



written by Haughey Family

## Press Statement on Moriarty Tribunal

It is with great sadness that the Haughey family issue this statement. It is the first time we as a family have ever commented publicly on any matter relating to the late Charles J. Haughey. We are issuing this statement because we believe that allegations of political corruption or misuse of office are unfounded on the basis of the evidence.

The findings of the Tribunal, which we believe are perverse are:

- (a) The findings in relation to Mr. Bernard Dunne.
- (b) The findings in relation to the late Mr. Mahmoud Fustok.
- (c) The findings in relation to the late Mr. Brian Lenihan.

We also believe it is wrong that the Tribunal did not issue any positive findings, other than in relation to the matter of Glen Ding, relating to the fact that Mr. Haughey did not do any act or make any decision to benefit persons or companies who made donations to him for the period 1979 to 1996, and which were the subject of the Tribunal's investigations for the last nine years.

We feel so strongly about the above points, we decided to put an extract of the submission made by the family to the Tribunal on these proposed findings into the public domain. Our submission is issued as an attachment to this statement.

We will not be making any further comment, either as a family or individually at this time.

## **Submission of the Haughey Family**

### **Tribunal of Inquiry (Evidence) Act 1921 and 1979 (No.2) Order of 1997.**

1. The Tribunal of Inquiry was set up on the 26<sup>th</sup> September 1997 to inquire into a number of matters relating to the late Mr. Haughey which are more particularly set out as follows:

(a) Whether any substantial payments were made, directly or indirectly, to Mr Charles Haughey (whether or not used to discharge monies or debts due by Mr Charles Haughey or due by any company with which he was associated or due by any connected person to Mr Charles Haughey within the meaning of the Ethics in Public Office Act, 1995 or discharged at his direction) during any period when he held public office commencing on 1st January, 1979 and thereafter up to the 31st December, 1996 in circumstances giving rise to a reasonable inference that the motive for making the payment was connected with any public office held by him or had the potential to influence the discharge of such office.

(b) The source of any money held in the Ansbacher accounts for the benefit or in the name of Mr Charles Haughey or any other person who holds or has held Ministerial office, or in any other bank accounts discovered by the Tribunal to be for the benefit or in the name of Mr Haughey or for the benefit or in the name of a connected person within the meaning of the Ethics in Public Office Act, 1995, or for the benefit or in the name of any company owned or controlled by Mr Haughey.

(c) Whether any payment was made from money held in any of the accounts referred to at (b) to any person who holds or has held public office.

(d) Whether Mr Charles Haughey did any act or made any decision in the course of his Ministerial offices, to confer any benefit on any person making a payment referred to in paragraph (a) or any person who was the source of money referred to in paragraph (b), or any other person in return for such payments being made or procured or directed any other person to do such an act or make such a decision.

(i) Whether any holder of public office for whose benefit money was held in any of the accounts referred to at (b) or (2) did any act, in the course of his or her public office, to confer any benefit on any person who was the source of that money, or directed any person to do such an act.

(j) Whether the Revenue Commissioners availed fully, properly and in a timely manner in exercising the powers available to them in collecting or seeking to collect the taxation due by Mr Michael Lowry and Mr Charles Haughey of the funds paid to Michael Lowry and/or Garuda Limited trading as Streamline Enterprises identified in Chapter 5 of the Dunnes Payments Tribunal Report and any other relevant payments or gifts identified at paragraph (e) above and the gifts received by Mr Charles Haughey identified in Chapter 7 of the Dunnes Payments Tribunal Report and any other relevant payments identified at paragraph (a) above.

2. The Tribunal commenced work in September of 1997.

3. The late Mr. Haughey gave evidence to the Tribunal in 2000 and 2001:

Day 78 Friday, 21st July 2000

Day 79 Monday, 24th July 2000

Day 80 Tuesday, 25th July 2000

Day 81 Wednesday, 26th July 2000

Day 82 Thursday, 27th July 2000

Day 83 Thursday, 21st September 2000 -

Day 84 Friday, 22nd September 2000:

Day 85 Monday, 25th September 2000

Day 86 Wednesday, 27th September 2000

Day 87 Thursday, 28th September 2000

Day 88 Friday, 29th September 2000

Day 89 Monday, 2nd October 2000

Day 90 Tuesday, 3rd October 2000

Day 1 Thursday, 18th January 2001

Day 2 Friday, 19th January 2001

Day 3 Thursday, 1st February 2001

Day 4 Friday, 2nd February 2001

Day 5 Tuesday, 6th February 2001

Day 6 Wednesday 7th February 2001

Day 7 Thursday 8th February 2001

Day 8 Tuesday, 13th February 2001

Day 9, Wednesday, 14th February 2001

Day 10, Thursday, 15th February 2001

Day 11 Tuesday, 20th February 2001

Day 12 Wednesday, 21st February 2001

Day 13 Wednesday 28" February 2001

Day 14 Thursday, 1st March 2001  
Day 15 Tuesday, 6th March 2001  
Day 16 Wednesday, 7th March 2001  
Day 17 Thursday, 8th March 2001  
Day 18 Tuesday, 13th March 2001  
Day 19 Wednesday 14th March 2001  
Day 20 Thursday, 15th March 2001

4. The late Mr. Haughey died on the 13<sup>o</sup> June 2006.

5. On the 14<sup>th</sup> June 2005 the Tribunal began hearing evidence pursuant to paragraph (d) of its Terms of Reference. Paragraph (d) relates to the acts and decisions of Mr. Charles Haughey.

6. By that time Mr. Haughey was too ill to be able to take any part in the Tribunal and the Tribunal was so notified and acknowledged that as being the position.

7. On the 28<sup>th</sup> July 2006 the ‘Tribunal wrote to the Haughey Family in the following terms: *“the purpose of this letter is to notify you of proposed findings that the Sole Member of the Tribunal may be minded to make, and which, if made would have an adverse impact on the late Mr. Haughey. Such findings are set out in the schedule to this letter”*. Attached to the letter was a schedule with 108 paragraphs which were been identified by the Tribunal as being the proposed findings to be made by the Tribunal.

8. During the course of it’s work in respect of paragraphs (a) and (b) over the period January 1999 to May 2001 the Tribunal tracked payments and sources of money to or for the benefit of Mr. Haughey which appear to amount to a figure in the region of €8.5 million.

9. These payments covered the period from the 1st January 1979 and thereafter up to the 21st December 1996.

10. This became known as the investigation of the money trail.

11. Following receipt of the letter of the 28th July 2006 the Haughey Family responded to the Tribunal requesting time to put in Submissions but seeking initially the evidence upon which these potential findings were based.

12. By reply dated the 16<sup>th</sup> day of August 2006 the Tribunal stated that they were not prepared to give the evidence, referring instead to the transcripts and to the fact that during the Tribunal Mr. Haughey had been represented by Counsel and Solicitor.

13. A further letter was sent by the Tribunal seeking evidence in particular in relation to paragraphs 42 to 49 which related to Ben Dunne and paragraphs 57 to 60 which related to Mr. Mahmoud Fustok. At the same time the family indicated that they required a further period of 6 weeks.

14. On the 15<sup>th</sup> day of September the Tribunal replied sending the evidence which consisted of 5 lever arch files of transcripts being numbers 289-300 and 313-317 and allowing the family until the 29<sup>th</sup> September to furnish a response.

15. It would not be physically possible for the family and/or its lawyers to prepare a Submission dealing with 108 proposed findings in a period of at best 4 weeks and at worst 2 weeks bearing in mind the volume of material that has to be considered properly and in circumstances where no assistance is given by the Tribunal in relation to the nature of the evidence upon which they are relying to make their proposed findings.

16. The family are making this submission with the assistance of some of those who represented the late Mr Haughey during the currency of the Tribunal.

17. It should be made clear at the beginning that at no stage was the late Mr Haughey ever made aware before he died of the proposed findings of the Tribunal and, in particular, although his dealings with the Tribunal terminated in 2001, at no stage was there any communication from the Tribunal suggesting that adverse opinions were to be made against him.

18. If he had been made so aware in 2001, it would have given him an opportunity of dealing with each of those allegations and of answering them or tendering such evidence as might be useful for the Tribunal to consider.

19. This would have been his legal entitlement.

20. What this submission is therefore doing is focusing on the only 2 findings relating to paragraph (d) of the Terms of Reference i.e.. determinations in relation to acts and decisions.

### **Mr. Bernard Dunne (Paragraphs 42/49)**

21. The proposed finding by the Tribunal in paragraph 47 “*that notwithstanding his evidence to the contrary it is probable that at all material times Mr. Haughey had full knowledge of each of the above payments made by Mr. Dunne*”. We would say simply that this was never put to Mr. Haughey during the time that he gave evidence and that there is no basis therefore in law or in fact for the Tribunal to make such a finding of fact.

22. The proposed finding by the Tribunal in paragraph 48 is “*That in approaching the Revenue Commissioners as Taoiseach on behalf of Mr. Dunne in 1987 and 1988 Mr. Haughey sought to and did confer a benefit upon Mr. Dunne in return for substantial payments received from him and accordingly did an act or acts within the meaning of paragraph (4) of the Tribunals Terms of Reference*. We would say the following:

(i) The Tribunal have not identified the alleged benefit sought or conferred on Mr. Dunne by Mr, Haughey.

(ii) We have read the evidence very carefully in transcripts 289 to 300 and have been unable to identify any benefit sought or conferred by Mr. Haughey upon Mr. Dunne in the approach by Mr, Haughey to either Mr. Curran or Mr, Pairceir, the Revenue Commissioners whom Mr. Haughey spoke to. It is the position that Mr. Haughey did ask the Commissioners to meet with Mr. Dunne. However, the Revenue Commissioners and personnel involved in the Tax matters arising from the affairs of the Dunnes Trust carried out their duties and their responsibilities in accordance with the law and their office. It is clear that Mr. Haughey neither asked for not sought nor conferred a benefit on Mr. Dunne. The only thing that Mr. Haughey did was to affect an introduction. It is submitted that he was obliged to and did this as a Public Representative. Public Representatives do this all the time. It is difficult to understand how the Tribunal could make a finding that such an introduction was in return for a substantial payment by Mr. Dunne to Mr. Haughey. It is submitted that this finding is perverse,

(iii) If there is an in error in identifying the benefit as being the introduction to the Revenue Commissioners, then please let us know your proposed finding in relation to the benefit sought and conferred by Mr. Haughey io Mr. Dunne to enable a response to be made.

**Mr, Mahmoud Fustok (Paragraphs 57/60)**

23. The proposed finding by the Tribunal in paragraph 57 is “*that the payment made by the late Mr. Mahmoud Fustok of IR£50,000 to Dr. John O’Connell did not*

*represent a payment made by Mr. Mahmoud Fustok to Mr. Haughey for the purchase of a yearling from the Haughey Family*". The main persons who gave evidence on this issue were Dr. John ©'Connell, Ms. Eimear Mulherm and Mr, CJ Haughey. It is submitted that the evidence was that Mr. Mahmoud Fustok purchased a horse from Abbeville Stud (not the Aaughey Family) in or about 1985.

In his evidence Mr. Haughey on page 30 of transcript 90 said "*what I am saying here Mr, Coughlan is that I am reasonably certain and positive that the basis of this transaction with Mr. Fustok purchased a yearling, an actual yearling, an individual horse, purchased a yearling from Abbeville Stud, took it into his empire and paid for it. That is what I am saying to you and beyond that, Mr. Coughlan, I cannot be much more specific, but to assure you that that was the basis of this transaction, whatever complications arose in the implementation of it*". Again, on page 45 transcript 89 Mr. Haughey said "*I am almost certain of that yes. Could I offer an explanation of what I think may have happened? And that is that, as I say, I was pressing Mr. Mahmoud Fustok to bring some of his racing establishment to Ireland because it would have been 'very very important for Irish racing and bloodstock - breeding to have an owner breeding: of Fustok's standing and also of his very extensive interest in racing to have such an establishment in Ireland, so I was pretty keen. In those days one pursued every possible avenue for development that one came across*".

Letters by Mr. Mahmoud Fustok dated respectively the 16" April 1999 and April 2000 together with a letter of the 27" December 2005 to the Tribunal supported the evidence that a transaction involving the sale of a horse had taken place. It is not clear whether the Tribunal accepted the letters as evidence since Mr. Mahmoud Fustok did not give evidence and was not therefore available for cross-examination, It is submitted:

(i) That all of the evidence available to the Tribunal supports the evidence that a sale involving a horse took place between the late Mr. Mahmoud Fustok and Abbeville Stud.

(ii) At no time did the Tribunal Suggest to any of the witnesses nor did they suggest to Mr. Mahmoud Fustok in correspondence that no sale had taken place.

(ii) It was never suggested in correspondence to the late Mt, Mahmoud Fustok that the IR£50,000 was a payment for naturalisation of Ms, Faten Moubarak and or others.

It is submitted therefore that the proposed finding in paragraph 57 is not supported by the evidence,

24. The proposed finding by the Tribunal in paragraph 60 is *“that in involving himself and assisting in connection with the said naturalisation, particularly by the naturalisation of Ms. Faten Moubarak, Mr. Haughey made a decision by way of return for the payment of IRE50.000 received by him which accordingly was a decision for the purposes of paragraph (d) of the Tribunal’s Terms of Reference”*. It is submitted that this is not in any way supported by the evidence.

The evidence on this issue is contained within transcripts 313-317. Between the years 1981 to 1990 a number of persons of Lebanese background applied for and were granted Certificates of Naturalisation. They were as follows:

Mr. Torahim Moubatak, certificate granted on 3 June 1981

Mz. Razouk Daher, certificate granted on 3 June 1981

Mr. Philip Noujaim, certificate granted on 3 June 1981

Mr. Karnal Fustok, certificate granted on 3 June 1981

Mr. Bechara Anis Shoukair, certificate granted on 29" September 1982

Mr. Michael Albinia, certificate granted on 29 September 1982

Mr. Slieman Youssef Moubarak, certificate pranted on 29 September 1982

Mr. Wael Khairi had a certificate granted on 19 September 1982

Mr. Mohamad Moubarak, then a minor, certificate granted on 29 September 1982

Mr. Mehzen Youssef Moubarak, then also a minor, certificate granted on 29 September 1982

Mr. Kamal Moukarzel, certificate granted on 8 December 1982

Mr, Adnan Moubarak, certificate granted on 8 December 1982.

Ms, Leila Moubarak, certificate granted on 8 December 1982

Mr, Antoine Ghorayeb, certificate granted on 8 December 1982

And finally, Ms. Faten Moubarak, then a minor, certificate granted on 4 May 1990.

The first applications seem to have been made in and around December of 1980 when Mr. Gerard Collins TD was Minister for Justice. Those first applications applied to the first four named persons on the above list. These applications were granted in June of 1981. The government changed in 1981 and the late Mr. Jim Mitchell was appointed Minister for Justice. During his time he considered a second set of applications on behalf of a further six persons being the fifth to the eleventh person in the list above. Their applications were made in or around November of 1981 but the then Minister deferred making a decision on those applications until December of 1982. In the meantime, the government changed again, and the late Mr Sean Doherty became Minister for Justice; He granted the applications for those six persons on or about the 29 September of 1992.



In November of 1982, a further application was being made on behalf of a further four persons of Lebanese background being the persons named at number twelve to fifteen inclusive. These applications were granted by the late Mr. Doherty, Minister for Justice in December of 1982. A further application was made on behalf of Ms. Faten Moubarak and two other persons in or about July of 1984. The application of Ms. Faten Moubarak was granted in 1990. The Tribunal did not lead evidence on the other two persons, and it is not clear what happened to their applications.

Dr. John O'Connell gave evidence that he was the main proposer, supporter and lobbyist for all of these Lebanese persons. He lobbied all available Ministers in all governments between 1980 to 1990 inclusive. He gave evidence that his original belief in relation to all of these applications were that they were being made and granted on humanitarian grounds. This was a view which he had put forward to the late Mr. Haughey on foot of a UN Charter. Dr. O'Connell gave evidence that his original belief in relation to all of these applications were that they were being made and granted on humanitarian grounds.

In transcript 314 at page 42 Mr. Crowley of the Department of Justice gave evidence:

*"137 Q: The Taoiseach took the view that, for humanitarian reasons and in the light of the case to be made by the applicant as in independent juvenile alien resident here that she should be naturalised and that even if there were doubts regarding the bona fides of her father's naturalisation she should not be visited with the sins of her father as the Taoiseach put it and as you have just stated the Taoiseach Put those matters to you most eloquently.*

*A: Mm-hmm.*

*138 Q: And it was your view that there was validity in what the Taoiseach was saying to you?*

*A: Yes, it was a statable case.*

*141 Q: But you accept that it was a statable case that he was making?*

*A: Maybe a bit stronger than that even."*

It was submitted that having regard to all of the evidence contained within the transcript 313 - 317 and the full analysis of same, that the payment of IR£50,000 was not received by Mr Haughey by reason of the naturalisation of Ms Faten Moubarak and/or others and is therefore not a decision for the purposes of paragraph (d) of the Tribunal's Terms of Reference.

### **Finding of the Late Mr. Brian Lenihan's Medical Treatment (Findings 86-97)**

25. On the 2<sup>nd</sup> February 2001 on transcript 4 page 16 Mr. Haughey in respect of this issue said the following *"I'd just like to say this Mr. Chairman, if I may, that my*

*efforts on behalf of Brian Lenihan at that time were the most compassionate thing I have ever done in my life and I think it is absolutely preposterous that this whole genuine charitable effort on my part at that time should now, 20 years or so later be sought to be turned against me in the most cruel fashion, that I would deliberately would divert to my own purposes money that was subscribed by well-meaning people for the good and salvation for my friend Brian Lenihan.”*

*At that time Chairman I had known Brian Lenihan for 30 years. He was one of my closest personal friends and certainly my closest political friend I watched him fade away in the 1988/89 period. I watched over him. I protected him. I kept him in office when it was when he was hardly able to perform the functions of his office and then when he was first of all when he went into hospital the first visit into hospital I kept his job open for him, did it myself insofar as it had to be done, and when he came out of hospital that time, I looked after him in government and personally. When the awful news came that he had to have a liver transplant there was absolutely no way that he could get that liver transplant unless I did something about it. There was no one else, Chairman, no one else in the position or able or prepared to take the initiative in that regard”. He further went on to Say on page 18 of the same transcript quoting by a book from Ms. Lenihan “The Taoiseach came over to the Mater to see me and I told him what the diagnosis was and of the decision to go to America. He couldn't have been more supportive. He told me not to worry about anything other than getting Brian to America as quickly as possible and to make sure that we had the very best doctors there. He assured me that if we needed anything that I simply had to give him a call. That was very reassuring indeed”. Mr. Haughey continued with his own evidence “I'd just like to put that into the record Chairman, on the basis of the whole atmosphere and the relationship between myself and Brian Lenihan and his family and in those circumstances Chairman, I am saying to you, with the upmost sincerity that whatever cheques, stubs, copies that Mr. Coughlan can produce, they are, to me, quite irrelevant. They mean nothing. The fact is that I to save my friends life, took an initiative, instituted the raising of funds, all of which funds were spent in his best interest and I did not, could not and would not divert one penny of those funds for any other purpose”.*

26. Mr Haughey's belief always was that more money was expended on the late Mr Lenihan's medical treatment than was accounted for.

27. The evidence shows that other monies were intermingled with the Brian Lenihan fund monies. There were also election finds for two elections that year placed in the same account and no precise records were kept at that time.

28. We do not accept any of the findings set out in paragraph 86 to 97.

### **Proposed Finding for Acts and Decisions**

In the above submission what has been dealt with is the proposed findings by the Tribunal which reflect adversely on Mr. Haughey. It is not clear from that document what findings the Tribunal propose to make in relation to their inquiries into the acts and decisions of Mr. Haughey during the period 1979 to 1996. The Tribunal have identified in their Proposed findings numerous persons and companies who they have put forward as being persons and companies who made donations to Mr. Haughey. Mr. Haughey is entitled to a positive finding that no act or decision affecting any of these gentlemen or companies was made by him during the period 1979 to 1996. The names for which we believe such a finding is justifiable include:

Dr. Michael Smurfit

Mr. Dermot Desmond

The late PV Doyle

Mr. John Byrne

Dr. Edmund Farrell]

Mr. Mark Kavanagh

Celtic Helicopters Limited

The sale of the B&I Line

Acquisition of Irish Distillers by Pernod Ricard

Controversy surrounding the Carysford Site

Dealing between AIB re: The Government in connection with the funding of

Beaumont Hospital

The siting of the Whiddy Oil Tribunal

The sale of State lands at Glen Ding to Roadstone in December 1990

The late Patrick Gallagher

Guinness Mahon Ireland Limited

Mr. John Magnier

Mr. Nicholas Fitzpatrick

Mr. Seamus Tully

Mr. Oliver Murphy

Mr. Laurence Goodman

It is to be assumed having regard to the Terms of Reference that the Tribunal will make a finding indicating that they have examined all acts and decisions and they were unable and they were satisfied that no other act or decision which involved his political life was carried out for the benefit of any persons who may not have given them a donation during the period 1979-1996.