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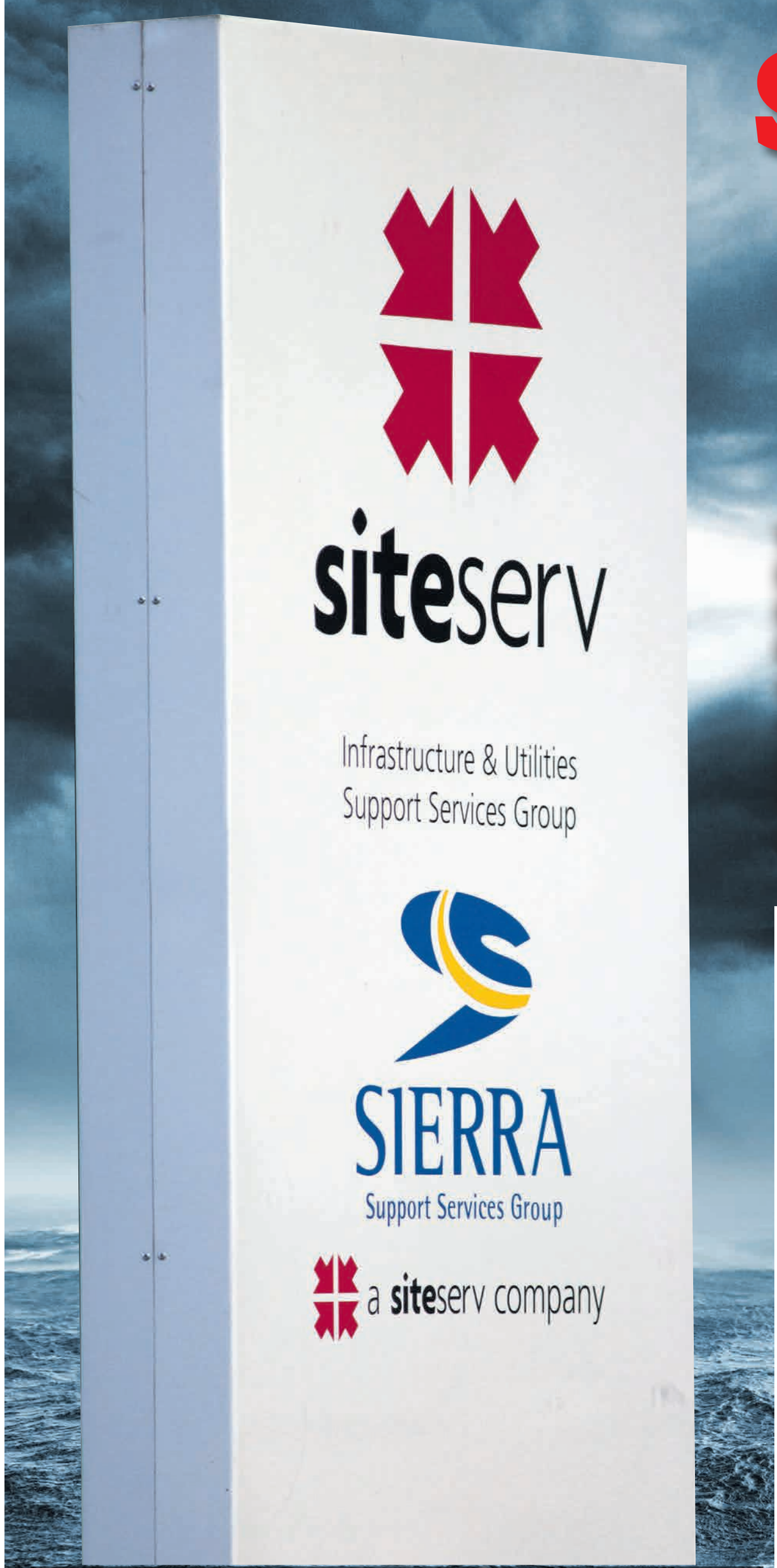
Special investigation

SITESERV: anatomy of a deal

The sale of Siteserv to the tycoon Denis O'Brien is of huge public interest. A taxpayer-owned bank wrote off debts of €100 million. Allegations have been made in the media and in the Dáil, alleging that the taxpayer did not get the best deal. Since 2012, Tom Lyons has been reporting on this important story. Now, in this major investigation, he goes inside one of the most controversial deals in Irish business history



By Tom Lyons

At 12.20pm on April 5, 2012, an email was sent to the Taoiseach Enda Kenny from an anonymous email – whistlbx@live.ie – with the subject line "DOB".
The email made a series of allegations about the sale of a company called Siteserv to the tycoon Denis O'Brien. It claimed that one of Ireland's most powerful men had acquired the support services company despite higher bids allegedly being on the table.
It went on to suggest that senior figures in the bank were too close to O'Brien because they were seen at dinner with him. There was also an insinuation that the bank was moving overly hard against Tony O'Reilly, formerly one of Ireland's richest people.
Later, the contents of the email to Kenny were posted in the public comments sections of the website Broadsheet.ie. The email quickly circulated, feeding into a growing rumour mill.

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“It’s like the film Burn After Reading, you are mystified at the end. Nobody wanted to approach us. What happened to all our conversations with Brian?”

Denis O’Brien’s Island Capital emerged victorious in the battle for Siteserv Fergal Phillips

‘I am happy to stand over the process’

The fifth-floor meeting room in Davy Stockbrokers’ granite-faced Dublin 2 headquarters slowly filled up. It was the same day that the anonymous email was sent to Kenny. The financial regulator Matthew Elderfield, Fianna Fáil leader Michael Martin and Maurice Keane, a non-executive director of IBRC (the new name of the former Anglo Irish Bank), all received the same email.

While on the street as I made my way into Davy, I received a phone call from a colleague at the Sunday Independent, where I worked at the time. “I’d be careful with this one, Tom. Things are going to change around here. I’d go easy on this one.”

“A story is a story,” I replied.

“Well, I just got a phone call. . . just passing it on.”

It was a strange phone call to get.

I went into Davy and got in the lift. I was a little late, so I slipped in the back, near Des Carville, the veteran Davy stockbroker.

“This should be interesting,” I whispered. Carville nodded slightly, looking tired after months working on the deal.

The room slowly filled with lawyers, advisors and journalists. Just four small shareholders showed up. We were all there to watch – or approve, in the shareholders’ case – the sale of Siteserv to a company controlled by the mobile phone and media mogul Denis O’Brien.

Siteserv was one of those companies we all used but didn’t know about. In March 2012, it employed about 2,300 people in Ireland and Britain. It did everything from installing television boxes to fixing traffic lights to erecting scaffolding on buildings.

There were rumblings that Ireland planned to introduce water meters for households. Siteserv was the perfect platform to install them.

Siteserv was a business built during the boom by chief executive Brian Harvey and financier Niall McFadden. A series of acquisitions funded by borrowings of €150 million from Anglo Irish Bank (later renamed IBRC) had allowed it become big enough to float on the stock exchange. After the crash, its market capital fell to just €2.5 million.

On the floor of Davy, one of the disgruntled parties, Ray Neilson, a senior executive with Altrad, stood up to put his views on record. Altrad, he said, was owned by wealthy entrepreneur Dr Mohed Altrad, who owned dozens of companies including the French rugby club Montpellier.

Neilson said Altrad had approached Siteserv several times since September 2011 to try to buy the business, but had been rebuffed by Harvey.

“Right the way through January and the middle of March, we were told very clearly by Brian [Harvey] the company was not for sale. . . and don’t worry, if there was anything coming out I’ll come and talk about it,” Neilson said.

He said Altrad would have paid €60 million for Siteserv. “Altrad has offered 33 per cent more than the highest bid you are looking at today. This money belongs to the people of Ireland,” he said.

Robert Dix, Siteserv’s senior independent director, replied: “We identified a very large number of companies . . . the opinion of the investment committee, our advisors, the board, and confirmed by IBRC, [Mr O’Brien’s] was the best bid.”

Neilson disagreed. “We said we would double what was going to the shareholders today and the remainder would go back to the banks,” he insisted. “We would give the banks another €11.5 million, the shareholders another €3.5 million. We wanted to double shareholder value and give the rest back to the people of Ireland.”

Hugh Cooney, the chairman of Siteserv, said: “I am an experienced director, and take my responsibilities seriously. I am very happy to stand over the process.”

Afterwards, the media clustered around the room. Neilson, bedecked in a pinstriped suit with neat designer glasses, rejected my suggestion that Siteserv couldn’t ask trade buyers to bid, as to do so risked damaging rumours getting into the market. “That is extremely unfair. If you look at any of the acquisitions we have made, we keep everything in total confidence,” he said.

So, why wasn’t Altrad asked to bid, asked Jamie Smyth of the Financial Times? “We don’t know. We are completely mystified,” Mr Neilson said. “It’s like [the film] Burn After Reading, you’re mystified at the end. Nobody wanted to approach us. What happened to all those conversations with Brian? We don’t know.”

Extraordinary times and tensions. *The sale of Siteserv has to be regarded in the context of when it took place. As we delve into it – with the benefit of hindsight – five years after the deal was done, it is important to recall what Ireland was like economically.*

The new management of IBRC was constantly fighting fires. There was tension between the bank, under chief executive Mike Aynsley and chairman Alan Dukes, and the Department of Finance. The Department was ill-equipped for the bust.

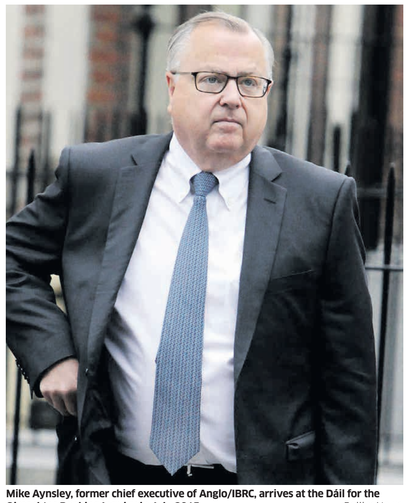
Walter Hobbs

Dukes, a former minister for finance, was conscious of the line that needed to be maintained between the bank on one hand, and the civil service and politics on the other. He told the Banking Inquiry that he knew the Department was unhappy when IBRC kept revealing bigger and bigger losses as it marked to market its book. He said the bank had no choice but to do so, as this was the advice of its external advisors.

On April 15, 2009, IBRC said its recapitalisation requirement was €4 billion versus €1.5 billion estimated by the state. When this number went to over €25 billion, there was anger in some quarters of the civil service that the bank was coming out with such large losses. Later, there were rows between the bank and the Department over the price Nama was paying for its loans because the bank considered the price too low in some cases. The bank also decided to back an investor, Paddy McKillen, in his successful legal battle with Nama.

There were also rows over hiring and salaries, the speed at which loans should be sold off, how the bank’s US loan book should be sold, and how certain matters should be disclosed in the bank’s accounts. Then there was the bailout by the European Commission and the IMF, placing more pressure on the bank and the state. Decisions and judgment calls had to be made fast.

Any judgment of what happened with the sale of Siteserv must be made in the context of extraordinary times.



Mike Aynsley, former chief executive of Anglo/IBRC, arrives at the Dáil for the Oireachtas Banking Inquiry in July 2015 RollingNews

A cashflow issue

Anglo Irish Bank was nationalised in January 2009, to prevent it going bust. The market was jittery about who it might take down.

In December 2009, Siteserv won a contract with Bord Gais that required €5 million in bonding. It struggled to raise the bond because of its Anglo debts, and the company knew winning new work was going to get harder.

In early 2010, IBRC discovered that Siteserv had made an €800,000 deferred consideration payment to Des Whyte, the previous owner of Sierra, a subsidiary of Siteserv. The bank was furious, as it wanted Siteserv to use any spare cash to pay down debt.

Siteserv felt it had to pay the money, as it feared Whyte would sue and win otherwise. It acted first and told the bank afterwards. After the bank took legal advice, it realised Siteserv was entitled to make this decision.

In March 2010, investment bank Citi made an unsolicited offer on behalf of an unnamed client to buy Siteserv’s debts. Citi said its buyer was “talking about a 40 cent – 47 cent range for the loan.” In other words, it was only prepared to pay about €60 million to €65 million for its loans of €150 million.

The Citi deal fizzled out. But it got all sides thinking.

In March 2010, Siteserv engaged KPMG to advise it. IBRC in turn appointed PwC.

PwC said Siteserv was “struggling” and was worth about €70 million, and the bank could expect to lose between €45 million and €85 million depending on the circumstances.

On May 20, 2010, Siteserv, Cooney and Dix had the first of many meetings with IBRC. Things were bad. The business had a cashflow issue, and needed another €600,000 to tide it over just to pay salaries.

Soon afterwards, IBRC held a four and a half-hour meeting to discuss what to do. Siteserv told IBRC that KPMG had estimated it needed €20 million to keep going. IBRC considered taking control of the company via a receivership.

Peter Rossiter, IBRC’s chief risk officer, asked if the company really needed €20 million. Karl Cleere, a senior manager in IBRC, replied that it was needed to fund bonds and meet capital expenditure requirements. Credit rating agency Dun & Bradstreet had the business on “credit watch”, so it could not easily borrow elsewhere.

IBRC banker Jim Brydie suggested Siteserv should raise the money from a third party. He was told that existing shareholders would try and block this, and KPMG estimated it would cost €1 million to get shareholders to “accept wipeout”.

Brydie said that IBRC should at least try to sack some of Siteserv’s management. The problem here was that they had the relationships and were not easy to replace.

The meeting ended inconclusively, with the bank mulling over receivership but concerned about the risks involved.

> **KPMG warned in early 2011: ‘There is a potential for Siteserv not to survive’**

Siteserv hatches a plan

Siteserv hired KPMG in early 2011 to product a report that was codenamed Cable. KPMG concluded Siteserv was “not generating” enough cash and it had three options: do nothing; restructure its debt; or disposal.

“There is a potential for the business not to survive,” KPMG warned.

A debt for equity swap with IBRC might have been possible, but this was a slow process as IBRC would need approval from Europe.

“Notwithstanding the fact that a disposal of the business at this time may be considered to be ‘bottom of the cycle’, and that from a purely financial perspective it would be better to restructure, a disposal may be the more practical option at this time,” KPMG said.

“A formal receivership process is likely to lead to significant value erosion in the business as key contracts may be lost and competitors will exploit the uncertainty over the company to target key customers.

“A consensual sale process is likely to generate significantly more proceeds than a receivership scenario and therefore the payment of this sum is likely to generate significantly more value to Anglo (IBRC).”

KPMG also warned that Siteserv shareholders would want a payment to agree to the deal.

IBRC starts moving

On April 15, 2011, Paul Tuite of PWC complained to Karl Cleere that he was not being given enough information by Siteserv. Cleere said he would try and make it fill in the “holes”. Cleere said IBRC could not lend Siteserv the €20 million it was asking for.

“The bank cannot lend over 10 per cent of the existing debt level in new funding which will be significantly less than what Siteserv require,” he said.

“The only two ways to sell the entire debt is with management consent or by demanding the loan as a result of an event of default.”

On May 9, 2011, PwC produced its draft report, which also concluded that Siteserv’s debts were unsustainable. It said a receivership would lead to “crystallising very significant losses.” It also ruled out the debt for equity idea, and said Siteserv’s stock market listing made things harder.

PwC recommended a “restructure and hold” strategy with Siteserv. It said this would “appear to offer Anglo the greatest potential recovery on outstanding loans . . . Having said that, there appears a degree of uncertainty about the Bank’s ability to enter in to such an arrangement or at least the terms on which it might be permitted to do so.”

It went on: “Based on KPMG’s report, the total facilities (on and off balance sheet) required over the projection period (to 2015) are approximately €14.9 million, with additional funding required during the year to fund capital expenditure and working capital requirements.”

On May 19, 2011, Cleere made a presentation to the bank’s credit committee. “KPMG’s valuation range of between €50 million–70 million if the business was sold today is not unreasonable. PWC believe it to be at the lower end of that range.”

Cleere said Siteserv was likely to be sold over 15 months for €55 million. Siteserv felt it could be sold within three to six months, but PwC said longer was needed to get the best price.

PwC recommended the bank appoint a “strategy/operational person” at management level to report to the bank and “get clarity on contracts and have comfort that all possible efficiencies, cost cutting and disposal of non-core assets is being performed”.

It continued: “PWC have not been convinced that this is being fully pursued. PWC believe that this will lead to at least the same value being achieved later in the year as now, and possibly even more if more costs are reduced and contracts won.”

Siteserv, Cleere said, wanted the bank to lend it another €20 million to €25 million, but he said European rules meant it could only lend €15 million.

“PWC have advised Anglo that a consideration of c. €5m will need to be paid out to shareholders to achieve this approval – payment to shareholders will most likely come from the buyer – and will most likely reduce the sales price.

“Due to the contract nature of the business it is important that it is sold as a going concern with all existing contracts in tact. For this reason the sales process will focus on attracting Private Equity houses or financial players from the UK, the US and Europe.”

KPMG/Siteserv, Cleere said, would “drive the sales process” which would be “policed for the bank by PwC.” He said selecting who could bid would be decided by Siteserv and IBRC.

Cleere warned that IBRC did not have all the information it wanted: “PWC have not been able to meet operational management below the CEO, CFO and Chairman. As such, they do not have sufficient comfort that all possible measures have been taken to reduce costs, drive efficiencies and dispose of non-core assets and possible non core operations in order to free up cash for the business,” he said.

“The reason PWC did not have access below board level was being a PLC, the board did not want operational management aware that a Bank review was underway and that rumours would circulate.”

On the horizon, Cleere noted, was potentially good news. “Assuming the Irish government introduces water metering in the next 24 months and that Sierra (a Siteserv subsidiary) will win the contract. While this has been flagged, it is far from certain to commence any time soon.”

The “best strategy”, he said, was to sell Siteserv now.

‘One more name to throw at you’

On July 22, 2011, Denis O’Connor of PwC emailed Pat Walsh, head of restructuring in IBRC. Siteserv was running the sale process, and the bank knew it needed someone to ensure it wasn’t shafted.

O’Connor said he had asked Dermot Mulvihill, the former chief financial officer of Kingspan, to do this job, and he also mentioned veteran director John Callaghan as a possibility.

Fifteen minutes later, Walsh replied: “One more name to throw at you – Walter Hobbs, ex-ACT?”

O’Connor replied: “Not sure if he has much ‘construction industry’ experience.”

On July 25, O’Connor introduced Walsh to Mulvihill by email. Hobbs was already selected.

Hobbs had worked with KPMG from 1976 to 1987, making him, like Dix and Cooney, an alumni of Stokes Place. He then went to AIB corporate finance before joining ACT Venture Capital. In April 2009, he set up Virgo Financial, a small corporate advisory firm.

On the morning of August 2, 2011, Hobbs met with Cooney and Harvey. Later, he met Des Carville of Davy. Carville, too, was a KPMG alumnus.

Carville had worked with many entrepreneurs, including Barry O’Callaghan, the e-learning entrepreneur. Siteserv cofounder Niall McFadden had advised O’Callaghan on Riverdeep.

Later, Carville advised McFadden on the flotation of his investment company Boundary Capital. He was a long-term advisor to Siteserv, one of whose shareholders was Boundary.

Ireland has a relatively small pool of blue-chip businessmen, so it was not too unusual that Carville knew lots of people associated with the Siteserv deal.

On August 4, Mulvihill emailed Walsh directly to discuss his proposed advisory role, but he was told it was too late, as Hobbs was in situ.

Documents were now being prepared to allow a sale. On October 21, 2011, Hobbs met with Cleere. Notes of their meeting reveal: “Plan is to approach an ‘A’ list of potential purchasers in the UK and US. Preferably in private equity rather than industry players. Industry players they believe will be a riskier prospect.

“An A list of the following private equity players has been arrived at: Rutland Partners, HIG Capital, Oaktree, Trafalgar Asset Managers with Sandton Capital Partners, GSO Capital Partners. Anchorage Capital Europe also on the list but seen as not likely interested.”

These were all cash-rich professional investors who were already active in the Irish market. There was no mention, in the notes of this meeting, of an existing large borrower from the bank: one Denis O’Brien.

Leave it to Mr O’Brien

Siteserv set up a subcommittee of Dix and Cooney to work on the sale. On 15 December 2011 Walsh and Cleere met the two men along with Davy and KPMG. The day afterwards, Cleere met Tom Hunersen, IBRC’s head of corporate and institutional recovery, to fill him in.

He said Neil Collins of KMPG had approached 12 parties, with nine asked to bid. Of these eight had met with Siteserv’s management to discuss a bid.

“KPMG and the company were surprised at the range of the bids. They suspect that some of the higher bids were made to get through the first round process,” a meeting note said.

“All parties are believed to be have the financial capability to complete the deal and that they can achieve the appropriate internal approvals relatively quickly,” said the meeting note.

None of these bids included transaction costs or any potential payment to shareholders. “Therefore the Bank can expect to receive less than the numbers above. Davy advises that despite the current share price of €0.02c giving a market cap of €2,527,841, the shareholders of a public company would usually be offered the average value of the past 12 months, Davy advises this could be as high as €5.35m.”

KPMG planned to ask between four and six bidders into another round of bidding with final offers due by January 30 2012. “February 2012 – shortlist (1-2) bidders for final confirmatory due diligence, including access to data room, and final negotiations,” the memo noted, with the deal closing by March. Hobbs would keep “regular contact” with KPMG and Siteserv to watch out for the bank’s interests.

Denis O’Brien, in the form of his advisors Island Capital and his Isle of Man company Baycliff, was now among the bidders.

O’Brien was a large borrower from IBRC who knew something about infrastructure through his mobile phone business Digicel. He is well connected, and knew many of the people involved in the Siteserv deal.

He was not a classic private equity player. Later, the media queried whether an existing borrower should have been allowed to enter the race. O’Brien was a performing borrower from IBRC so the bank could not, on that basis alone, exclude him.

The notes of this meeting do not discuss O’Brien’s existing debts. He was, at this stage, in the lower half of the eight bids. Sandton Capital, Anchorage, Rutland and the Cores consortium appeared to be ahead. O’Brien did not look the best bet.

No credible leads on the leak

On January 15, 2012, I published a story in the Sunday Independent stating that Siteserv was up for sale. I had no idea that O’Brien was among the bidders.

Carville emailed Harvey, Cooney, Hobbs and KPMG to say Siteserv needed to say something. Siteserv considered saying it was in “advanced discussions” which might lead to a sale. However, all it said publicly was that it was “exploring a number of strategic and corporate options” with IBRC, ahead of the expiration of its existing debt facilities in December 2012.

“At this stage, it is not possible to predict the outcome of this exercise nor quantify the financial impact for shareholders,” it said.

Cleere emailed the Sunday Independent article to Walsh and Hunersen. “Currently, the company do not have any credible leads as to where the leak came from,” he said.

Hunersen asked what the article said.

“Basically that the business was ‘on the block’ and would realise less than the debt, therefore shareholders burnt!!” Walsh replied.

On January 20, businessman Des Whyte wrote to say he had read the paper and would like to bid for Siteserv. Whyte was the founder of Sierra, a business he had sold to Siteserv. He appointed accountant Bernard Somers to advise him.

> **We propose to fund the [deal] from internal resources. This Final Offer has been approved by Mr O’Brien**

KPMG replied on January 24 saying it would contact him “if appropriate”. Later that day, Somers wrote back, saying Whyte wasn’t happy as he believed a process was already underway, and he repeated his desire to buy or help refinance Siteserv.

The deal was now public, presenting an opportunity for the state to find out more if it so wished.

Chinese walls

On January 23, 2012, Arthur Cox told KPMG and Davy that they were advising both Siteserv and O’Brien’s bid and it wanted to clear this with IBRC. On January 24, Hobbs wrote to Cleere saying “Just to check you have no objection to Arthur Cox using a separate team to act for Island Capital [O’Brien]. Arthur Cox agree they will have to step back from Island in the event of a conflict with their Siteserv role.”

Cleere told Hobbs to get assurances from Arthur Cox that there was no way information could leak between its two teams of lawyers.

Ciaran Bolger, partner in Arthur Cox, said: “I confirm (a) that appropriate and standard Chinese Walls procedures will be put in place between my team and that representing Island Capital and (b) that you may forward this mail to IBRC in order to give them the relevant assurance.”

On January 30, O’Brien’s company Baycliffe submitted what it called its “final offer” for Siteserv. Bidding was still only in the second round, and most other bidders expected another round.

O’Brien’s offer said he would work with existing management and employees and had an investment plan for the business.

“Our Final Offer for 100% of the operating subsidiaries and/or businesses of the Group is €45 million–€48 million,” his letter said.

Six conditions were attached to O’Brien’s bid. It also asked for additional information about key contracts and queried an historic Revenue issue.

“We propose to fund the acquisition from internal resources,” the O’Brien letter said. “This Final Offer has been approved by Mr O’Brien and does not require any further approvals.”

On February 8, 2012, Walsh, Cleere and Hobbs met with KPMG, Davys and the Siteserv sub-committee to review second round bids. Harvey and Niall Devereux were also there.

“The top two parties, Island Capital [O’Brien] and Anchorage, were identified by KPMG/Davys and the sub-committee as being the strongest bids from an execution risk perspective,” an IBRC note said. “This view was formed on the basis that Island had the cleanest offer letter.”

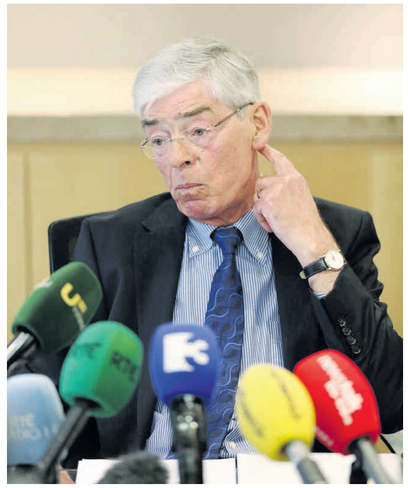
KPMG/Davys and the Siteserv sub-committee argued that Anchorage’s bid was not as good as O’Brien’s, as it had “more conditions and queries”. They also argued against Rutland, a British private equity fund.

“The feedback in the meeting was that Rutland’s (3rd place in round 2) offer was dependent on securing financing and that they would not enter a 3rd round of bidding as they wanted exclusivity,” the note said.

Other bids from Lincolnshire and Sandton were excluded. “KPMG/Davys and the sub-committee recommended to the IBRC team at the meeting that Island and Anchorage go into a competitive 3rd round bidding process with final due diligence. Pat Walsh pointed out that a 3rd party being brought into 3rd round in order to maximise competitive tension would be preferable to the Bank,” the note said.

“The meeting ended with Pat Walsh stating that he would take soundings from IBRC credit committee on this issue, as the IBRC team believed three parties being brought through to the final phase in order to increase competitive tension for the final bids.”

So the race looked to be down to two or three bidders.



Alan Dukes, the former Anglo/IBRC chairman, at a press conference regarding the Siteserv issue in April 2015; below, a table shows the sizes of the various competing bids for Siteserv in the first round of bidding RollingNews

BIDDER	NOTE	BID RANGE
Lincolnshire Capital	Requires exclusivity	€42.5m
Trinity Venture Capital	Believed to be the firmest number	€35m-€40m
Sandton Capital	Owns HSS in Britain	€70m
Rutland Partners	Owns Brandon Hire	€50m-€60m
Island Capital/Baycliff (Denis O’Brien)		€42m-€47m
Anchorage	Dan O’Connor - Irish rep	€60m
GranMcCourt/Cores/Keiwit	Range assumes €7m cash in B/S	€53m-€60m
HIG	No assets in related fields	€35m-€43.2m

Niall McFadden

Jon Moulton: the veteran British investor was head of Better Capital

O’Brien’s bid was between €45 million and €48 million. Anchorage was at €48 million, while Rutland stood at €55 million. The actual price was complicated by other factors like debt, bonds and tax structure, so it was hard to work out exactly who was in front.

After looking at these factors, the meeting concluded O’Brien’s adjusted cash bid was between €43.5 million and €46.5 million versus Anchorage at €45.4 million and Rutland at €40.6 million. It was very tight, but another round of bidding would probably shake out a winner.

High risks and shock waves

At 10.21pm on the night of the February 8 meeting, Walter Hobbs wrote to Walsh and Cleere, urging them to make a decision. “Cable [Siteserv] is in a very dangerous situation because of the Sunday Independent leak and subsequent announcement. I think we will lose the company unless we all move very fast.”

He went on to say that one customer, Exxon Mobil, had demanded a meeting and now classified the business as a “high-risk supplier”.

Another client called Magnox in the nuclear power sector was also raising concerns. Siteserv said credit insurance company Atradius might stop working with it within 24 hours, and that this would cause “shock waves”. Euler Hermes, another big credit insurer, was also threatening a downgrade. “There is a real concern that the tide could turn against us very quickly,” Siteserv said.

On the morning of February 9, 2012, Cleere went into IBRC as usual. He appeared not to know that the race for Siteserv was almost over. He wrote to IBRC’s lawyers, saying final offers for Siteserv were still two or three weeks away.

At 4.49pm, Dermot Hayes, an advisor to O’Brien, wrote to Des Carville in Davy.

“Further to our recent [meeting] with Neil [Collins, KPMG] and Nicholas [O’Gorman, KPMG] last Friday and subsequent, conversations with KPMG and Davy, we have discussed this further with Denis O’Brien. We have reconsidered our indicative offer of January 30, and are prepared to move to the top end of our range with a cash offer of €48 million,” he wrote.

He said this price was subject to a deduction of €1.5 million relating to finance lease obligations; the balance sheet having normalised working capital; and their getting a two-week exclusivity period to carry out remaining due diligence.

“We are extremely reluctant to enter into another third round of bidding and further prolonged discussions,” he wrote. “We’ve made it clear in all our communications that we can move quickly. In the event this offer is not acceptable and we are not granted exclusivity, we will withdraw from this process.”

At 6.41pm, KPMG sent on Hayes’s email to Hobbs. “The headline price of €48m would translate to an estimated cash payment to IBRC of c. €43m based on the assumptions in the schedule we discussed yesterday,” KPMG said. Hobbs sent it on to Walsh and Cleere with the message: “They want exclusivity for quick closure at an estimated €43m to IBRC.”

“Sub-Committee and advisers unanimously recommend going forward with Island (O’Brien) on this basis. Need commercial decision from IBRC tomorrow Friday!”

Walsh replied to Hobbs: “Pls call me.”

* * *

On February 10, a letter arrived from Robert Dix to Walsh. In it, Dix said that O’Brien’s consortium called “Bidder 1” was “offering the highest cash payment to the company” and consequently IBRC, which was due to get €43 million.

Dix said O’Brien’s consortium had “indicated that it will withdraw from the process if it is not granted exclusivity immediately . . . Bidder 1 has confirmed their [sic] price at the higher end of their bid range subject to being granted exclu-

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sivity for a two-week period to complete legal documentation, limited remaining due diligence items and a review of the January balance sheet".

Dix continued: "The headline price of the six bids received ranged from €35m to €55m. Having adjusted for deductions identified by each bidder, the highest estimated cash price payable to the Company is c. €44 million, which when existing cash balances are taken into account leaves c.€50 million available to partially repay IBRC debt (€43 million] and to fund dividends payable to shareholders (€5 million) and estimated transaction costs (€1.8 million) following shareholder approval and merger clearance.

"The ongoing uncertainty regarding the financial position of the company, as exacerbated by the recent media commentary, is generating significant additional pressures on the Company. The Company is strongly of the view that if the Company cannot announce a successful transaction and/or refinancing of the Company shortly . . . there is a real risk of significant value destruction for IBRC."

Dix produced a table outlining each of the six bids. On a headline basis, O'Brien's bid, he said, was €48 million. This put it behind one other bidder at €55 million, roughly the same as three other bidders, and just €1 million ahead of a fifth bidder. However, Dix said that when other factors were taken into account, O'Brien was in front.

He said that something called "debt-like items" impacted all of the bids, reducing their real value. For O'Brien, this number was just €2.1 million, while for others, it was up to €15 million.

Dix also said the tax bill was zero with O'Brien and one other bidder. Other bids, he said, would be hit by tax bills of between €1 million and €1.3 million.

"Debt-like items" were crucial to Dix's calculations. These items were, he said: "Estimated cash impact of debt-like items as at December 2012 includes accrued interest payable to IBRC in February 2012, finance leases, bonds, letters of credit, onerous leases etc. Differences between bidders are due to differing assumptions.

"The Board is of the view that Bidder 1 should be granted exclusivity immediately."

Dix was recommending that the race be narrowed to a single horse, based on these calculations and assumptions.

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At 8.28am on Monday, February 13, 2012, an email from Rob Asplin of Better Capital pinged into Walsh's inbox. Better Capital was a British private equity fund led by veteran investor Jon Moulton.

Asplin said that, for a "number of weeks", he had written to Siteserv asking was the company for sale. He had got no reply, and was now contacting IBRC directly.

At 9.22am, Walsh sent the email on to Hobbs and Neil Collins in KPMG. "Gents can you shed some light on this please? Surprised that the Bank was not informed – have there any other expressions of interest logged that we are not aware of?"

Later, Walsh emailed Cleere to say he had received "Nada back" in response to this query. "Nada de nada!" Cleere replied.

Later that day, at 4.19pm, Walsh wrote to Hunersen and Woodhouse to update them about a meeting on Wednesday (February 8) with Siteserv, KPMG and Davy to discuss second round bids.

"The proposal made by the sub-committee on that day was to progress with the 2 highest bids – being Island Capital [O'Brien] and Anchorage into a third round involving final due diligence and issue of their final offers," he said. "The question of bringing forward 2 or 3 bidders into a third and final phase was discussed at length between the above parties and ourselves."

"We held the view that the third placed party (Gores) should be invited to amend their offer in terms of adjustments in order to bring it in line with the first 2 and if taken up by them they would be brought forward to maximise competitive tension in the event that one party (or more) fell away."

"This view was not taken on board by the sub-committee and hasn't been done," Walsh said.

"Following this meeting, on Thursday afternoon, Walter Hobbs, our observer in the process, advised us that Island Capital [O'Brien] contacted KPMG/Davys on Thursday to advise that they would not be prepared to enter a third round of bidding and made a 'final offer' at the higher end of their indicative scale €45m – €48m from the 2nd round – yielding estimated €43m net to IBRC, requiring an additional €7m provision and resulting in a c. €110m write off overall. They also requested exclusivity for 2 weeks to complete the process."

He said that Island had also warned it would pull out of the process if this was not acceptable.

"The sub-committee of Siteserv established to run this process, together with KPMG and Davy, all advise proceeding with the Island offer and the company have written to the Bank recommending acceptance of this offer and entering exclusivity as sought."

At 4.48pm, Hunersen replied: "Thanks for the update. Not particularly surprising that there was resistance to the 3rd round of bidding. Look forward to the discussion on the Island proposal."

About the same time, Hobbs responded to Walsh regarding Better Capital.

"Some of the advisers had anecdotal evidence that Better Capital did not have strong financial capability at this time," Hobbs said. Better Capital later disputed this. "We were under pressure to keep the A-list as short as possible to keep the process manageable. In that respect, judgements had to be made as to who was in and out."

Hugh Cooney, Siteserv chairman, Niall Devereux, director, and independent director Robert Dix at the company's egm in April 2012 — Tony O'Shea

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On Monday, February 20, 2012, Cleere completed a document for the IBRC credit committee outlining the Siteserv sale process.

"The current island Capital 'final offer' is the highest from Round 2 and, subject to it not changing during the last phase of due diligence, offers the maximum recovery to IBRC," he said. "Based on this, and their concerns and belief that an immediate transaction is required, the company has formally written to IBRC advising that it favoured entering exclusivity with Island Capital and asked IBRC to permit it to do so."

The numbers that Dix produced supporting this claim were repeated.

Nicholas Lyons, head of IBRC credit risk, said he would try to consider the deal on Thursday but he warned the bank already had 22 other deals to look at.

At 10.22pm, Cleere wrote back to say "genuinely urgent" as customers and other parties were putting the business under pressure.

Tuesday, February 22, 2012 began with Hobbs sending Cleere another email from Siteserv.

Dun & Bradstreet had downgraded the company. "The screw tightens!" Hobbs said.

Later that morning, Hobbs wrote again. "The UK Government has changed the national insurance treatment of holiday pay in the UK," he said.

"It could cost Siteserv £500k in a full year. Island were advised of this on Monday. Other interested parties have not yet been advised.

"There is a clear risk of a price adjustment negotiation in relation this in the final stages of the process."

'I think we have made our bed'

On February 26, 2012, Anchorage Capital wrote to KPMG and Davy, saying it was frustrated that it had heard nothing "substantive" about the sale since January 30. Anchorage had $10.6 billion under management and it wanted to "substantially improve" its offer.

Anchorage said its bid would secure the future of the company, its customers, its suppliers and its employees.

"We have in the past observed companies, which fail to implement a timely restructuring, disintegrate at rapid pace once their customers lose confidence in their financial viability," it wrote in its email.

"While every situation is different, once such a tipping point is reached, the decline can be difficult to reverse and result in uncontrolled insolvency, especially for a business with significant customer concentration."

It said Siteserv needed to move fast, or face "irreversible damage".

"On a cash and debt-free basis, we value the company at €52 million, to be paid in cash upon completion of the proposed transaction without need for earn-outs or any other deferred or contingent consideration," it wrote.

Anchorage said it had increased its price because of the potential of "water metering and water rehabilitation in Ireland".

Anchorage said it wanted to meet the heads of Siteserv's key divisions, Sierra and Deborah, to get more information and that due diligence would be "light", as its cofounder, billionaire Tony Davis, wanted to do the deal.

Dix disagreed. At 9.30pm the evening after the Anchorage letter, he got KPMG to write on his behalf to the bank, saying the offer should be rejected.

"We estimate (it) would generate an additional c. €1.9 million for IBRC over the current Island Capital Offer," the letter said.

O'Brien's bid was "well advanced", it argued, and had "materially lower execution risk".

Dix said that since February 23, it had dealt with O'Brien "on the clear understanding" that they were in exclusive talks. Siteserv, he said, could talk to nobody else until this period ended at midnight on March 8, 2012.

"It is better to accept an offer [from O'Brien] that is more certain than to pursue an alternative offer [Anchorage], which is subject to a number of conditions and confirmatory due diligence and made late and outside the agreed sales process," Dix concluded.

At 10.12pm that night, Cleere wrote to Walsh: "Of course this would happen!"

At 10.58pm, Walsh sent the Dix email to Woodhouse. "What are your thoughts on this?"

Woodhouse responded at 9.06am the following morning: "I think we have made our bed . . . . No gtee [guarantee] that Anchorage would not use DD [due diligence] as a means to chip and we could lose Island . . . the exclusivity period should be honored is my view."

Walsh replied at 9.11am: "Agree but with strict adherence to the deadline, ie, midnight March 8th, we will communicate same this morning to KPMG."

Woodhouse replied: "Yes, fine with me."

At 5.13pm that day, KPMG told IBRC, Siteserv and Hobbs that there was "verbal" exclusivity with O'Brien and Island, and said its view was no one could enter the race as long as this lasted.

"We expect to confirm with Island by the end of this week the commercial terms of their offer," KPMG said.

On March 1, Kevin Beary, a financier, wrote to the bank to say he had a trade buyer called Wo Networks who wanted to buy Siteserv. They were "not bottom fishers", Walsh told Beary. He was too late.

O'Brien shows his hand

On March 6, 2012, Dix wrote to IBRC to confirm it had a final offer from O'Brien and attached a letter confirming that confirmatory diligence was complete and the price was €48 million.

A one-page unsigned letter from O'Brien simply said: "I hereby confirm that I will procure that Millington Limited has sufficient funds to complete the purchase of Siteserv."

Walsh said Cleere would now to go to group credit committee that Thursday.

KPMG felt confident enough to discuss the various bills. The bill for all advisors and associated costs had risen to €2.475 million.

On March 7, Cleere wrote to Woodhouse to see had he managed to get confirmation from Rossiter that the Siteserv proposal would be heard that Thursday. Woodhouse said no, as Rossiter had been unable to attend an earlier meeting.

"Given that the only decision that the Bank requires to make is to accept a larger payment based on the favourable W/C [working capital] movement this should be a no brainer. Certainly this was the view from Tom [Hunersen], Jim Bradley, Robert, John and Lizanne [White, IBRC chief legal officer]," he said.

Cleere wrote to Rossiter to say he needed the deal approved. Rossiter replied that this was "insufficient time" to review the deal, and asked for 48 hours' notice. Cleere asked for a meeting to be held in 48 hours.

> I strongly believe IBRC should approve the Island transaction . . . any other course presents great dangers

On Monday, March 12, an "ad hoc" meeting was called to discuss Siteserv in the Oak Room of IBRC. Cleere's paper was presented.

Anchorage's offer, it was noted, had risen from €48 million to €52 million, which was €1.9 million more than O'Brien had originally offered.

However: "The updated Island Capital offer received on March 6, 2012 has seen an increase in funds payable to IBRC of €1.2m over their original 2nd round bid, leaving a €0.7 million shortfall against the updated Anchorage offer."

Cleere said Siteserv was arguing for O'Brien "despite the Anchorage bid offering €700k more to IBRC".

Siteserv said Anchorage's offer was non-binding and required due diligence, while O'Brien was ready to go.

The case was then argued to do a deal with O'Brien, rather than go with Anchorage.

Among the issues discussed were: "Competitors spreading rumours to customers about financial wellbeing of Siteserv"; "Trade credit insurance by Atradius withdrawn on February 17, 2012"; "Aviva have withdrawn a €5m bond insurance facility on February 13, 2012"; and "Customers such as Exxon-Mobil and Sky monitoring the business on a monthly basis for signs of stress."

On top of this, there were queries from customers and concerns about more downgrades from credit insurers.

"The board of Siteserv have become very concerned about the potential impact on value of these developments and are stressing the need for an immediate transaction," it said.

"As such, the board of Siteserv believe the Island offer to be the best proposal to bring forward to IBRC for approval for the following reasons: Island's offer is the highest and yields the most proceeds to IBRC of all bids despite the €700k additional proceeds the updated Anchorage bid as they believe it to be pre-deductions as a result of not performing final due diligence."

O'Brien, the bank heard, had "confirmed verbally" he would do the deal and there was an "unsigned funding ability letter" from the businessman.

IBRC also noted that the sale would see it lose €119 million – €10 million more than the bank had expected.

"The sale to Island Capital of Siteserv for €48m yielding €44.3m proceeds to IBRC is the strategy that will maximise recovery on this exposure," the bank's credit committee was told.

Siteserv was now almost within O'Brien's grasp.

'Less said, the better'

On March 8, Aaron Rosenstein of Anchorage wrote to Tom Hunersen to find out what was going on. He said they had been in touch with Davy and KPMG. "We'd still very much like to buy the business," he wrote.

At 12pm on Monday, March 12, an "ad hoc" credit committee meeting was called to discuss Siteserv. In attendance were Rossiter, Lyons, Hunersen, Woodhouse, Walsh, Cleere and Halpin. Woodhouse, as the IBRC banker in charge of O'Brien's loans, declared his conflict of interest. "Credit Committee (CC) questioned whether the Bank has satisfied itself that the maximum bid has been received from Island Capital [O'Brien]."

The credit committee still wasn't entirely convinced and said it was possible that Anchorage could "yield a more favourable return." But this had to be weighed against the risk of delaying things. It also concluded there was "headline risk to the bank" of doing a deal with O'Brien. It said the deal needed to go to IBRC's board. Woodhouse suggested that Aynsley should also take a look at the deal prior to board.

Some bankers within IBRC were beginning to realise the deal could be controversial.

On Tuesday, March 13, IBRC banker Nicholas Lyons emailed his colleague Gareth Halpin to say: "Siteserv is a no-win really, isn't it?"

Halpin replied: "Siteserv, less said the better. It can now only get worse."

That same day, Dix and Cooney from Siteserv wrote a seven-page letter to IBRC, making the case again for O'Brien. "While on the face of it the Anchorage Revised Offer is c. €2.5 million higher than the Island Capital Offer the two offers are not on a like-for-like basis," they argued. Again, issues of due diligence were raised, as were taxes.

Dix and Cooney fretted that O'Brien might walk away, and said Anchorage would take two to four weeks to catch up with him. The company, they claimed, did not have this time as it "may lose the support of its creditors, run out of cash and be forced to cease trading".

"This would have disastrous consequences for the company and its employees. The consequences, in turn, for this sales process and the sale proceeds available to IBRC should be obvious."

They claimed if O'Brien pulled out, Anchorage would be able to reduce its price.

"It is precisely to avoid this scenario that we consider strongly advisable to accept the firm, final and certain offer that we have now from Island Capital, rather than engage with another bidder which has attempted to mend its hand outside of the sale process laid down by the company and agreed to by the bidders and, in so doing, to destabilise a fair offer, which has a very high degree of certainty in terms of execution and realisation of proceeds," they said.

They said Siteserv believed O'Brien was the "only offer capable of acceptance", and to turn it down was a "grave risk" to the company.

Later that same day, Hobbs wrote to IBRC after reading the Dix/Cooney letter.

"As someone who has observed the process very closely for the past six months on behalf of IBRC, I believe this letter is a balanced account of where are now and how the process evolved to here," he wrote.

"I am satisfied that this process has been conducted by the company and advisers with diligence and skill. Above all, the integrity of the process in my view is beyond question.

"All interested bidders were given a fair chance, and treated in an even-handed way within the rules of the process. The decision to go exclusive with Island Capital was a key point in the process.

"I was part of those deliberations and believe there were compelling reasons for going exclusive with Island as set out the Siteserv letters of February 10 and March 13."

"The decision to go exclusive with Island was vindicated by how the transaction progressed since then. The final adjustments to the price were less than expected with the result that the net proceeds to IBRC were €1.2m more than originally indicated.

"In the circumstances, I strongly believe IBRC should approve the Island transaction which represents an optimum outcome for IBRC and all the stakeholders in the company. Any other course presents great dangers."

Cleere then sent a memo to the board of IBRC recommending the O'Brien bid. It made similar arguments to Dix/Cooney, and said this view was arrived at after a meeting with Aynsley and other bankers.

"It was felt by credit committee quorum that the Island bid is real, that there was a risk that it could be lost if Anchorage is brought back into the process, and that there was a price chipping risk with the Anchorage bid."

An IBRC note of another ad hoc group credit committee involving Aynsley, Hunersen, Walsh, Rossiter, Cleere, Lyons and Halpin shows that the bank concluded O'Brien was "the only firm bid on the table". It noted that KPMG, Davy and the Siteserv sub-committee were all behind it.

"Board approval is required on the basis that a debt writedown of € 119 million is required," a note of this meeting concluded.

Better not to let the journalists know

Behind-the-scenes preparations were made to break the news. At 10.15pm on March 14, 2012, Nicholas O'Gorman told Cleere and Dix it was better not to say how much Siteserv owed IBRC, as it would allow the media to easily work out how much had been lost.

"€45.42m is the cash payment from Island to the plc after adjustments for debt like items and working capital. The net proceeds to Anglo are €44.3m which is arrived at after including the cash to Anglo net of interest and after a deduction of funds payable to shareholders and transaction costs."

"We felt it better not to let journalists be able to work out the exact Anglo write-off or the professional fees on the face of the document. Also only referring to the cash from Island which is a higher number suggests a better result."

At 3pm on March 15, an IBRC board meeting was held, with Siteserv just one item on a packed agenda. The sales process was explained to its board.

"It was noted that the group credit committee had approved the proposal to accept the Island offer on March 13, subject to board approval of the transaction, given the debt write-off element contained in the proposal."

The board noted that group credit committee had approved O'Brien's bid and that, while Anchorage had increased its offer, it was subject to due diligence.

"Mr. Woodhouse advised that a further letter had been received from Virgo Capital attesting to the fairness of the sales process which had been followed to date. The Board noted that the process undertaken appeared very satisfactory with all parties having being offered the same opportunities to conclude a proposal."

"Following consideration, the Board approved the proposal as presented namely (i) to proceed with the sale of Siteserv plc for €48m (with net proceeds arising for the Bank of €44.3m) with (ii) a write-off of the balance of facilities of €119m following the sale, however noting that this was circa €10m in excess of the current impairment provision."

The deal was now all but done.

Better Capital returns

On March 14, Jon Moulton wrote to Aynsley in IBRC, again trying to bid. He complained that he had "got nowhere" to date.

On March 16, Siteserv announced to the stock market that it had been sold to O'Brien. The board of Siteserv described the deal as "fair and reasonable".

Later that day, John Sheridan of Key Capital, who was advising losing bidder Rutland, wrote to Walsh. He said he had read with interest of O'Brien's win.

"We were advised by KPMG Corporate Finance that the preferred bidder was selected on the basis of a higher-priced offer. We would welcome an understanding as to why the board of Siteserv and IBRC were happy to proceed with a cash offer that is nearly €10m lower than our all-cash offer of €55 million," he said.

"It may be that there is an innocent explanation but if, for any reason, our clients' offer may have been overlooked, Rutland remains strongly interested and can complete the transaction expeditiously."

Sheridan included a six-page letter from Paul Cartright, managing partner of Rutland, outlining the terms of its bid dated January 31, 2012.

"Our valuation of the business on a cash-free, debt-free basis is €55 million," Cartright said. This did not include any consideration to be paid to shareholders. Rutland said it would buy Siteserv in cash, but might refinance later.

"We believe that Rutland is an ideal owner of this business and would make an excellent partner through this period of change," Cartright said.

IBRC wrote back to Key, the advisers to Rutland, telling them to address any queries to KPMG/Davy as they ran the process.

On March 20, Neil Collins of KPMG told Cleere and Walsh he had dealt with Key. "I have already spoken to John and explained that there were several adjustments to his headline number (including bonding, net debt, working capital adjustment) to get to what his cash consideration would have been."

Collins reassured IBRC that the taxpayer had got the best possible deal.

Enter Ray Nielsen

On Friday, March 23, Ray Neilson of the Altrad Group phoned IBRC, asking to speak to Aynsley or Hunersen. He said he had €200 million to fund acquisitions and complained that Siteserv had rebuffed previous approaches.

"Mr Neilson phoned regarding the sale of Siteserv, a company that he states currently owes the Bank approx. €150 million," an IBRC internal email said.

"You know who this crowd?" Hunersen asked Walsh.

"Never heard of them," Walsh replied.

On Friday, March 30, Hunersen wrote in an email: "I returned Ray Neilson's call at Altrad. As he explains it, they have tried to reach out to Siteserv to do a deal with management to buy the company but were told, as recently as March, that no deals were contemplated.

"He went on to suggest he would pay €60m for the business. Obviously don't know his firm or the history with Siteserv, and it appears odd on the surface that overtures from complementary businesses wouldn't have been entertained. For now, the deal you are doing moves forward. If it doesn't complete then maybe there is a conversation to be had with Altrad."

Later that day, Billy Murphy of Drury Communications wrote saying the Irish Times had been in touch. "Barry O'Halloran was on to me re Siteserv," Murphy

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> "The fact that an existing, performing client of the Bank participated in an open, transparent and fair process and won is to be applauded, not portrayed as despicable"

from page 4

said, asking about Altrad. "You can see the sensitivities here, particularly when it comes to debt writedown and Denis O'Brien who has been prominent in the news this week."

IBRC's annual results

On Thursday, March 29, 2012, IBRC unveiled its results to the media. The scale of what the bank was working on was staggering. In 12 months, it had shrunk its loan book by 29 per cent.

It had merged Ireland's worst two banks, Anglo Irish Bank and Irish Nationwide, to form IBRC.

It had transferred €12.2 billion in bonds to AIB, greatly strengthening AIB's balance sheet, and pulled off the biggest sale by an Irish bank of the crisis by selling its entire US loan book for €6.7 billion.

This was before dealing with hugely complicated situations like Sean Quinn and various legacy issues to do with the bank's boomtime management.

Siteserv – while a big deal today – was not, at the time, anywhere near the top of the agenda for Aynsley, Dukes and the bank's board. However, IBRC still prepared a response for the media about Siteserv.

"The Bank is a separately regulated entity that must make its decisions based on its exposure to clients and on the optimum way of re-structuring loans to gain maximum economic recovery," an IBRC memo said.

"The fact is that an existing, performing client of the Bank, through his private enterprise, participated in a well tested, competitive, transparent and fair process and won. The result was the best outcome that could be achieved for the taxpayer, and the process we deploy is well tested, transparent and fair in all cases."

Around this time, too, Fleming Capital, a company controlled by Niall McFadden, requested the right to vote in favour of the Siteserv sale which the bank granted.

Fleming owned 10 per cent of Siteserv, so it was due €421,000 from the €5 million dividend to shareholders. IBRC took all this money, and it also swooped up more from various senior figures in Siteserv who had debts with the bank.

Of the €5 million paid out to shareholders, a good bit came back.

Irish Times letter

On March 26, Peter FitzGerald prepared a note for Aynsley, in response to an article written by John McManus in that morning's Irish Times.

The article criticised IBRC management and made various claims.

McManus's article noted that it had emerged in a court case that Aynsley was texting the developer Paddy McKillen about decisions made by the bank. He also raised concerns about Siteserv.

"The notion that IBRC is still chummying up to big Anglo clients and doing deals is very hard for most people to understand. And it's one the Minister for Finance might find hard to explain," McManus said.

McKillen, McManus noted, claimed in a court case that Alan Dukes, IBRC's chairman, had told him it would stand by him as a "customer of 25 years" as he was among "the best-performing loans in the bank".

"The communications depict them as actively supporting McKillen in a course of action that is counter to the interests of the National Asset Management Agency and, by extension, the taxpayer," McManus said.

"But what really sticks out from the evidence given last week is the alleged reference by Dukes to the 25-year relationship. If he said it, we can only hope he was not thinking about what he was saying. Otherwise, are we to assume he has stepped seamlessly into Seán Fitzpatrick's shoes as banker to Ireland's elite?"

Aynsley was livid. He felt the article misunderstood the reality of banking in a crisis, and the need to work supportively with good clients.

An IBRC memo recorded: "The statement about 'FitzPatrick's shoes' shows ignorance of the fact that the Bank has a number of good-quality ethical clients who have continued to perform throughout very difficult times."

"The Bank has an obligation to work with them, and to help them restructure their facilities to assist them to pay down the Bank and re-finance to other lenders who will be around for the longer term."

McManus, the note said, clearly thought all clients should be "treated the same", whether good or bad.

"It would be interesting to understand whether this misguided and inequitable view would also be applied by McManus to the loans made by the Bank to his journalist colleagues, or indeed the many multi-party politicians," it added.

"The Siteserv comments are also erroneous – again McManus missed the point that the Bank is obligated to get the best result for the taxpayer."

"IBRC did not create the problems, but we have an obligation to resolve them. The process we deploy is well-tested, open, transparent and fair in all cases – but this does not mean we are able to divulge the 'nuts & bolts' of the transaction to the public arena due to the confidential and commercial sensitivities involved."

"The fact that an existing, performing client of the Bank, who through his private enterprise, participated in an open, transparent and fair process and won is to be applauded, not portrayed as despicable."

"The Bank and indeed Ireland, is fortunate to still have a number of wealthy individuals who are willing to continue to invest, and in some cases increase their investments back home."

Some time after the note was prepared, Aynsley sent an email to McManus at 5.50pm explaining the bank's reasoning. He said working with good clients was the best way to get more money back.

"To suggest that in doing so that we have 'slipped seamlessly into Sean Fitzpatrick's shoes' is frankly so wide of the mark that it would be laughable if the situation that we are dealing with was not so serious, It is also insulting to Alan Dukes," he said.

On March 28, Minister for Finance Michael Noonan wrote to Dukes, with whom he had jousted politically in the past.

"I enclose a copy of an article by John McManus which was published in the Irish Times on Monday, March 26, 2012, I would be grateful for your observations on its contents," Noonan curtly wrote.

Alan Dukes prepared two responses to Noonan. In his first draft letter, he said there was "no foundation" to McManus's claims that IBRC acted against Nama or ever took actions that were not designed to maximise return to the taxpayer.

References to O'Brien and Siteserv were "equally uninformed", he said.

"There are some features of the arrangement which, ideally, we would like to change; if such change proves not to be achievable, we believe that the arrangement as it stands is acceptable overall."

Dukes said the deal had been approved by IBRC's board as commercially justified. The idea of the bank "chummying" up to big clients was, he said, "yellow journalism of the most vacuous kind".

In his second draft letter, Dukes toned down his language, but maintained his firm stance that the bank had done no wrong.

On April 3, Dukes's actual letter went to Noonan which described McManus as being "seriously in error" as he did not understand the "whole context" of the deal. Noonan said he could not, for "client confidentiality" reasons, put this down in his letter, but he was happy to go into more detail with Noonan in person.

'The emails are innocuous'

Karl Cleere was tasked on April 2 with responding to O'Halloran and the increasing number of questions being asked by the media. He asked Dix and Harvey to help him respond.

Cleere began to dig out documents to with the deal which he circulated to Peter FitzGerald, IBRC's head of corporate affairs, and others.

Harvey responded to Cleere by dismissing Altrad. He acknowledged he had been contacted by Altrad three times on January 19, March 12 and March 23, but said: "The e-mails are innocuous. Ray Neilson was not told anything about Siteserv or a process, as it would not be my place to comment."

He said Altrad was not invited to bid as a decision was taken by Siteserv to exclude all trade players. "There was never a discussion about an offer for the business, and the first time I have ever heard an offer of €60 million was in the newspapers. I suspect that Ray Neilson has found himself in a precarious position with his parent company for being 'asleep on the job'."

Neilson has said publicly that he tried hard to find out what was going on.

Dix, meanwhile, sent Cleere a two-page letter again defending the process and insisting the best price was achieved. On April 3, KPMG sent another letter saying that to invite trade players like Altrad to bid risked undermining Siteserv.

Later that day, Siteserv issued a statement defending its decision to Altrad which made similar points to all three. The deal, it said, had been done "in consultation" with IBRC.

Altrad did not give up. On April 3, it made an indicative bid of €60 million with due diligence to be done in 15 days. It asked to be given eight weeks' exclusivity and said its offer was "non-binding".

Cleere sent the bid to Hobbs and Walsh, saying he was "curious" about the offer and its conditions, but unsure whether it could be considered because of the exclusivity agreement with O'Brien.

At 7.28pm that night, Cleere sent an email to Hunersen, Woodhouse and others in the bank. He said Siteserv's subcommittee was meeting with KPMG, Davy, Hobbs and Arthur Cox to discuss the Altrad offer.

Following the meeting at 8.48pm that night, Des Carville sent Walsh and Cleere an analysis of the Altrad proposal which rejected it.

He said Siteserv wanted to publish this analysis, provided IBRC agreed.

At 9.29pm, Cleere wrote to Aynsley, Woodhouse, Hunersen and other bankers asking for a meeting to discuss the analysis. He noted that a shareholder meeting of Siteserv to approve the O'Brien bid was just days away on April 5.

At 1.40am, Carville emailed Walsh, attaching an interview with longtime O'Brien associate Leslie Buckley that had just been published in the Irish Times. "Pat – some more balanced media coverage from the Irish Times below," Carville wrote.

In the interview, Buckley revealed himself to be a "small shareholder" in the O'Brien company buying Siteserv, which he said had won after a "very competitive process".

"There were ways and means for them [Altrad] to buy Siteserv if they wanted to pay €60 million for it. It's easy to sit on the sidelines and say you'd like to buy it."

Buckley suggested that IBRC was lucky O'Brien arrived. "If somebody didn't buy that company very fast, I would suggest that Anglo or IBRC would be writing off a hell of a lot more. That's the other way of looking at it," he said.

The following morning, Billy Murphy wrote to Peter FitzGerald: "Comments from Leslie Buckley were not particularly helpful today."

"Agreed," FitzGerald replied.

It was now the morning of April 4, 2012. A memo details the discussion that took place about Altrad between Cleere, Walsh, Nick Lyons and other IBRC bankers as well as legal advisors McCann FitzGerald. Aynsley and Woodhouse were not in attendance.

McCann FitzGerald said that IBRC could not back out of the O'Brien bid at this stage.

"Tom Hunersen and Nick Lyons agreed that IBRC should make no comment, other that the process is being led by the company and its advisors," the memo said.

"McCanns suggested drafting a letter in response to the Davy email, stating that any offer or analysis or opinion of any offer for the company was a matter for the company and its advisors."

At 1.10pm, Carville sent a draft stock exchange announcement to IBRC for its approval.

"It would be better (obviously) if there was no reference to IBRC – is this possible," Nick Lyons asked. FitzGerald agreed, and suggested a rewording that left the bank out.

The statement was issued. The Altrad deal was now completely off the table.

A mysterious email

On April 5, 2012, the email from whistlebx@live.ie was sent.

It said: "A few weeks ago, DOB and his wife were seen on the town with Mike Aynsley, Tom Hunersen and their wives." It added that Woodhouse was a "close personal friend of Denis". It made various other allegations that suggested that O'Brien's bid was not the best one.

It also made allegations that IBRC was taking an "aggressive stance" against Tony O'Reilly.

On May 2, IBRC ran a scan of its computers to try and find if any of its staff had sent the email. It drew a blank. IBRC wondered was somebody coordinating them. It had lots of enemies both in Ireland and overseas. It suspected someone with an intimate knowledge of the bank was leaking information selectively. Internally the hunt to find this person was codenamed Project Rain.

On June 1, Zoe Newman, managing director with corporate investigators Kroll, wrote to IBRC to update on its search. Kroll was unsure where the email had come from but, using "various databases", it believed the email was sent from a location near IBRC's headquarters.

She said it was possible the email was sent from an internet cafe on Upper Baggot Street in Dublin 2, but she could not be sure.

"The timing of the e-mails (12.20pm and 12.24pm) and the potential location of the ISP, may indicate that someone had pre-prepared the text and in their lunch hour left the building, sent the e-mail and made the blog postings at a location nearby," Kroll concluded.

The bank prepared answers for some of the claims in the email. Aynsley has said he never attended a dinner with O'Brien and Hunersen, but he did admit to dining with O'Brien and Woodhouse. The dinner was to mark Aynsley beating O'Brien in a weight loss competition for charity. Dukes knew of the competition and the dinner, and had no issue with it.

Dinners between senior bankers and performing clients are not unusual. Woodhouse has denied being a close friend of O'Brien, but says they had a good professional relationship. There is no evidence of a hard line against O'Reilly. The bank tried to work with O'Reilly to resolve his debts. It was another bank, AIB, that moved against him.

The email's substantive issue is whether or not O'Brien made the highest bid for Siteserv. The answer to this is more complex than it looks, as our story explains.

Around the same time, the Central Bank decided to investigate the circumstances of the Siteserv sale. On May 15, it wrote to the bank seeking information. Cleere gathered up information for it and constructed a timeline.

On May 22, FitzGerald wrote to Hunersen, Walsh, Cleere and Aynsley to say a meeting was confirmed at 10am in the Central Bank to discuss Siteserv.

On the Central Bank's side were Ruairi Cahill, a banking supervisor, and Sarah Daly, a senior inspector. "The format of the meeting will be Q&A style," FitzGerald said. "They do not require any presentation, and simply wish to improve their understanding of the deal."

On May 23, Cahill from the Central Bank submitted some questions. "Who were the 8 bidders at the outset. Which 6 carried to the second round? Did 2 or 3 carry to the 3rd round and, if 3, who was the third? (know Island/Anchorage)." Cahill, judging by his questions, appeared not to know that the race had ended after the second round.

After spending some time looking at the deal, the Central Bank decided to take no further action. There were also rumours, around this time, of someone with inside knowledge hoovering up shares in Siteserv during the sales process in order to make a gain.

So many people knew that a payment was planned to shareholders that this is not impossible.

But it is relatively small money and, if it happened at all, it smacks of small-time opportunism. Equally, it might be just some smart investors taking a punt that shareholders would have to get something to approve the deal.

Siteserv was ultimately sold by IBRC to O'Brien's Island Capital in June 2012

On June 6, 2012, the sale proceeds from IBRC of €44.3 million reached the bank. Cleere wrote to his fellow bankers to say: "This represents the conclusion of the Siteserv sales process."

Hunersen replied: "Long journey. Good to see this finished. Well done, all."

It had certainly been some journey, but it was far from over. Ahead lay years of controversy.

Impossible to know

It is hard not to conclude that IBRC was right not to put Siteserv into receivership, even though this would have given it full control of the sales process. Receivership would have led to a fire sale and risked more than 2,000 jobs. A debt-for-equity swap was too slow and uncertain.

Maybe the bank would have done better by sticking with the business longer and lending it as much as it could within European rules, as PwC suggested.

This could have led to a better return but, equally, it might not have. It is impossible to know.

Once IBRC decided that Siteserv and its advisors KPMG and Davy were running things, the bank was not driving the process.

At important points in the sale, Siteserv and/or KPMG/Davy favoured O'Brien's bid for the reasons outlined above.

Siteserv made the decision to go exclusive with O'Brien.

It first determined O'Brien's bid was the highest after it included various factors.

It ignored Altrad's early overtures and rejected its later indicative bid.

It argued against Anchorage's original bid and a subsequent revised one.

Hobbs – IBRC's advisor – backed Siteserv and its advisors as the process went along. The bank knew what was happening.

By the time the Siteserv deal reached the bank's credit committee and board, it had considerable momentum. It would have been very hard – and risky – for the bank to halt the deal at that stage.

Maybe IBRC should have insisted on trade buyers being allowed into the race. Maybe it could have fought harder to try and let the bidding go on longer. Maybe it could have let O'Brien walk away and insisted that Siteserv proceed instead with another round of bids from everyone else. Maybe shareholders could have been paid less than €5 million. Maybe the taxpayer might have made more money.

But equally, maybe the price would have been chipped by other bidders later. Maybe Siteserv would have gone bust if things were delayed too long. Maybe more than 2,000 jobs would have been lost. Siteserv (since renamed Actavo) employs 6,200 people today.

There are a lot of maybes. For each argument, there is a counterargument.

Siteserv and IBRC put a process in place. Siteserv's advisors, not IBRC, ran it.

Judgement calls were made under pressure. And a deal was done.

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Dermot Desmond, Gavin O'Reilly *and the last days of* the Sunday Tribune

When a business article published in 2001 upset one of Ireland's richest men, it set in motion a dramatic chain of events that helped to bring about regime change at Ireland's biggest newspaper group

A SPECIAL REPORT BY **TOM LYONS**

The closure of the Sunday Tribune in 2011, after 31 years in business, set off a chain reaction that had long-running implications for its benefactor: Ireland's biggest newspaper group, Independent News & Media. Within 18 months of its closure, INM had a new shareholder called Dermot Desmond, a multibillionaire who now finds himself as a potential kingmaker in embattled INM with a 15 per cent shareholding. During the same period, INM's former chief executive Gavin O'Reilly left, ending the O'Reilly family's influence on the company.

Desmond is not known for losing money. His decision to instal John Bateson, the managing director of his investment vehicle IIU, to the board of INM indicates his commitment to the company. But why did he ever get involved in such a high-profile company and what will Desmond do next? Today, we investigate the origins of his stakebuilding dating back to 2011.

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"While the Sunday Tribune has conveniently gone into receivership at your behest, it is not off the hook. INM is 100 per cent liable for the damage caused by these articles"

from page 1

On February 1, 2011, INM appointed a receiver to the Sunday Tribune on foot of debts of €30 million, money that showed no sign of ever being repaid. Twenty-two days later, the newspaper closed after the chronically loss-making title failed to find a buyer. Forty-three staff lost their jobs; a newspaper with a proud tradition of breaking stories and nurturing talented journalists was no more.

Its closure was not entirely unexpected. INM was struggling under a debt mountain that had forced it to sell off prize assets in India and South Africa, as well as offload the prestigious but loss-making Independent in London to a Russian oligarch for £1. Editor Nóirín Hegarty said the Tribune's demise was "a very sad day for indigenous journalism". It was, however, just the beginning of a remarkable investment saga for Desmond that still has some way to run.

'I was piggy in the middle'

Dermot Desmond was on the west coast of the US when he rang Gavin O'Reilly on his mobile phone on February 4, 2011, just three days after the Tribune closed. The multibillionaire was financially robust even in the midst of a terrible global recession that wiped out many others.

According to a note made by O'Reilly of his conversation, Desmond expressed "annoyance" at INM's decision to pull the plug on the Sunday Tribune. He was within weeks of beginning a court case against the Sunday Tribune and its former editor, Matt Cooper, over a business article written ten years earlier. Desmond was convinced that he had been libelled in this article, and he believed that the newspaper had "messed" him around by delaying his case for years.

Desmond said he wanted an apology and damages to be paid to charity. "I said that I was not overly familiar with the details of the case, but I said that if he went to court and for example, won, he'd become an unsecured creditor of the Tribune, as it was in receivership," replied O'Reilly, according to the note. "I said that I would read myself into the matter and that I'd give him a call on Monday or Tuesday, explaining that I would be in South Africa."

The following Thursday, on February 10, 2011, at 6pm South African time, O'Reilly rang Desmond back. He asked Vincent Crowley, INM's chief operating officer, to witness the call.

It was 8am on the west coast when Desmond answered just as he was about to play a round of golf. O'Reilly said he had looked into the legal action and believed that the Sunday Tribune might have had a defence, but that this was "academic, considering the title was in receivership".

"I said that I was piggy in the middle and was merely trying to find some sort of practical accommodation that gives him vindication," O'Reilly said. "I said I had no responsibility in this, but if an accommodation could be found, I'd help sell it to the Tribune."

Desmond said that the Sunday Tribune had offered him an apology only that week, but that he wanted not only that, but also his costs to be paid and damages to be paid to charity.

"He then said that he would be buying 15 to 20 per cent of INM and would then 'find the person responsible' and said that he had 'already started buying (INM),'" claimed O'Reilly.

Desmond did not respond to a request for comment on this phone call, or any other matter to do with the Sunday Tribune or INM. He is a respected investor and is under no obligation to respond to press queries.

O'Reilly, according to a file note later circulated to the board of INM, told Desmond that his case was nothing to do with INM, but the financier disagreed with him and insisted that the Sunday Tribune was effectively a "subsidiary of INM's".

This was not an uncommon view of the newspaper at the time. The Tribune was seen by many in the media industry as a hedge by INM against the encroachment of the Sunday Times in the Irish market.

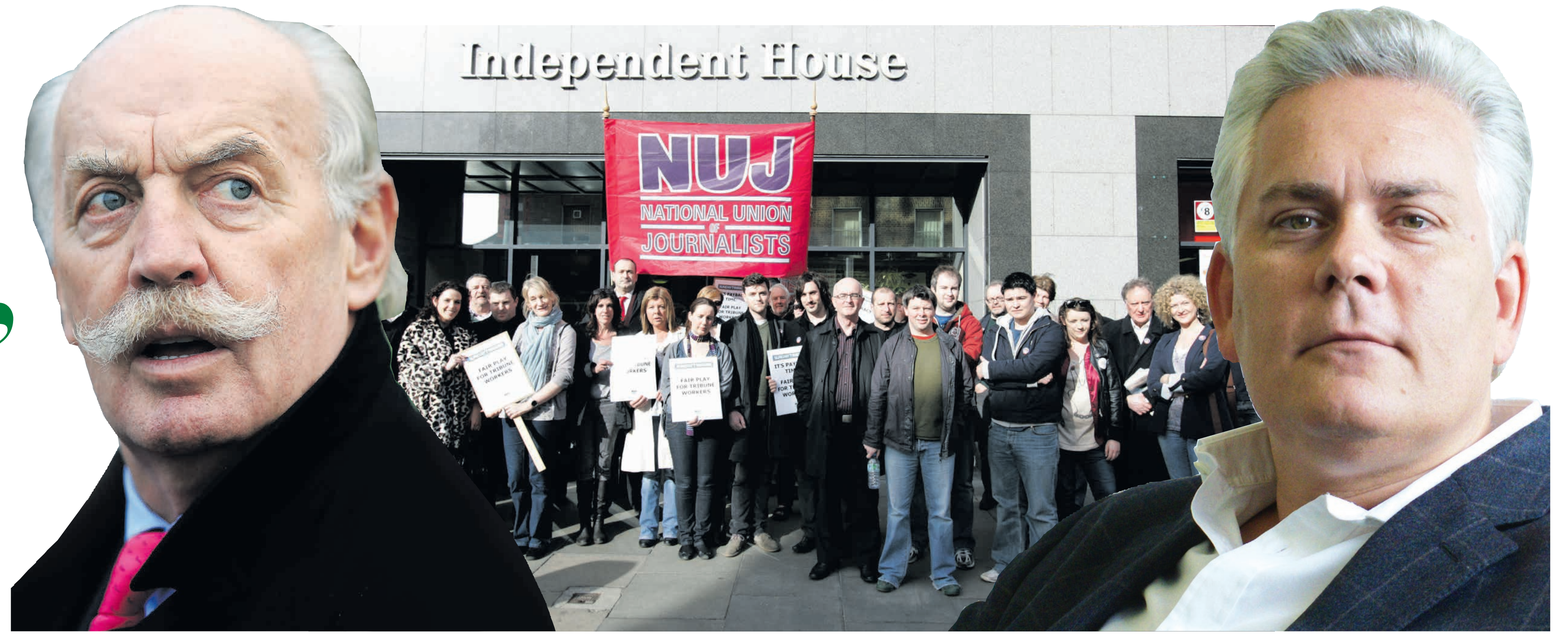
Desmond warned O'Reilly that he was not going to walk away from his legal action, despite the plug being pulled on the Sunday Tribune.

O'Reilly emailed his notes to Crowley and finance director Donal Buggy.

"I concur with your record of your second conversation with Dermot Desmond as recorded below," Crowley responded.

"In so far as I was present while the call took place, and can confirm that your record of your input into the conversation accords fully with my memory and understanding of what took place."

O'Reilly had been warned and, as he was to later to discover, Desmond was not an investor to be trifled with.



Dermot Desmond refused to be pacified by Gavin O'Reilly's efforts at rapprochement; centre: Sunday Tribune employees protesting against the paper's closure outside Independent House on Talbot Street in Dublin in February 2011

PA/RollingNews/Kevin Davies

Desmond's IIU, a 14.7 per cent shareholder in Greencore, had no objection to the change of the company's articles to allow Mr Cahill to remain as chairman. It was further stated that Mr Cahill had been targeted by Mr Desmond. We recognise that these statements were inaccurate and should not have been published."

The second apology stated: "An article appeared in the Sunday Tribune on 24th November 2002 under the heading 'Indifference and defiance may turn to concern when Moriarty returns'.

"The article suggested that Dermot Desmond was an unfit person to participate in business transactions involving the state, and that he did not disclose his involvement as an investor in Esat Digifone.

"Matt Cooper and the Sunday Tribune accept that these suggestions were inaccurate and sincerely apologise to Mr Desmond."

It was a clear victory for Desmond. But was it over? O'Reilly hoped it was.

He texted Desmond afterwards: "Glad a settlement and apology was finally arrived at: sense prevailed at S Tribune. Statement in court reads as proper vindication for you. Hopefully, our next call will be to set up dinner!! Best, Gavin."

'You effectively call the shots at the Tribune'

On February 16, 2011, the Sunday Tribune and Matt Cooper apologised to Dermot Desmond in the High Court in relation to two articles published in 2001 and 2002. The case went to the wire before the decision was made to apologise, not just in relation to a Greencore article, but also for a second article about the Moriarty Tribunal.

Cooper agreed to pay €10,000 from his own pocket to charity as part of the settlement.

The first apology said: "An article appeared in the Sunday Tribune dated 11th February 2001 under the heading 'Cahill falls on surprise sword'. In that article, it was stated that the board of Greencore and Bernie Cahill had been told that Dermot Tribune had run up "unnecessary legal costs" and dragged on the case. "These cases should have been sorted out years ago. I will therefore be holding INM responsible for my legal costs."

The following day, Desmond wrote to O'Reilly, making it clear that things were not over.

"We have had many conversations about Matt Cooper's unsavoury articles as published by the Sunday Tribune," Desmond wrote.

"While the Sunday Tribune has conveniently gone into receivership at your behest, as I have said to you on the phone, the Tribune is not off the hook and INM is 100 per cent liable for the damage caused by both these articles.

"You effectively call the shots at the Tribune. I am therefore not letting you avoid responsibility for these cases in circumstances where you pulled the plug on the Sunday Tribune."

> **"Believe me, this is not going to go away, and I will not be folding my tent. I look forward to receiving your cheque**

Desmond said "sheer obstinacy" by the Sunday

'INM shareholders cannot accommodate your wishes'

Later that day, O'Reilly replied to Desmond on INM notepaper saying he was "hugely surprised" at Desmond's position.

"I assure you there was nothing convenient or comforting for the board of INM in taking such a difficult decision (especially with regard to the potential impact on the 43 Sunday Tribune employees), and the decision was taken with due regard to what was best for INM and its shareholders, quite independent of, or cognisant of, any pending libel litigation.

"There is no basis for you asking that INM pay you for something that it is not responsible for; INM has no responsibilities for your legal costs, or indeed anything to do in relation to this matter."

O'Reilly asked Desmond could they instead put the matter behind them as he had received a "fulsome apology".

"That is where the matter ends. From your letter, I know what you want, but the shareholders of INM cannot accommodate your wishes."

O'Reilly suggested a face-to-face meeting to resolve their differences.

On February 21, 2011, Desmond replied: "I have to say I am the one who is surprised by your letter. You cannot pass the buck on the decision to put the Sunday Tribune into receivership.

"You decided when it was going into receivership. It has been uneconomical since you invested, so the time was in your hands.

"I told you in our conversation that an apology was unacceptable and I would pursue the Independent by whatever means, which I will do."

Desmond accused O'Reilly of being "disingenuous" by saying INM had no responsibility for the Tribune's closure.

"You state that the apology was suitably covered in the press, without mentioning of course that the Irish Independent censored the story and gave it zero coverage. There is no point in meeting face to face unless you have a cheque."

'It would set a very dangerous precedent'

After receiving this letter, Gavin O'Reilly wrote a long note to his board on February 24, 2011, attaching all of his correspondence with Desmond in an appendix.

O'Reilly said he would "normally not bother" directors about libel issues, but felt he needed to, as Desmond had indicated he was going to "become a major shareholder in the company."

He then described his various interactions with Desmond in the run-up to the apologies.

"So the matter is closed/settled," O'Reilly continued. "While Mr Desmond may have wished that his costs were paid for by the Sunday Tribune, curiously, he chose not to pursue either Matt Cooper or the receiver for such costs."

O'Reilly said the Tribune had not closed in order to avoid a legal action. "As we all know, nothing could be further from the truth; the issue of the Sunday Tribune has been a matter of repeated board deliberation for over 18 months, and the board's final decision has to do with faltering circulations, escalating losses and major cash outflows," he wrote. "Indeed, the matter of potential libel litigation was never considered – nor should it have been – by INM, as we had no hand, act or part in it."

O'Reilly wrote that he had taken legal advice from the company's lawyers, who told him that INM had no liability in relation to the Sunday Tribune: "Even if INM were somehow minded to make some sort of 'goodwill' offer (and personally I see no basis on which this would be defensible with our shareholders), it would set a very dangerous precedent for other libel actions that the Sunday Tribune may have from prior years, ie, other plaintiffs could seek to enjoin INM in any future litigation.

"That would clearly not be in the best interests of INM or its shareholders, essentially giving a blank cheque to others."

O'Reilly asked his board to consider a letter that company secretary Andrew Donagher was considering sending Desmond formally, and for them to respond within 36 hours.

"It is very unfortunate that Mr Desmond has chosen this very aggressive (and remarkable) route against INM," O'Reilly wrote.

'Journalists rarely write personal cheques for libel'

Later that day, Paul Connolly responded to O'Reilly's letter. Connolly was one of three directors who represented major INM shareholder Denis O'Brien on its board. The other two were radio boss Lucy Gaffney and corporate doctor Leslie Buckley.

Connolly said that "on the face of it" O'Reilly was right, but he feared INM was much closer to the Sunday Tribune than it should be.

The "sheer quantum" of loans advanced by INM to the Sunday Tribune meant, he said, "the dogs on the street knew that we effectively managed and controlled (it)".

Connolly said he was worried, too, that INM appeared to be "steering" the receivership process.

"Likewise, a few weeks ago, INM became embroiled in the 'masthead' dispute with the Mail on Sunday – whatever about the rights or wrongs of what the Mail did, it wasn't our dispute."

This was a reference by Connolly to the decision by the publisher of the Irish Daily Mail to put out a Sunday newspaper that looked similar to the Tribune after it closed.

"In addition, as we know, journalists all over the world rarely write personal cheques to settle any libel case – did Matt Cooper really settle this on his own, or did INM underwrite it?" Connolly asked.

While Connolly might have been justified in posing such a question, Cooper did settle the case personally.

"Many of our other actions, such as those outlined above, could imply that we had a far higher degree of control thereby forming a basis for any aggrieved creditor to take a shot at INM," Connolly concluded.

He said that, ultimately, he agreed that INM should send Desmond the Donagher letter.

Connolly, however, warned that the Donagher letter "may not be the end of the matter for INM from this or any other source making a Sunday Tribune claim on INM".

On February 25, 2011, the Donagher letter was sent to Desmond. It said INM believed it had "no liability" to him in relation to the Sunday Tribune.

"As such, INM will – on behalf of its shareholders – strenuously defend any attempts by you to obtain monies from the company on this issue."

A 'grave' disappointment

Paul Connolly was right in his prediction that this might not be the end of the matter. Within three months, Desmond was reported to have amassed a 2 per cent stake in INM.

He had enough shares to send his representative John Bateson to speak at INM's annual general meeting on June 3, 2011. This was a contentious meeting when, in a rare moment in Irish plc history, Leslie Buckley was voted off INM's board by shareholders.

Bateson said at the agm that it would be a "grave" disappointment if Buckley left INM's board, as he believed there had been a huge destruction in shareholder value prior to his appointment.

Afterwards, Buckley accused O'Reilly of "actively canvassing" for his removal, but O'Reilly denied this.

Investment advisory groups ISS and Glass Lewis did, however, produce reports in advance of the agm questioning Buckley's independence, given his close links with O'Brien.

Elements within INM may have circulated these reports to institutional shareholders, but what was said or wasn't said remains unclear.

Buckley's ousting certainly stung him. In an interview with the Irish Times in April 2012, he admitted: "I was obviously very annoyed at the time, because I felt that in my period on the board, we had at least made some progress."

Buckley also spoke out about what he described as the "appalling" negative coverage of O'Brien in the Sunday Independent of April 1, 2011, when a series of articles appeared criticising the businessman.

"It's very clearly part of a campaign against Denis O'Brien, right?" he alleged. "It could, of course, have something to do with the agm, but there is very clearly a campaign . . . against Denis O'Brien."

"Do you think you'll ever serve on the board of INM again?" Irish Times journalist Ciaran Hancock asked him.

"I haven't really given it any thought, but I never say never," Buckley replied.

'I have great respect for your father'

By August 29, 2011, Desmond disclosed to the stock exchange that he had a 3.21 per cent stake in INM. The company's share price was around 24 cent at this time, so he had spent a rough estimate of €5.5 million to build this position.

The following day, O'Reilly texted Desmond: "Dermot, hope you are well."

O'Reilly said he was on an investor roadshow for INM. "Would be happy to meet you to discuss INM trading, forward strategy, etc. Would this be of interest to you or your colleagues? Thanks for letting me know, best Gavin O'Reilly."

On September 15, O'Reilly again contacted Desmond. He wrote to the financier saying that he wanted to hear his views on INM as it strove to tell a better "equity story", after shareholders had been decimated in the preceding years.

O'Reilly set out what he saw as the achievements of the company, from retaining profitability to paying down debt and meeting its banking covenants.

"I'd suggest there are very few – if any – major media companies in Ireland that are achieving what INM is in the current climate," O'Reilly said. He added that if Desmond didn't have time to meet, perhaps they could meet at the Global Irish Economic Forum, which both were scheduled to attend.

The forum was a think-tank set up for Irish business and political leaders to come up with solutions to steer the economy through the crisis. Desmond said he was travelling, but would like a "quiet moment" with O'Reilly at the event, which took place on October 8, 2011.

O'Reilly took a note of his encounter which he sent by email to INM executives Vincent Crowley, Karl Brophy and Donal Buggy, as well as to company solicitor Simon McAleese.

O'Reilly said he had met Desmond in the main courtyard of Dublin Castle while he was chatting to Michael Geoghegan, the former chief executive of HSBC. O'Reilly and Desmond moved away to talk to each other, and O'Reilly asked him would he like to meet up to discuss INM. Desmond replied he wasn't interested.

According to O'Reilly, Desmond said he would spend "whatever it took" to get back his costs of €500,000 associated with the Sunday Tribune action, "even if it costs me millions".

Desmond claimed, according to O'Reilly, that the Tribune was a subsidiary of INM. O'Reilly did not respond, but asked could the matter be put behind them.

Desmond said no, but said he had "great respect for your father", in reference to Tony O'Reilly, who preceded Gavin as chief executive, and had led many different businesses including Heinz and Waterford Wedgwood. Desmond said he would do whatever he had to", according to O'Reilly.

O'Reilly said this was unfortunate, as Desmond was now a shareholder in INM, a company he led. Desmond said he knew that, and the conversation ended.

Exit O'Reilly, enter Buckley

On January 5, 2012, Desmond's investment company IIU increased its stake in INM from 3.87 per cent to 4.24 per cent, at an estimated cost of €1 million.

On April 19 of that year, Gavin O'Reilly resigned from Independent News & Media, where he had worked since February 1993. INM's share price was in the doldrums and the business required restructuring, making O'Reilly's exit not entirely unexpected.

Later, it would emerge that Paul Connolly, the non-executive director of the company and representative of O'Brien, tried to sue the media group in an attempt to block O'Reilly's €1.87 million exit package.

On June 6, Desmond increased his stake from 5.75 per cent to 6.36 per cent. Based on INM's share prices at the time, this might have cost him another €3 million.

On April 26, 2013, INM announced it had agreed a restructuring with its syndicate of eight lenders.

The restructuring followed an announcement by the company that it was going to sell its South African business.

INM said it planned to raise new equity to enable €40 million of debt to be repaid, which would allow core debt levels to be reduced further to €118 million.

This new equity, it would emerge, was raised from Desmond and O'Brien who, following the restructuring, had 15 per cent and 29 per cent of the company respectively. Desmond is estimated to have invested another €15 million in the business.

In August 2012, at an egm, Leslie Buckley was appointed chairman of the company.

Jerome Kennedy, a former managing partner of KPMG, technology guru Triona Mullane and Len O'Hagan, a former Fitzwilton and Jefferson Smurfit Group executive, also joined the board.

Buckley's tenure as chairman would turn out to be controversial, and he resigned from the company earlier this year. Within a short period, it emerged that INM was under investigation by the Office of the Director of Corporate Enforcement. Desmond, as a 15 per cent stakeholder in the company, has now invested an estimated €25 million at an estimated average of 12 cent a share.

INM has a strong underlying business, despite its recent trading last week at 9 cent a share. But can it beat the ODCE? Or will it find itself embroiled for years in investigations?

For Desmond, and other patient shareholders, the INM saga is far from over. What began for the financier with the Sunday Tribune has some way yet to run. Few, however, would bet against Desmond.

INDEPENDENT JOURNALISM ON SUNDAY

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Risky business at the IFSC
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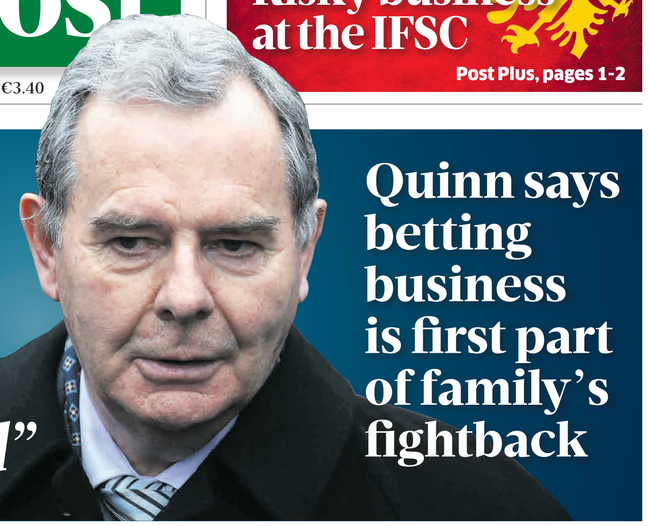

Sean Quinn EXCLUSIVE

"I never considered throwing in the towel"

Quinn says betting business is first part of family's fightback

Quinn says he will address IBRC concerns over funds

BY TOM LYONS

Bankrupt, imprisoned – but now back. Sean Quinn, the tycoon who was once Ireland's richest man, has said his new betting business is just one part of his family's "fightback", adding that he also harbours ambitions to make a return to the manufacturing and hospitality industries.

In an exclusive interview in today's *Sunday Business Post*, the businessman also revealed that the former Anglo Irish Bank had raised queries about the funding of QuinnBet, amid an ongoing battle between the bank and his family over alleged international asset-stripping.

He said the family had addressed those issues, and would give further information to the courts if required.

Outlining an ambitious expansion plan for the business, Quinn said it was also his intention to return to the world of business.

"I never considered throwing in the towel. This is one part of my family's fightback," he said.

Quinn, who lost his billions on an ill-fated investment in Anglo, said his new betting business now had 10,000 customers, and had turned a profit within the first six months. "The indicators are that QuinnBet can be a tremendous success," said Quinn, who was jailed in 2012 for contempt of court.

"I am delighted to be back in business, albeit it is a different business that I would have ordinarily been associated with.

"However, I recognise that, properly managed, it can be a huge opportunity."

Full story: page 3

THE ART OF THE EXTENSION
Bumper 22-page Property section

PAC to recommend a 'sunset clause' for banks' tax amnesty

BY JACK HORGAN-JONES AND HUGH O'CONNELL

The Dáil's most powerful committee is to recommend changes to the law which currently allows some banks to pay no corporation tax for the next two decades.

It comes as Fianna Fáil and Sinn Féin are increasing pressure on the government to change rules that allow banks to write off boom-time losses against tax.

Public Accounts Committee (PAC) chairman Sean Fleming told *The Sunday Business Post* he would include a call for a 'sunset clause' in a landmark report set for publication after Easter. If such a measure is made law, banks will not be able to write off their historic losses against tax for a period greater than ten years.

"They're now highly profitable, they should be making a contribution," Fleming said. "When the taxpayer bailed out the banks, we put in whatever we put in. Now they're getting a second bailout by putting in another subsidy by not having to pay corporation tax. This is a new cost to the taxpayer above the original bailout."

The government has extended the period of the bank levy, which is designed to recoup some of the state's recession-era bailouts of the sector. However, Fianna Fáil

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Questions remain on 12-week abortion window

BY SUSAN MITCHELL

When is a woman 12 weeks pregnant? The government has yet to decide exactly when the 12-week abortion window should begin.

In other EU countries that have legalised abortion in early pregnancy, the start date of a pregnancy is either the date of conception or the date of the pregnant woman's last menstrual period – typically two weeks before that.

A 12-week time period that begins at conception would usually fall 14 weeks after a woman's last menstrual period, for example.

A spokesperson for Minister for Health Simon Harris said that the level of detail, surrounding the start time, had "yet to be determined".

The European arm of the US-based Centre for Reproductive Rights said practice varied throughout Europe.

"Across the 36 European countries that allow abortion on a woman's request, the most common starting point for the relevant time limit is LMP [last medical period]. However in some European countries the start date is conception," according to the Centre for Reproductive Rights.

"In some of these 36 countries the law explicitly indicates whether the legal time period runs from LMP, or from the later point of conception. However, many of

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THE RETURN OF SEAN QUINN

"I never considered throwing in the towel"

Once the richest man in Ireland, with group businesses that produced profits of €500 million a year, Sean Quinn is back in business with an online gambling venture that, he says, has turned a profit in its first six months

Sean Quinn: 'I am delighted to be back in business, albeit a different business than I would ordinarily have been associated with' Picture: Courtpix

Tom Lyons

Bankrupted. Imprisoned. A business that employed 8,000 people lost. Another man might have been broken. But Seán Quinn sr is not any ordinary man.

Quinn recently turned 70 and is now a grandfather, but he has lost none of the astonishing determination that helped him build from scratch an empire that at one stage made him the richest man in Ireland.

Six months ago, Quinn returned to business with a new online gambling venture called QuinnBet. He has not spoken in detail before of his plans for the business, nor has he said much of his hopes for the future.

Quinn is unable, for now, to discuss the circumstances of how he lost his fortune after Anglo Irish Bank collapsed, or his battle with his former bank since then, because of ongoing legal cases.

We start by discussing QuinnBet, the new business he founded and chairs. It is a family business, with his son Sean Quinn jr as chief executive. Sons-in-law Stephen Kelly and Niall McPartland serve as chief financial officer and chief compliance officer respectively, while Quinn's youngest daughter Brenda is operations manager.

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Tom Lyons: How has trading been for QuinnBet to date?

Sean Quinn: While we have done very little traditional advertising, trading has been very strong, not just here in Ireland but also in Britain, which is hugely encouraging. Our unique offers, which are focused on giving more back to our customers, have proved very popular and we are working hard towards providing the best customer service in the industry.

TL: How are you finding the betting market?

SQ: The start was a big challenge because it's well known that the industry is very competitive, and it's difficult to carve out a niche. Thankfully, with more than 10,000 customers and the company having turned a profit within the first six months, the indicators are that QuinnBet can be a tremendous success, but we are far from complacent and continue to work hard to grow our market share.

TL: QuinnBet launched as a sports betting business. How is this doing and how is its new casino product going?

SQ: Quinn Casino was launched last September, and we are very encouraged with its performance to date. We have a wide variety of games from the leading suppliers in the industry and we are seeing steady growth. The casino currently accounts for approximately 20 per cent of our revenue but our aim is to increase on this in the medium term. The majority of our promotional spend goes on free bets and bonuses to our customers. Simply by betting with QuinnBet our customers get either a free bet every week or up to 25 per cent back of weekly losses. No other bookmaker gives as much back to their customers.

Sean Quinn jr: chief executive of his father's new business Courtpix

TL: Outside its base near the border in Ballyconnell, Co Cavan, has QuinnBet been able to expand into the North and the rest of the Republic?

SQ: We have always received great support in the border region, however it historically has only represented a small part of our business. The insurance, healthcare, hospitality, glass and manufacturing businesses covered the entire island of Ireland together with a significant presence in Britain.

Thankfully, the support for the brand name still stands, and we are determined to continue to build further on that. We would like to thank all those for their kind wishes, as well as the many companies and individuals who have offered us support in this new venture.

TL: Does the company have any plans to hire more people?

SQ: Yes, we have plans to increase our staff numbers in both Cavan and Dublin which will happen in line with growth. We are always looking towards improving our product and will shortly be introducing live streaming of horse and greyhound racing and expanding our existing markets to cover US racing. We are also looking at adding a new lottery product.

TL: What is the competition like?

SQ: It is a hugely competitive industry with frequent new entrants to the market offering a huge array of free bet/bonus options. We however are confident that we can be very successful if we stick to our philosophy of providing an excellent product coupled with the best service and value to our customers.

TL: The former IBRC is currently pursuing the Quinn family for money allegedly held overseas. Has the former IBRC tried to interfere with, or find out more about, QuinnBet?

SQ: IBRC has raised certain queries, and we have addressed those queries and, obviously, will address any further queries if the court requires this.

TL: Would QuinnBet ever open a physical shop versus being online only?

SQ: We have no plans to open a retail shop at present, but it is something which could not be ruled out.

TL: How involved are your family in the business?

SQ: Certain of the family are assisting with the new venture as is a team of external staff and our partners FSB Technology in London [a company that designs and makes risk management software for betting websites]. The family would like to be more involved and intend to be, going forward. However, the ongoing litigation brings with it certain commitments which can divide their time. Thankfully, I have always been in a position to put a good team together, and I am confident that this business will be no different.

TL: Do you feel happy to be back in business with QuinnBet after so many years in limbo?

SQ: Yes, I am delighted to be back in business, albeit it is a different business that I would have ordinarily been associated with. However, I recognise that, properly managed, it can be a huge opportunity.

TL: In the past you have founded many businesses as well as acquiring others. Do you see yourself founding other new businesses or acquiring others?

SQ: Insofar as the more traditional businesses that I am associated with such as manufacturing and hospitality, I remain very much interested in those businesses and still have strong ambitions there.

TL: After QuinnBet was launched, some people criticised you for founding a betting business considering how much you personally lost on Anglo during the crisis. What would you say to them?

SQ: I would much prefer to be continuing owning and managing the Quinn Group businesses I founded which, in the three years leading up to the crash, were producing profits of €500 million per annum. I was always innovative in starting new businesses and always looked for high returns, and there certainly was an element of risk to some of those ventures. I never considered investing in a blue-chip state regulated bank as risky comparable to many of those previous investments.

TL: What checks does QuinnBet have in place to prevent problem gambling? Is this an issue you are particularly sensitive to?

SQ: We take the whole issue of responsible gambling very seriously, and we have a variety of safeguards built into our product to assist any customer where gambling might be an issue for them.

TL: Do you see QuinnBet as growing organically, or would you ever consider raising outside capital to expand?

SQ: The plan is to grow the business organically.

TL: Did you ever consider throwing in the towel after everything that has happened to you?

SQ: No, I never considered throwing in the towel. This is one part of my family's fightback.

TL: In the long run, how will history see you as an entrepreneur?

SQ: I hope I will be recognised for the huge creation of jobs and industry in one of the most deprived areas at the time in the country, as opposed to my unfortunate investment in Anglo, which was supposed to be a blue-chip bank company regulated by the state.