



# Bernard P. Cunnane & Co.

## SOLICITORS

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PAC-R-365 Correspondence 3.5  
Meeting – 15/03/2012

Our Ref:

Your Ref:

Date:



**FAX AND POST 01 6184124**

**For the personal attention of John McGuinness TD – Chairman**

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

**Re: Foynes Aviation and Maritime Museum**

Dear Madam

We thank you for your letter of 5<sup>th</sup> March 2012 enclosing extract minutes from the Committee of Public Accounts meeting of 23<sup>rd</sup> February 2012.

We would be grateful if you could bring this letter to the attention of the Chairman as, regretfully, it appears that the Committee seem to be of the view that the letter written to the Committee by Mr Hamill, of 30<sup>th</sup> January 2012, addressed all the issues.

In my letter of 17<sup>th</sup> February 2012, I raised a number of issues, the principal one being that the museum never confirmed with the Department of Arts as to whether or not they actually advertised for tenders in relation to the transport services being provided. These transport facilities were ultimately provided by a brother of the curator and director of the museum, and in fact it is our understanding that the curator and director of the museum was, at one time, a transport manager of this transport company and we do not know if she still is a transport manager of the same transport company today, but obviously clarification should be sought.

I find it unbelievable that the Committee of Public Accounts would not bring the Department of Arts to book about this whole matter.

It would appear to me that there are still a number of outstanding issues –

1. The publication by the museum to the public and/or of course to the Department of Arts of full management transparent accounts; has the Department received full management accounts as opposed to abridged

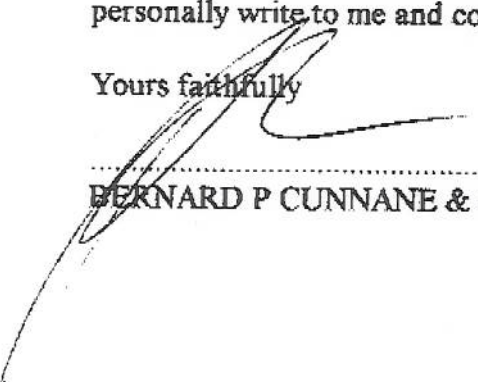
accounts? If so, can copies be forwarded to this office for 2008, 2009 and 2010.

2. Clarification by the museum with the Department that charges registered on the property of the museum in favour of the Department and the State are first legal charges and whether or not a previously registered AIB charge is still valid and if so whether or not that AIB charge has priority over any charges that are supposed to be registered in favour of the Department and which are supposed to have priority.
3. In relation to the transport services recently provided to the museum by a company owned and controlled by the curator's brother, it is imperative that clarification be sought as to whether or not advertisements were published seeking tenders from the public for the provision of these services. My understanding is that in order to comply properly with the relevant requirements concerning procurement it would be necessary for the museum to advertise publicly, and invite publicly through advertising, these services.

The museum has not confirmed with the Department that any such advertising took place.

I attach herewith, once again, a copy of my letter of 17<sup>th</sup> February 2012, and I would be grateful if the Chairman would personally read this letter and after the matter being dealt with at the next meeting, I would be glad if the Chairman would personally write to me and confirm that he is happy that everything is in order.

Yours faithfully



BERNARD P CUNNANE & CO

Encl

BC.BB.C982

17 February 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  
Dáil Public Accounts Committee 30<sup>TH</sup> 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 30<sup>th</sup> January, 2012.
- (b) A copy of our letter to Joe Hamill, Secretary General dated the 13<sup>th</sup> 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



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**

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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



BC/BB/C.982

PAC-R-282

17 February 2012

**FAX AND POST 01 6764334**

**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 13<sup>th</sup> 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 30<sup>th</sup> 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 30<sup>th</sup> 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 30<sup>th</sup> 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 30<sup>th</sup> 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