



Bernard P. Cunnane & Co.

SOLICITORS

Bernard P. Cunnane, B.C.L.
Mary Duggan, B.C.L. Dip. Econ. Sc.

Aras Ide,
Foynes,
Co. Limerick.

Telephone: (069) 65583
(069) 65128
Fax: (069) 65657
E-mail: bpcunnane@eircom.net



Our Ref:

Your Ref:

Date: BC.BB.C982

17 February 2012

PAC-R-322

Correspondence 3.9
Meeting – 23/02/2012

Eimear Lavelle
Committee Secretariat
Committee of Public Accounts
Leinster House
Dublin 2

Re Reply of Department of Arts, Heritage and the Gaeltacht to the
Dail Public Accounts Committee 30th January 2012.
Re: Foynes Aviation and Maritime Museum Limited
Re: Our Client Patrick Cunnane – shareholder

Dear Ms Lavelle

We refer to the above and we enclose herewith the following:-

- (a) Copy letter of Joe Hamill, Secretary General the Department of Arts, Heritage and the Gaeltacht to the Public Accounts Committee dated the 30th January, 2012.
- (b) A copy of our letter to Joe Hamill, Secretary General dated the 13th February 2012.
- (c) Letter of even date to Joe Hamill, Secretary General to Department of Arts, Heritage and the Gaeltacht.

We would be grateful if you could revert to us with your comments on the enclosed as soon as convenient.

Yours faithfully

BERNARD P. CUNNANE & CO

cc Joe Hamill - Secretary General
Department of Arts, Heritage
& The Gaeltacht
23 Kildare Street
Dublin 2

Bernard P. Cunnane B.C.L.
Dublin Office: 24/26 Upper Ormond Quay, Dublin 7. VAT No: IE 5194870M

Comptroller & Auditor General
General Treasury Block
Dublin Castle
Dublin 2

BC/BB/C.982

PAC-R-282

FAX AND POST 01 6764334

17 February 2012

FAO Joe Hamill - Secretary General

Department of Arts, Heritage
& The Gaeltacht
23 Kildare Street
Dublin 2

**Re: Correspondence in relation to Foynes Aviation &
Maritime Museum Limited
Our client: Patrick Cunnane, shareholder**

Dear Sir

We refer you to our recent letter of the 13th February last.

Since then it has come to our attention that there is in existence on the web a letter written by yourself on the 30th January last to the Public Accounts Committee which obviously now is in the public domain.

The letter was brought to our attention by a member of the public yesterday.

This is a copy of a letter written by your goodself to Ms Eimear Lavelle on the 30th January 2012.

You might let us know how such a letter came to find itself displayed on the web?

Furthermore, it would appear from reading this correspondence that your office is merely passing on second hand information which you have received from the Museum to the Public Accounts Committee.

Can you confirm what internal audit controls and/or safeguards the Department uses in verifying information submitted to it by bodies such as the Museum which require and receive funding on an annual basis from your Department?

Do you accept verbatim whatever is written to you by any such applicants or do you carry out and/or seek backup documentation and other more transparent methods of verification before grants are released?

For example we might refer to the appendix of your letter to the Public Accounts Committee and comment as follows:-

- (a) fully transparent Audited Management Accounts. In your reply to the Public Accounts Committee you made a comment that the Department was happy to receive the normal statutory accounts. Is it not the case that the statutory accounts as submitted by the Museum to the Companies Office are abridged accounts? Has the Department received a set of management accounts in 2008, 2009 and 2010?

Are you saying that the Department of Arts are happy to release extensive grants to applicants who merely submit, as a maximum, normal statutory abridged accounts of the variety which are submitted to the Companies Office? No doubt any Auditor or Accountant will agree that the normal statutory accounts submitted to the Companies Office do not contain enough information as would enable any ordinary person or indeed any responsible Government Official form a view in relation to the true financial picture of an applicant, company or organisation such as the Museum and indeed any other such applicants for grants.

Therefore you might confirm by return whether or not your Department has received a full set of transparent management accounts for 2008, 2009 and 2010 and in fact 2011.

- (b) the tendering of taxi or hackney services by the Museum. You seem to indicate in your Appendix to your recent letter to the Public Accounts Committee that the Department is happy with the reply as given by the Museum but have you in fact insisted and enquired as to whether or not the Museum did in fact comply with normal procurement requirements ie., such as advertising in local newspapers and on the web invitations for tenders for such service from the Museum. It appears, certainly implicit if not explicit in your reply to the Public Accounts Committee, that you appear to be happy with a simple reply from the museum that they received quotes from four hackney or taxi hire firms but the Museum have not confirmed with you that in fact they advertised for tenders to come in the local newspapers or on the web and one would have through that this was an absolute minimum requirement.

We would like your comments on this.

Furthermore, have your queries from the Curator of the Museum, Ms Margaret O'Shaughnessy as to whether or not she is or ever have been a transport manager of her brother's business ie., Estuary Mini Bus and Cab Hire Limited.

- © The response of the Curator of the Museum to the question as to whether or not her husband has ever received any funds, wages or other benefits in kind from the Museum has not been answered properly.

I believe you should revert to the Museum and ask the Curator and/or the Board of Directors as to whether or not the husband of the Curator has received any benefits in kind of whatever nature and whether or not he has ever received any benefits not only for contract of service but for any contract for services whether such contract or contracts were written or verbal. Has he ever received any expenses whether vouched or unvouched? Has his spouse the Curator received any benefits either directly or indirectly on his behalf? We do recall on reading the 2007 accounts that there was some allowance for a staff car and we would be grateful if the Department will enquire into this? We accept that the Auditors for the Museum might have confirmed that Mr O'Shaughnessy is not on the payroll of the Museum but this does not mean that he has not received benefits in kind or any or other benefits and this should be clarified fully.

Again we are curious as to know as to how your letter of the 30th January last to Miss Eimear Lavelle of Public Accounts Committee made it way onto the internet and your comments in this regard would be welcome.

Yours faithfully

BERNARD P CUNNANE & CO

PS Since dictating the above we received today, formally, a copy of your letter dated the 30th January last, from the Public Account Committee.

cc Eimear Lavelle
Committee Secretariat
Committee of Public Accounts
Leinster House
Dublin 2

Comptroller & Auditor General
General Treasury Block
Dublin Castle
Dublin 2

BC/MC/C.982

FAX AND POST 01 6764334

13 February 2012

FAO Joe Hamill - Secretary General

Department of Arts, Heritage
& The Gaeltacht
23 Kildare Street
Dublin 2

Re: Foynes Aviation & Maritime Museum Limited
Our client: Patrick Cunnane, shareholder

Dear Mr Hamill

It is with regret that we have to write to you in connection with the above-mentioned museum, which as you probably know is a registered charity and is an organisation which has received massive funding over the years from the taxpayer.

We have attended at a number of AGM's over recent years in relation to the museum and we have expressed disquiet at the three previous AGM's in relation to the lack of transparency in the presentation of accounts to shareholders, not to mention members of the public.

Up to year ending 2007, a full set of transparent management accounts was always produced at the AGM. In fact we believe that they should have been circulated to the shareholders prior to the AGM for consideration by the shareholders, so that the shareholders could ask questions at the AGM.

Nonetheless, from 2008 onwards only truncated accounts were produced at AGM's, and while strictly speaking this might be compliance in a normal private company which is not a charity and which is not subject to State funding, it is not acceptable in a company which is a registered charity and which has received massive grants from the public purse. We see no reason why a full set of management accounts could not have been produced in 2008, 2009 and 2010, especially when they were being produced up to 2007.

We are not sure why the Board of Directors of the Museum are reluctant to disclose to our client, the shareholder, a full set of management accounts.

cont/d . . .

Furthermore, we have, in recent times, raised queries in relation to the corporate structure of the company, and in particular an exact list of all shareholders.

The writer herein, on behalf of his client, was given an assurance by Brian Cullen, the chairman, at the 2010 AGM that a full list of all shareholders would be given to our client within a reasonable period of time. However, to date this has not happened and a query has been raised with the office of the Director of Corporate Enforcement in relation to the validity or otherwise of the capital structure of the company.

It would appear to our client that the museum are showing a high disregard for the taxpayer and for the public in general when they continue to refuse to divulge a full list of shareholders and when they continue to refuse to divulge a full set of transparent accounts year on year.

At the last AGM, when a one-line figure for expenditure was queried by the writer herein, the chairman indicated that if "we had to go through that figure we will be here all night".

To give an answer to this question in such a manner is completely unacceptable, and no doubt I think you will agree with me that such an answer should not have been given and a full breakdown of the item in question should have been given, certainly at the AGM.

As you probably know, a complaint was made to the Public Accounts Committee recently in relation to the procurement of a contract for transport services, which apparently was given to the brother of the curator/director, Margaret O'Shaughnessy, and, as I understand it, this matter is still pending before the Public Accounts Committee and may be on its way to the Comptroller and Auditor General.

Furthermore, we understand that in recent times a large grant was given to the museum from Failte Ireland/National Tourism Development Authority. We understand that this loan was advanced on condition that the National Tourism Development Authority would have a first legal charge on the property of the museum. However, it would appear to us that AIB also took out a charge in 2011 and indeed it would appear that the charge in favour of AIB might rank in priority to any charge in favour of the National Tourism Development Authority.

We would greatly like an explanation as to whether or not the National Tourism Development Authority, on behalf of the taxpayer, is to have a first charge on the property (as seems to be the case on looking at the Companies Office website), or whether it is to be AIB.

It may be the case that AIB have been paid off by the monies provided by the National Tourism Authority, but we do not know as we cannot really get any information about any detail concerning the accounts from the museum.

I am sure if you were a shareholder in such a company, you would require a detailed set of accounts to be presented in advance of every AGM.

We await to hear from you in relation to your views.

cont/d . . .

We would point out in relation to the recent charge in favour of the National Tourism Development Authority that we have not yet addressed this question directly to the museum, as it only came to our attention in recent weeks.

In any event, we feel that if we did address such a question to the museum, we would probably not get any reply as we have not received any satisfactory replies to requests for management accounts for the last three years.

We look forward to hearing from you.

Yours faithfully

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BERNARD P CUNNANE & CO



An Roinn Ealaíon, Oidhreacht agus Gaeltachta
Department of Arts, Heritage and the Gaeltacht

Oifig an Ard-Rúnaí
Office of the Secretary General

PAC-R-282

Correspondence 3.4
Meeting – 09/02/2012



30 January 2012

Ms Eimear Lavelle
Committee Secretariat
Committee of Public Accounts
Leinster House
Dublin 2

Dear Ms Lavelle,

I refer further to your letter of 25th November 2011 regarding correspondence relating to the Foynes Aviation and Maritime Museum Limited, which was received by the Public Accounts Committee and which has been forwarded to me for attention.

The complaints made to the Chairman of the Public Accounts Committee by Bernard P Cunnane and Co, Solicitors, on behalf of Mr Patrick Cunnane, shareholder of Foynes Aviation and Maritime Museum Ltd, regarding the refusal by the museum company to disclose management accounts and furnish other additional information to the public, have been raised by this Department with the Foynes Museum. The Department has been given to understand that the complainant has pursued a number of issues with the Foynes Museum Ltd over a period of years.

Background

The Foynes Museum is a not-for-profit charitable institution dedicated to the pioneering days of aviation and passenger travel across the North Atlantic and the maritime history of the port of Foynes. The Museum, which is housed in the original terminal building, is the only aviation museum in Ireland and commemorates the era of the first transatlantic flights from the USA to Europe, which landed in Foynes. The Museum houses a full-scale replica of a Pan Am Boeing 314 flying boat, the *Yankee Clipper*. The Museum attracted over 31,000 visitors in 2010.

The Museum is operated by a Board of Directors, which, until recently, included an official from this Department. This official sat on the Board for a number of years but unfortunately passed away in October 2011. The current membership of the Board is as follows:

Mr Brian Cullen, (Chairman) Pilot & Businessman, Killaloe, Co Clare.
Ms Margaret O'Shaughnessy, (Company Secretary) Founding Director, Foynes, Co Limerick.
Mr Pat Daly, Marketing Executive, Shannon Development Company, Shannon, Co Clare.
Ms Josephine Cotter Coughlan, Director, Community & Enterprise, Limerick County Council, Dooradoyle, Limerick.
Mr Michael J Noonan, Former Government Minister, Businessman, Bruff, Co Clare.
Mr Gerry Humphreys, Pilot, Proprietor of Aviation Company, Farmer, Brittas, Co Limerick.

23 Sráid Chill Dara, Baile Átha Cliath 2
Guthán: (01) 6313809
Facs: (01) 6764334
Íosghlao: 1890 273000 – lasmuigh de
limistéar O1
Gréasán: www.ahg.gov.ie
R-phost: ard.runai@ahg.gov.ie

23 Kildare Street, Dublin 2
Tel: (01) 6313809
Fax: (01) 6764334
Lo-call: 1890 273000 – outside O1 area
Web: www.ahg.gov.ie
E-mail: secretary.general@ahg.gov.ie

Mr David Brown, IT Specialist, Consultant, Florida, USA.
Mr P J McGoldrick, Pilot, Former CEO Ryanair, Former Airline Operator, Aviation Consultant.
Ballina, Killaloe, Co Clare.
Fr Tomás Ó Caoimh, former member of Heritage Council, Tralee, Co Kerry.
Mr Plunkett Hayes, Solicitor, Revenue Sheriff, Former Proprietor of Croom Mills Visitor Centre,
Croom, Co Limerick.
Mr Robin Wilson, CEO Groen Brothers, Aircraft Manufacturers and Designers, Seattle, USA.
Ms Bernadette Whelan, Head of Department of History, University of Limerick, Limerick.

Funding

The Department provides an annual allocation from the B4 Subhead of its Vote – *Regional Museums, Galleries, Cultural Centres and Projects* - to the Musuem. Funding provided under this Subhead meets a specific cultural need and supports the high level goal of the Department *"to enhance access to and recognise the social and economic role of arts and culture by promoting and encouraging artistic expression, cultural awareness and participation through an appropriate policy, legislative and resource framework"*. The Foynes Museum meets the criteria of the category of the fund aimed at *"the preservation of collections of moveable cultural heritage of national importance, or collections that are unique in the country and relate to matters of national interest, or that relate to international culture; and accessibility to these collections by the public"*.

The allocations provided in recent years are as follows:

Year	2008	2009	2010	2011	2012
Amount	€150,000	€100,000	€100,000	€110,000	€110,000

Complaints

The attached Appendix sets out the Museum's response to each of the claims that have been made together, with the comments of this Department.

I trust that the information provided addresses the matters raised in the correspondence to the Committee but please revert to me should the Committee require any further information.

The delay in responding is regretted.

Yours sincerely,



Joe Hamill
Secretary General

Complaints made to the Chairman of the Public Accounts Committee by Bernard P Cunnane and Co, Solicitors, on behalf of Patrick Cunnane, regarding the refusal by the museum company to disclose management accounts and furnish other additional information to the public

(a) Complaint:

"about the manner in which the museum is failing in its moral duty to make available, not only to its shareholders but also to members of the public, a full detailed set of annual accounts detailing in a transparent way how the taxpayers' money is being spent"

Response of Museum:

"The Museum is a not for profit company limited by shares. Accounts for the Museum are audited yearly and returned to the Companies Office. We are fully compliant with all statutory obligations. Audited accounts are also made available at our AGM each year.

Comment of Department:

The Department receives on an annual basis a copy of independently audited Annual Accounts for the Museum, which are reviewed. The Department is satisfied that the Museum is complying with its statutory obligations in this regard. A copy of the most recent Annual Accounts received by the Department is attached for the information of the Committee.

(b) Complaint:

"At this year's AGM it was stated that a brother of one of the directors, who operates a hackney and taxi service was paid in excess of €12,000 for taxi services for the museum. We do not know how the museum would need taxi services, but in any event the writer herein subsequently wrote asking as to what tendering and/or procurement measures were adopted by the museum in selecting a taxi service. It is stated in the accounts that all proper procurement and tender requirements complied with. However, when the writer herein requested evidence of this compliance, none to date has been forthcoming. ... It is known that the provider of the hackney and taxi services is a brother of the curator, Margaret O'Shaughnessy."

Response of Museum:

"The Museum has never utilised taxi services. The item referred to in the accounts was a new initiative between the Foynes Flying Boat Museum and the Hunt Museum. This initiative provided a service for tourists to visit both Museums and travel by bus between Limerick and Foynes on one inclusive ticket which could be purchased at both Museums and Limerick Tourist Office. This was part funded by your Department under the 2010 scheme to assist local and regional museums. The bus service was tendered to four different companies and the lowest one was given the contract."

Comment of Department:

The Department established a Local/Regional Museums Programme in 2007 to facilitate funding of county and regional museums participating in the Heritage Council's Standards and Accreditation Scheme. In 2010 the Foynes Aviation and Maritime

Museum Ltd applied for funding under this Scheme to provide a transport link between the Museum in Foynes and the Hunt Museum in Limerick City. Under this scheme it was proposed to run an 18-seater minibus once a day from the Hunt Museum in Limerick to the Museum in Foynes. The idea was to have one ticket, which would include the entrance fee to both Museums and the return journey on the bus.

The Museum's application for funding was approved and an amount of €15,000 was allocated to the Museum under the scheme. An amount of €14,271.60 was paid to the Museum under the scheme following the submission of the relevant invoices and Tax Clearance Certificate. The Museum used the services of the "Estuary Mini Bus & Cab Hire Ltd" to provide transport between the two Museums and a total amount of €12,450 was paid to the company in respect of a total of 83 round trips at a cost of €150 per trip. Mr Pat Stack is a director of this company and is Ms Margaret O'Shaughnessy's brother.

The Museum tendered for this service and it is understood that the tendering process was handled completely by the Museum's Office Manager, Ms Caroline Diffley. The Department understands that the Director of the Museum did not participate in this process and there is nothing to indicate that it was not carried out correctly.

The Hunt Museum was not involved in the tendering process as it was the Foynes Museum that applied for, and was granted, funding for this project. The Hunt Museum did, however, participate in and promote the scheme.

The Department has been advised that tenders issued to the following bus operators:

Carrig Coaches, Clarina, Co Limerick	(Tender was for €180 per day)
Hynan Coach Services, Cappamore, Co Limerick.	(Tender was for €195 per day)
Coach House Travel, Newcastle West, Co Limerick	(Tender quote was for €250 per day)
Estuary Mini Bus & Cab Hire Ltd, Foynes, Co Limerick.	(Tender quote was €150 per day)

The Department understands that the contract was awarded to Estuary Mini Bus & Cab Hire Ltd on the basis that they submitted the lowest tender.

(c) **Complaint:**

"The curator's husband works at the museum and is probably in receipt of some income, and details of this should be disclosed (if such is the case)."

Response of Museum:

"Tom O'Shaughnessy, husband of the Curator, does voluntary work at the Museum and has done so since its establishment in 1989. He is not and has never been on the payroll and is not in receipt of wages."

Comment of Department:

The Annual Accounts of the Museum, as submitted to the Department, itemises the salary of the Director and provides a total figure for all other staffing costs which are not listed