

THE HIGH COURT

IN THE MATTER OF *THE COMPANIES ACTS 1963 to 1990*

AND IN THE MATTER OF PART II OF THE *COMPANIES ACT 1990* AND
SECTIONS 8 AND 17

AND IN THE MATTER OF ANSBACHER (CAYMAN) LIMITED
(formerly GUINNESS MAHON CAYMAN TRUST LIMITED,
ANSBACHER LIMITED and CAYMAN INTERNATIONAL BANK AND
TRUST COMPANY LIMITED)

AFFIDAVIT OF PETER DURNIN

I, Peter Durnin, of Regus House, Harcourt Road in the City of Dublin, aged 18 years and upwards **MAKE OATH** and say as follows:

1. I am an Assistant Principal in the Office of the Director of Corporate Enforcement (“**ODCE**”). I am also an “officer of the Director” within the meaning of the *Company Law Enforcement Act 2001* and, in that capacity, am authorised by the Director of Corporate Enforcement (“**the Director**”) to make this Affidavit on his behalf. Save where otherwise appears I do so from facts within my own knowledge and where so otherwise appearing I believe the same to be true and accurate.
2. I beg to refer to the Report of the Inspectors appointed by this Honourable Court to investigate the affairs of the company referred to in the title of these proceedings. On Monday 24 June 2002, the said Report was the subject of directions of this Honourable Court pursuant to Section 11(3) of the Companies Act 1990. Following a hearing (which concluded late that afternoon) the Court directed, *inter alia*, that the Report be printed and published and when the practical implementation of that direction was considered Counsel appearing on the Director’s behalf indicated that the Director would be prepared to undertake the task. I say that it was indicated to the Court that it might take a week for the process to be completed whereupon the Court specified that publication should take place at midday on

Tuesday 2 July 2002 and granted the Director liberty to apply in the event that difficulties arose in having the material ready for dissemination.

3. I say that, regrettably, certain difficulties have arisen as a result of which the Director is asking this Honourable Court for a short extension of the stay on its order for publication. The purpose of this affidavit is to explain (as best I can) the nature of those difficulties and how they have arisen.
4. I say that subsequent to the proceedings on Monday 24 June 2002 the Director designated me as the person to coordinate the administrative arrangements relating to publication of the report. I say that at 9:30 am (approximately) on Tuesday 25 June 2002 I embarked on discussions with officials of the Government Stationary Office in relation to the modalities of publication – both in electronic and conventional formats.
5. I say that at 11 am that morning (Tuesday 25 June 2002) a meeting was convened in ODCE which was attended by a member of the Inspectors' secretariat. By now the Government Publications Office had indicated that the task of publishing should be undertaken by Cahill Printers Limited (“Cahills”) which has a contract with the State for projects of this sort. I say that Cahills have been involved with the security printing of official publications for very many years and have recognised expertise in the field.
6. During the meeting it was agreed that, before the Inspectors commenced copying their electronic files onto CD (for onward transmission to the publishers) it made sense for Cahills to first specify the format in which they required to receive the files. This was because the Inspectors had apparently created certain of their files using MS-Word while others were apparently created using software called FileMagic. ODCE's IT specialists anticipated Cahills would probably need to convert those files into a format known as ADOBE Acrobat which I understand to be one of the most widely used packages in the area of electronic publication. It was anticipated that this might require that the Inspectors' files be exported to CD-ROM in a particular manner.
7. It was also decided that the initial publication “run” should consist of 2,000 copies of the Report on CD-ROM and 500 in conventional format. Furthermore it was decided that the copies of the report to be made available to the general public should be priced at €25.40 although this is far less than the economic cost of publishing the Report. This decision was taken in the public interest to ensure that the report is meaningfully available to members

of the public without them having to bear a higher financial charge than is prescribed under SI 164 of 1991 to be paid (*inter alia*) by persons whose conduct is referred to in the report.

8. At 2pm that afternoon (Tuesday 25 June 2002) a further meeting was held down at Cahills' premises in East Wall, Dublin 3. Along with representatives from Cahills, the meeting was again attended by ODCE personnel and a representative from the Inspectors' Secretariat. Cahills immediately indicated that the task was an enormous one and that, even if the raw data was available to them later that evening there might nonetheless be difficulties in meeting the original deadline. By way of illustration it was noted that, even before any printing or disc-writing could occur, it would be necessary to import, verify and manipulate upwards of 200 computer files and that *at least* fifteen minutes would need to be spent on each. This amounts to more than fifty hours of processing. It would then be necessary to insert hyperlinks to facilitate navigation within the CD. So far as conventional printing is concerned it was noted that it would take upwards of one hour and twenty minutes to print each report.

9. Discussions were held as to the format in which the material was held on the Inspectors' computer network and it was agreed that, to avoid any difficulties, it made sense for a representative of Cahills to travel with the Inspectors' representative to their offices in Blackrock to assess the manner in which the material could be most efficiently exported to CD. I say that subsequent to the conclusion of the meeting referred to at paragraph 8 above this decision was varied following discussions and telephone contacts between Cahills, the Inspectors' representative and the IT-specialists who advise the Inspectors. The IT-specialists had apparently been able to clarify certain of the technical issues in relation to how the documents were stored on the Inspectors' computer system.

10. I say that at or about 5:15 pm on Tuesday 25 June 2002 the Inspectors' secretariat telephoned ODCE to indicate that two problems had arisen in relation to the exporting of files onto CD-ROM. Firstly the Inspectors' computer hardware did not permit *writing* to a CD drive and it was necessary for them to obtain some additional apparatus. Secondly there was a concern that a number of the appended documents (of which there are almost one hundred and ninety) were stored in two distinct files with the possible consequence that they could not be exported as one file to the CD-ROM. I understand that the significance of this latter problem was that it led to the risk

that the appendices might not re-appear in the integrated manner in which they appear in the report as furnished to the Court and copied to the Director.

The Inspectors' secretariat found solutions to these problems during the course of Wednesday, 26 June 2002. The result was that at about 6 pm that evening a CD-ROM containing upwards of 200 files was duly delivered to Cahills.

11. During the course of Thursday 27 June 2002 both Cahills and a team of approximately eight from ODCE worked continuously on the files supplied by the Inspectors. As they were progressively examined a number of technical difficulties emerged which consisted mainly of formatting errors owing to the printers' requirement to use different fonts to those which had been used by the Inspectors. These errors need to be individually corrected and are being addressed on an ongoing basis. By this morning (Friday 28 June 2002) approximately 40% of the appendices had been successfully transposed. It is intended to work throughout the weekend to ensure that the process is completed as swiftly as possible.

12. The Director regrets that having regard to the unprecedented size of this Report and the associated technical difficulties that it will not be possible for the Report to be available for circulation on Tuesday next. He is advised that, instead, it will take a number of additional days before the Report in CD and printed form can become available. In the circumstances the Director seeks liberty from this Honourable Court to allow the matter be further mentioned on Monday next (1 July 2002) at which stage it should be possible to state definitively when the publication process will be completed.

SWORN by PETER DURNIN this 28th
day of June 2002 at

in the City of Dublin before me, a
Commissioner for Oaths/Practising
Solicitor, and I know the Deponent.

**COMMISSIONER FOR OATHS/
PRACTISING SOLICITOR**

This Affidavit is filed on the 28th day of June 2002 by Ann Keating of Regus House, Harcourt Road in the City of Dublin, Solicitor for the Director of Corporate Enforcement.