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# The Sunday Business Post

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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 Dail'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 Fail and Sinn Fein 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 Fail to page 4

## 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 menstrual 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 to page 4

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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



Tom Lyons

**B**ankrupt. Imprisoned. A business that employed 8,000 people lost. Another man might have been broken. But Sean Quinn is not any ordinary man.  
Quinn 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.



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

bookmaker gives as much back to their customers.

**TL: Outside its base near the border in Ballyconneil, 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 hit the US market?**

**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.



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



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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**

**T**he 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 IJU, 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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# Desmond vs the Tribune 3

“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 multimillionaire 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 discover, Desmond was not an investor to be trifled with.

### ‘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 ‘Cabhill falls on surprise sword’. In that article, it was stated that the board of Green-



Desmond's IJU, 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.”

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

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

the plug on the Sunday Tribune.”

Desmond said “sheer obstinacy” by the Sunday 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.”

Desmond told O'Reilly that he would easily have won both libel actions. “You had no justification to prolong the litigation and were not amenable to sensible discussions to resolve the cases,” he wrote.

“I am therefore looking for damages in the amount of €500,000 (Imaging director of the Sunday Tribune) Michael Roche's salary for the last two years, whichever is the greater, which I will pay to a charity of my choosing.

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

### ‘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 “filsome 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 unecnomical 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 his 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 ‘mashead’ dispute with the Mail and

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

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 shareholder-

ers – 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 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 IJU 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 6.26 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 agm, 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 ODC? 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.

## Special investigation



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# 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 - [whistlbox@live.ie](mailto:whistlbox@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](http://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?”

**‘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 Fail 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 Sitieserv to a company controlled by the mobile phone and media mogul Denis O’Brien.

Sitieserv was one of those companies we all used but didn’t know about. In March 2012, it slipped in the back, near Des Carville, the veteran Davy stockbroker.

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Denis O'Brien's Island Capital emerged victorious in the battle for Sitieserv



Walter Hobbs

stantly 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 task.

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 McMillen, 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 Sitieserv must be made in the context of extraordinary times.

**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, Sitieserv 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 Sitieserv had made an €800,000 deferred consideration payment to Des Whyte, the previous owner of Sierra, a subsidiary of Sitieserv. The bank was furious, as it wanted Sitieserv to use any spare cash to pay down debt.

Sitieserv 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 Sitieserv was entitled to make this decision.



Alan Dukes

lition. We wanted to double shareholder value and give the rest back to the people of Ireland.”

Hugh Cooney, the chairman of Sitieserv, 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 Sitieserv 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 Sitieserv 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 con-

scious 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.

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

RollingNews

**Sitieserv hatches a plan**  
Sitieserv hired KPMG in early 2011 to produce a report that was codenamed Cable. KPMG concluded Sitieserv 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 Sitieserv 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 Sitieserv. Cleere said he would try and make it fill in the “holes”. Cleere said IBRC could not lend Sitieserv 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 Sitieserv 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 Sitieserv’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 Sitieserv’s stock market listing made things harder.

“PwC recommended a “restructure and hold” strategy with Sitieserv. 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 into such an arrangement or to 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 Sitieserv was likely to be sold over 15 months for €55 million. Sitieserv 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 “set clarity on 12 parties, with nine asked to bid. Of these eight had met with Sitieserv’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.”

“All parties are believed to 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, “political” investigations by PwC.”

He said the deal closing by March. Hobbys would keep “regular contact” with KPMG and Sitieserv 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 Sitieserv 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 debt. 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.

**‘One more name to throw at you’**  
On July 22, 2011, Denis O’Connor of PwC emailed Pat Walsh, head of restructuring in IBRC. Sitieserv was running the sale process, and the bank knew it needed someone to ensure it wasn’t shambled.

Carville, Cooney, Hobbys and KPMG to say Sitieserv needed to say something. Sitieserv 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

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**  
Sitieserv 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 KPMG had appeared to clarify 12 parties, with nine asked to bid. Of these eight had met with Sitieserv’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.”

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and would like to bid for Sitieserv. Whyte was the founder of Sierra, a business he had sold to Sitieserv. He appointed accountant Bernard Somers to advise him.

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 Sitieserv.

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 Sitieserv and O’Brien’s bid and it was to be clear this with IBRC. On January 24, Hobbys 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 Sitieserv role.”

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

Caran 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 Baycliff submitted what it called its “final offer” for Sitieserv. 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 the Sitieserv 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 Sitieserv 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) round 2 offer was conditional 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 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 Sitieserv.

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Niall McFadden

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 Hobbys wrote to Walsh and Cleere, urging them to make a decision. “Cable [Sitieserv] 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. Sitieserv’s credit insurance company Atradius might stop working with it within 24 hours, and that this would cause “shock waves”. Ealer Hermes, another big credit insurer, was also threatening a downgrade. “There is real concern that the tide could turn against us very quickly,” Sitieserv said.

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

At 4.49pm, Dermot Hayes, an advisor to O’Brien, wrote to Des Carville in Davy in order to increase competitive tension for the final bids.

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



Jon Moulton: the veteran British investor was head of Better Capital 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 Hobbys. “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. Hobbys 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 Hobbys: “Pls call me.”

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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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from page 3 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 €53m. 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 for transactions (€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 over €1.1 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 a tax difference 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 tax assets, and other items 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 Sitieserv 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?”

After, 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 Hunsen and Woodhouse to update them about a meeting on Wednesday (February 8) with Sitieserv, KPMG and Dix. He discussed the meeting and 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 to take up the bid. The question was 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 to the process, advised us that Island Capital [O'Brien] contacted KPMG/Days 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 Sitieserv 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, Hunsen and Hobbs 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



Hugh Cooney, Sitieserv chairman, Niall Devereux, director, and independent director Robert Dix at the company's egm in April 2012

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.”

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

“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 Sitieserv €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 Sitieserv 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.

execution risk”. Dix said that since February 23, it had dealt with O'Brien “on the clear understanding” that they were in exclusive talks. Sitieserv, 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 [get] guaranteed as O'Brien'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 similar to IBRC of €1.2m over their original 2nd round bid, leaving a €0.7 million shortfall against the updated Anchorage offer.”

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

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

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

Among the issues discussed were: “Competitors spreading rumours to customers about financial wellbeing of Sitieserv”; “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 Sitieserv 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 Sitieserv 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 bids 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 - €110 million more for going exclusive with Island as set out in the 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 €12.1m 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.”

On Friday, March 23, Ray Neilson of the Altrad Group phoned IBRC, asking to speak to Aynsley or Hunsen. He said he had been recommended the O'Brien bid by the media.

On Friday, March 30, Hunsen wrote in an email: “I returned Ray Neilson's call at Altrad. As he explains it, they have tried to reach out to Sitieserv to do a deal with management to buy the company but were rejected 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 Sitieserv, 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 Sitieserv,” Murphy told Cleere and Dix it was better not

to let the journalists know

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say how much Sitieserv 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 Sitieserv 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 conduct a proposal.

“Following consideration, the Board approved the proposal as presented namely (i) to proceed with the sale of Sitieserv 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 due diligence, however noting that this was €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, Sitieserv announced to the stock market that it had been sold to O'Brien, controlled by Niall McEideen, requested the right to have control of the Sitieserv sale which the bank granted.

Fleming owned 10 per cent of Sitieserv, so 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 Sitieserv who had links 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 the deal “fair and reasonable”.

“The notion that IBRC is still chumming 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, who 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 that, we can only hope he was not thinking about what he was saying. Otherwise, why do we assume he has stepped seamlessly into Sean 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 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.”

“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 Sitieserv communications are also erroneous - again McManus missed the point that the Bank is obligated to get the best result for the taxpayer.”

**“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, according to 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 Quigg and various legacy issues to do with the bank's booming management.

Sitieserv - 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 Sitieserv.

“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 its private contacts, 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 McEideen, requested the right to have control of the Sitieserv sale which the bank granted.

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