a decision of the Commissioner will not be interfered with unless it is either based on no evidence or flies in the face of fundamental reason and common sense and it is immaterial if the court would have arrived at a different decision based on the same evidence.¹⁶

¹³ *Westwood Club v Information Commissioner* [2014] IEHC 375, [2015] 1 I.R. 489.

¹⁴ [2015] 1 I.R. 489 at 508.

¹⁵ [2016] IEHC 27.

¹⁶ [2016] IEHC 27 at para.56.

28. Similar to judicial review, the court should not lightly interfere with any findings of fact. For example, in Westwood Club v Information Commissioner¹⁷ it was held that the law allowed a wide margin of discretion or appreciation to decision makers such as the Information Commissioner who had been charged at law with the decision making of the relevant matters and had expertise in so deciding. It was not for the court to impose its standards of excellence or otherwise upon what decision makers should decide or how they should decide it.¹⁸ In FP v Information Commissioner (No. 2),¹⁹ Peart J. noted that considerable deference should be afforded to an expert decision-maker such as the Commissioner and that a wide margin of appreciation given that the office is created by statute. Peart J. held that it is not sufficient that in the exercise of the same discretion, the court hearing an appeal might itself have reached a different decision. There must be a clear error of law established.²⁰
29. However, it is important to note that while the court should be deferential in terms of findings of fact, the position differs when the issue concerns statutory interpretation. For example, in Minister for Communications, Energy and Natural Resources v. Information Commissioner²¹ (the “ENET case”) the Court of Appeal emphasised the distinction between a statutory appeal and the narrower jurisdiction which the court exercises in judicial review proceedings. Giving the judgment of the court, Birmingham P. endorsed the proposition stated by the Supreme Court in Sheedy v Information Commissioner²² to the effect that it would be incorrect to apply exclusively judicial review principles to matters of statutory interpretation in the way that might be appropriate to issues of fact.²³

¹⁷ [2014] IEHC 375, [2015] 1 I.R. 489.

¹⁸ [2014] IEHC 375, [2015] 1 I.R. 489 at 510-511.

¹⁹ [2019] IECA 19.

²⁰ [2019] IECA 19 at para.73.

²¹ *Minister for Communications, Energy and Natural Resources v. Information Commissioner* [2019] IECA 68.

²² [2005] 2 I.R. 272.

²³ *University College Cork v Information Commissioner* [2019] IEHC 195 at para.38.

30. Similarly, in *Jackson Way Properties Ltd. & Anor. v Information Commissioner & Anor.*²⁴, it was held by Hyland J. that, insofar as errors of law are concerned, the case law makes it clear that no deference should be shown to the Commissioner when the High Court is interpreting a section of the Act, a legal interpretation of a statute being either correct or incorrect.²⁵
31. Having regard to those principles set out in case-law, it is submitted that Mr. Landers' pleadings do not disclose *any* point of law, let alone any errors of law, such as to invoke the jurisdiction in s.24 of the 2014 Act.
32. The pleaded case in the Notice of Motion seeks to direct the Commissioner to compel the release of the Internal Audit Plan and is drafted in a manner analogous to an order of *mandamus*. However, no error of law is identified in the Notice of Motion or indeed the Grounding Affidavit and indeed the relevant parties which are alleged to have the document are not named as parties to the proceedings.
33. While it is somewhat difficult to ascertain the scope of the appeal in Mr. Landers' Affidavit, insofar as it is understood there appears to be two aspects to the case. First, it appears to be contended that the Commissioner was wrong to accept the submissions of the NTMA. Secondly, the case is that the Commissioner should have used his powers under s. 45 of the 2014 Act to request that third party entities provide him with a copy of the documents he had sought from the NTMA and to compel the NTMA to release those documents, or for the Commissioner to release them directly to him. This is a fundamental misconception of the role of the Commissioner under a s.22 review and the powers of the Commissioner under s.45 of the 2014 Act.

²⁴ *Jackson Way Properties Ltd. & Kennedy v Information Commissioner & Dún Laoghaire Rathdown County Council* [2020] IEHC 73.

²⁵ *Jackson Way Properties Ltd. & Kennedy v Information Commissioner & Dún Laoghaire Rathdown County Council* [2020] IEHC 73 at paras.4 and 5.

Approach Adopted by the Commissioner

34. In order to address the first issue, it is necessary to look at the jurisdiction in s.22 of the 2014 Act and the approach adopted by the Commissioner.
35. The jurisdictional scope is set out in s.22(2) which states that the Commissioner may, on an application in writing or in such other form as may be determined by a relevant person, review a decision. Following the review, the Commissioner may affirm or vary the decision, or annul the decision and, if appropriate, make such decision in relation to the matter concerned as he or she considers proper. The section also states that must be done 'in accordance with this Act' which affirms in statutory terms that the Commissioner is a creature of statute.
36. Section 22(6) is also relevant as this provides that, after the receipt of an application, the Commissioner must provide a copy of the application to the 'head' of the FOI body and 'relevant person' which is defined in s.22(16) as (a) the requester concerned, or (b) if the decision is made under section 9 or 10, the person who made the application concerned.
37. Where the Commissioner proposes to carry out a review, the head of the FOI body, the relevant person concerned and any other person who is notified of the review, may make submissions (as the Commissioner may determine, in writing or orally or in such other form as may be determined) to the Commissioner in relation to any matter relevant to the review and the Commissioner shall take any such submissions into account for the purposes of the review.
38. Mr. Landers sought a review by the Commissioner on 6 November 2019 (which was some two days before the NTMA review decision) where he cited the Commissioner's powers under s.45 of the 2014 Act. The NTMA review decision was subsequently sent to the Commissioner on 18 November 2019.
39. As detailed in the exhibits to Stephen Rafferty's Affidavit, the NTMA was requested to make a submission to the Commissioner by way of letter dated 12 December 2019 and did so on 15 January 2020.²⁶

²⁶ See Exhibit SR1 to the Affidavit of Stephen Rafferty.

40. That submission confirmed that upon receipt of Mr. Landers' query of 5 June 2019, enquiries were made in order to establish what records were held relating to the scope of audit work undertaken by PWC.
41. Following electronic searches, the only relevant records located were the audit plan presentations which were presented to the NPRF Audit Committee although the submission stated that, following the request for an internal review, staff members who were considered to be involved in the internal audit process were requested to undertake manual and electronic searches in order to validate the previous searches which were also informed by the knowledge of the former NPRF Commission Secretary and the applicable Audit Committee minutes.
42. The NTMA submission stated in terms that the outcome of those searches did not yield any additional documents or records and it was concluded that the internal audit plans did not exist and that the documents relevant to the request had already been released in full.
43. On 17 January 2020, the Investigating Officer provided Mr Landers with a summary of the NTMA's submissions and of her preliminary view that the NTMA had conducted all reasonable searches to locate the relevant records. She invited him to consider withdrawing his application for review or, indeed, to make a further submission on the matter. Mr. Landers replied by email on the same date and requested the Commissioner to proceed to issue the final decision.²⁷
44. It appears from Mr. Landers' Grounding Affidavit that he does not accept the veracity of the NTMA submission and is now seeking to direct the Commissioner to 'look behind' the NTMA submission and compel the release of records which the NTMA has said it does not have in its possession.

²⁷ See para.26 of the Grounding Affidavit.

Adequacy of Searches

45. Before looking at the Commissioner's powers under s.45 of the 2014 Act, it is submitted that the duty on an FOI body when searching for records on foot of a request is to take 'reasonable steps'.
46. For example, s.12(1) of the 2014 Act states that a person who wishes to exercise the right of access shall make a request, in writing or in such other form as may be determined, addressed to the head of the FOI body concerned for access to the record concerned containing sufficient particulars in relation to the information concerned to enable the record to be identified by the taking of *reasonable steps*.
47. Section 15 of the 2014 Act sets out a number of administrative grounds which may be relied on to refuse a request. Of relevance here is s.15(1)(a) which states that a head to whom an FOI request is made may refuse to grant the request where the record concerned does not exist or cannot be found after all *reasonable steps* to ascertain its whereabouts have been taken.²⁸
48. The leading academic text examined the approach of the Commissioner in Mr A.B.X. and Dept. of Social, Community and Family Affairs²⁹ and summarised the Commissioner's decisions as follows:

"The Commissioner took the view that his role was not to search for the requested records, but rather to review the decision of the FOI body and to decide whether that decision was justified. In so doing, he would have regard to the evidence available to the decision-maker and the reasoning used by him or her in arriving at the decision. According to the Commissioner, the evidence in such cases consists of the steps actually taken to search for the records along with miscellaneous other evidence about the record management practices of the FOI body. The Commissioner took the view that because misfiling or misplacing of records is a common enough occurrence, where an FOI body accepts that the records sought exist but cannot be located, he would normally expect the search to extend to locations where the records might be, as opposed to should be. He also said that where a file is missing or has

²⁸ Section 17(4) also states that where an FOI request relates to data contained in more than one record held on an electronic device by the FOI body concerned, the FOI body shall take *reasonable steps* to search for and extract the records to which the request relates.

²⁹ Case No. 99046, July 4, 2000.

been destroyed, then it may be possible to reconstruct it, either wholly or partially, if its contents were generated within the FOI body."³⁰

49. The equivalent provision in s.10(1)(a) of the 1997 Act (which is identical in term) was considered in the case of *Ryan v Information Commissioner*³¹ where Quirke J. held that the Commissioner was not required to search for records but rather to review the decision of the FOI body (in that case the Department of Education and Science) and in doing so to have regard to the evidence which was available to the decision-maker and to the reasoning used by the decision-maker in arriving or failing to arrive at a decision. On the facts it was held that there was a very large volume of evidence and material before the Commissioner which could reasonably have given rise to the decision made.
50. It is submitted that on the evidence presented in the NTMA submission, the Commissioner was entitled to accept that adequate searches had been carried out and that the NTMA was justified in its decision on the grounds that the documents requested by Mr. Landers did not exist.
51. This is classically a decision which was within the purview and expertise of the Commissioner, and it is respectfully submitted should not be set aside in line with the decision in *Deely*. Secondly, insofar as Mr. Landers disagrees with the Commissioner's decision he has not identified a point of law but rather is pursuing the matter by way of a *de novo* appeal, albeit in such a way that he is seeking this Honourable Court to *direct* the Commissioner to compel the release of the records where this is contrary to the evidence in the NTMA submission.

³⁰ McDonagh, Freedom of Information Law, 3rd Ed, 2015, para 4.249.

³¹ *Ryan v Information Commissioner*, Unreported, High Court, Quirke J, May 20, 2003.

Powers of the Commissioner

52. Turning to the substantive complaint, it appears from para.23 of Mr. Landers' Grounding Affidavit that the gravamen of the complaint is that the Commissioner should have exercised his powers under s.45 of the 2014 Act.
53. With respect, this is misconceived. First, s.45 is a discretionary power that *may* be used by the Commissioner to furnish information or a record where the Commissioner is of the opinion that it is in a person's possession or power or control. As such the discretion to use that power can only be challenged on irrationality / unreasonableness grounds: see for example *Irish Cobb Society v Minister for Agriculture, Food and the Marine*³², where Hogan J held that the courts have consistently held that the opinion formed by an administrative decision-maker must satisfy the triple test of demonstrating that the opinion is held *bona fide*, that it is factually sustainable, and is not unreasonable, thus endorsing the tripartite test in *The State (Lynch) v Cooney*.³³
54. It is not a wide supervisory jurisdiction to second-guess the FOI body where that body has submitted that it has taken reasonable steps to identify the location and holder of the information requested.
55. The Commissioner accepted here that the NTMA had carried out adequate searches and reasonable steps and there was no basis for the Commissioner to then exercise his power under s.45. The question that was before the Commissioner on the review was whether the NTMA was justified in its approach and the Commissioner accepted that it was.
56. Secondly, it is not a power that can be compelled or directed to be exercised, given its nature as a discretionary power and in light of the evidence before the Commissioner.
57. Thirdly, the Commissioner's decision was not that the document never existed or is not held by some other party. While the decision affirmed the NTMA decision that the particular records could not be found or do not exist, this was in the context of the request made to the NTMA.

³² [2013] IEHC 619.

³³ [1982] I.R. 337 at 361.

58. It does not mean that the records may have been held by the NTMA at some point or indeed may be held by some other body to which the request was not made or indeed a private entity which is not subject to the FOI regime. What is relevant that the Commissioner was satisfied that, based on the evidence in the NTMA submission, the Commission was entitled to conclude that the records do not exist insofar as they are not in the possession of the NTMA at this time, or could not be found after all reasonable steps had been taken by the NTMA, and therefore could be refused on the grounds of s.15(1)(a) of the 2014 Act.

Summary and Conclusion

59. In conclusion, it is respectfully submitted that Mr. Landers has not identified a point of law such as to invoke the court's jurisdiction in s.24 of the 2014 Act.

60. Secondly, insofar as Mr. Landers has identified a complaint, there was ample evidence before the Commissioner to reach a conclusion that adequate searches had been carried out and reasonable steps had been taken by the Commissioner.

61. Thirdly, the powers in s.45 of the 2014 Act are inherently discretionary powers and there is no evidential basis to compel the Commissioner to exercise that power here and direct the NTMA where the Commissioner was satisfied that reasonable steps were taken internally by the NTMA in seeking to locate the requested records.

62. Finally, there is no evidential or indeed basis to compel the Commissioner to exercise this power against a private party which may or may not have to document in question.

David Browne BL

4,742 words