

**THE HIGH COURT**

**2018 N0.32 CAB**

**PROCEEDS OF CRIME**

**IN THE MATTER OF SECTION 3(1) OF THE PROCEEDS OF CRIME ACT 1996**

**BETWEEN:**

**CRIMINAL ASSETS BUREAU**

**APPLICANT**

**-AND-**

**JOHN MCCORMACK**

**RESPONDENT**

**Judgment of Mr. Justice Alexander Owens delivered on 20<sup>th</sup> July 2020**

1. John McCormack owns and controls three Irish properties. They are comprised in Folio 15719F County Clare (*“Purcell Park”*), Folio 31746F County Clare (*“Cloontra West”*) and Folio 5279L County Limerick (*“Claughan Fort”*).
2. In 1995 he bought his house at 26 *Purcell Park*, Shannon, County Clare with a deposit payment of IR£3,791 and an endowment loan from ICS Building Society for IR£25,650 secured by a registered charge. This was later converted into a repayment mortgage. ICS statements show monthly repayments. The loan was repaid in full in 2015. In 2005 a conservatory was added to this house at a cost of €18,600.
3. In 2005 Mr. McCormack bought land in Cloontra West, County Clare for €18,000. Significant structures were erected by him on this land. These include a concrete yard, a sand arena, a large shed, stables for horses and kennels for dogs.

4. In 2011 he bought a house at 12 *Cloughan Fort*, Garryowen, County Limerick. Stamp duty details submitted disclose that €55,000 was paid. His daughter is the tenant.
5. The Criminal Assets Bureau (“the Bureau”) claims that these three properties were acquired with the proceeds of crime or with assets derived from the proceeds of crime. The Bureau case is that since the 1990s Mr. McCormack has been involved as a leader in organised criminal activities which have included the import and supply of large quantities of controlled drugs, dealing in stolen goods and organising cash in transit robberies.
6. The Bureau claims that the evidence establishes that receipts from rental of property and from any business activities which Mr. McCormack and his wife engaged in over the years were proceeds of crime because they were derived from businesses and assets which were themselves directly or indirectly the proceeds of crime.
7. The Bureau also makes the case that income from any business activities of Mr. McCormack was associated with criminal breaches of provisions of the Taxes Consolidation Act 1997. The Bureau contends that benefits flowed to Mr. McCormack from receipts which he failed to disclose in false or absent tax returns and from his failure to pay tax on income and to make genuine estimates of preliminary tax payable. The Bureau claims that assets accumulated during this period of tax non-compliance should be treated by me as proceeds of crime. The Bureau makes the same point in relation to any pre-1997 income which was not accounted for or paid under previous tax legislation.
8. Mr. McCormack failed to make tax returns for 2008, 2009 and 2010. A judgment for tax based on estimated assessments for those years has been registered as a mortgage against the three properties. Additional assessments based on a claim that he under-declared taxable income were raised against him in respect of the other years between 2002 and 2012. An appeal to the Tax Appeals Commission against these assessments went against him.

9. The Bureau invites me to conclude that the sources of any value given to acquire the three properties comprises or includes the “*proceeds of crime*” and that each of the properties “*constitutes, directly or indirectly, proceeds of crime*” and “*was acquired, in whole or in part, with or in connection with property that, directly or indirectly, constitutes proceeds of crime*” within s.3(1)(a), (i) and (ii) of the Proceeds of Crime Act 1996 (“the 1996 Act”).
10. The Bureau relies on affidavit evidence of the belief of two Chief Bureau Officers as to matters set out in s.8(1) of the 1996 Act in relation to each of the three properties. These deponents are Chief Superintendents of the Garda Síochána. Each deponent sets out his basis of belief as to the respondent’s involvement in the criminal activities and that the three properties were acquired with the proceeds of crime. These deponents rely on the information contained in the other affidavits filed on behalf of the Bureau in forming their beliefs.
11. The material presented by the Bureau in the affidavits and exhibits which supports the beliefs of Chief Superintendents Clavin and Gubbins has sufficient probative force to enable me to accept their beliefs as prima facie evidence of the underlying propositions which the Bureau seeks to prove under s.3(1)(a), (i) and (ii) of the 1996 Act in relation to each of the three properties.
12. This material includes evidence of Detective Sergeant Kevin O’Hagan of Shannon Garda station who was cross-examined at the hearing. I have also taken into account his oral evidence which I accept and find persuasive. The material also includes information on the social welfare and tax history of Mr. McCormack and his wife and important information and exhibits relating to their bank and credit union accounts and assets abroad. This provides strong circumstantial support for the case made by the Bureau.
13. Mr. McCormack was convicted and sentenced to three years imprisonment on 14<sup>th</sup> February 1994. He gave evidence that on a review of this sentence he was released after serving a number of months in prison and that he has not been involved in serious crime since. I do not accept his evidence that he reformed and rehabilitated himself. The evidence points to his involvement in a continuation and escalation of criminal activity

which he had been involved in since he was a young man and which led to his 1994 conviction.

14. I am satisfied that Mr. McCormack has been involved as a senior figure in the serious criminality which Detective Sergeant O'Hagan described in his affidavit and oral evidence. I accept the evidence that by 1999 the respondent was featuring as a major player in criminality, albeit that he was not questioned or convicted in relation to these activities. Mr. McCormack gave evidence that he left Ireland and resided in the Canary Islands during a period from May of 1999 into 2000. This coincides with evidence of Detective Sergeant O'Hagan that Mr. McCormack had to depart for a period for his own safety after a confrontation with other criminals.
15. The fact that Mr. McCormack had the means to emigrate in this way points to him having resources beyond those disclosed on examination of his credit union accounts and his tax returns. We do not have details of any bank accounts which he maintained at that time. I am satisfied that over the years and going back into the 1990s he had access to substantial proceeds from criminal activities of the sort described in the evidence of Detective Sergeant O'Hagan and from the criminal activities which resulted in his convictions.
16. It is clear from the evidence that there is reliable confidential intelligence going back years which associates the respondent with a management role in serious criminal activities such as large-scale importation of drugs, plotting cash-in-transit robberies and handling stolen goods.
17. Recovery of stolen property from *Cloontra West* and a find of a substantial quantity of drugs there is to my mind more than an unfortunate coincidence, even though a criminal case against an alleged dishonest handler of some of the goods was dismissed. The explanation given was that the drugs were imported by a Polish man who was claimed by Mr. McCormack to be his tenant and who was later produced by him to provide an explanation which the gardaí do not accept. There is clear evidence that a substantial sum in counterfeit sterling bank notes was found in a car close to the respondent's house and that this vehicle was associated with him through his wife.

18. In examining the issues of whether criminality of Mr. McCormack and access by him to substantial proceeds of crime over the years has been proved, I have taken into account the evidence relating to properties in Fuerteventura and information in the documents exhibited by the Bureau which sheds light on the lifestyle of Mr. and Mrs. McCormack over the years. Their bank accounts from 2002 cover many periods during which there is an absence of what one might expect to see where a person uses a bank account to pay for items in day to day spending.
19. The evidence relating to business activities and sources of assets contains little which could suggest an explanation for how Mr. and Mrs. McCormack came by the wherewithal which enabled them to buy the four properties acquired in Fuerteventura since 2007. At least one of these properties was bought without a mortgage and it is not clear where the money to pay mortgages on the others is coming from. It is difficult to relate any of the proceeds of compensation claims and other money which was sent to Fuerteventura to these property purchases.
20. The criminal activities which I am satisfied that Mr. McCormack engaged in for a number of years were of the sort which yielded substantial benefits. There is ample material to support the belief evidence on these general issues. There is also ample material presented by the Bureau which persuades me that I must reach a provisional conclusion under s.3(1) of the 1996 Act that each of the three Irish assets targeted by the Bureau was acquired in whole or in part, with or in connection with property that, directly or indirectly, constituted proceeds of crime.
21. I will set out my findings by reference to the evidence advanced by the Bureau later in this judgment. The evidence which I must look at first is "*evidence tendered by the applicant*" referred to in s.3(1) of the 1996 Act. This wording requires me to consider the material in the affidavits grounding the Bureau's application. It also allows me to consider material advanced on behalf of the Bureau by any deponent during cross-examination or in an affidavit in rebuttal of evidence presented by Mr. McCormack.
22. I will deal with the property acquisitions in chronological order. The first was the purchase of *Purcell Park* in 1995. This involved paying the deposit for the house and the stamp duty and legal fees. The second was the further acquisition of property which

took place as the mortgage on *Purcell Park* was paid off over twenty years between 1995 and 2015. The third was the acquisition of *Cloontra West* in 2005 and development of works which added value to that property. The fourth was the acquisition of *Claughan Fort* in 2011.

23. I have not been able to form a view on what value was added to *Cloontra West* as a result of the construction of the shed and other works carried out by Mr. McCormack because it is not clear whether these works are planning compliant. These are significant developments and I am satisfied that they have added value to *Cloontra West*. The valuer who reported to the Bureau noted that two units within this property were let to tenants.
24. No evidence was adduced to prove that the conservatory built onto *Purcell Park* in 2005 has any impact on the present value of that property. I am not taking this feature into account as an improvement adding to the value of this asset.
25. The first matter which I have to decide relating to the deposit and fees for the purchase of *Purcell Park* is whether the evidence provided by the Bureau is sufficient to establish, prima facie, that these payments were made out of the proceeds of crime. The belief evidence in relation to serious criminality is offered by reference to intelligence which puts Mr. McCormack's involvement in drugs distribution and serious crime running from the late 1990s. An issue arises as to whether the evidence presented by the Bureau persuades me to infer that the deposit and fees for the purchase of *Purcell Park* in 1995 were derived from the proceeds of crime.
26. Documents retrieved from ICS Building Society in relation to this purchase include a valuation dated in early 1994. This date may be a typographical error. Mr. McCormack was born in 1972 and in 1988 he was involved in a series of offences involving demanding money with menaces, burglary, aggravated burglary and malicious damage. In 1991 he was convicted of handling stolen property and possession of housebreaking implements. At the beginning of 1994 he was again convicted of possession of housebreaking implements. It is clear from his criminal record that he was involved in criminal activities of the housebreaking and serious burglary sort up to very shortly

before he bought *Purcell Park*. During a small part of this period he was getting unemployment assistance and he returned no taxable income until 1995/1996.

27. What should I conclude in the absence of direct evidence that Mr. McCormack was engaged in serious criminality in the mid-1990s when the house was bought? In my view, absence of any convincing record of sources of legitimate income during the whole of the period around the time that *Purcell Park* was bought is evidence which supports the belief of the witnesses that the money paid for this property came from the proceeds of crime. ICS Building Society documents relating to the loan includes a copy of an undated certificate purporting to come from the principal of “*Shannonside Printers*”. This indicates that Mr. McCormack was employed for three years and had a gross basic annual salary of IR£12,500. There is nothing in revenue records to indicate that he was employed at that level of salary in the years leading up to the purchase of *Purcell Park*.
28. The state of the evidence, before considering any evidence provided by Mr. McCormack, is that there is nothing reliable to indicate that Mr. McCormack had any legitimate source of income, taxed or untaxed, in the period which led up to the purchase of *Purcell Park*, which could explain how the deposit and legal fees were funded. There is ample support for the belief evidence tendered in relation to this.
29. In the course of legal argument counsel for the Bureau suggested that because there was no evidence of tax returns or payments referable to non-criminal income during this period, it must inevitably follow that even if the income streams open to Mr. McCormack were legitimate but he failed to pay tax, any savings or benefits which he accumulated were in part the proceeds of crimes arising from failure to make tax returns and failure to pay taxes.
30. I am not in full agreement with this analysis. The argument advanced is that unpaid tax on income received may give rise to retained wealth and that anything which is retained or acquired using wealth which should have been used to pay tax by a person who commits offences of failing to make proper returns and pay tax is property which in whole or in part “*indirectly*” constitutes the proceeds of crime within s.2(1)(a), (i) and (ii) and s.3(1)(a), (i) and (ii) of the 1996 Act.

31. If this reasoning was correct it would mean that the combined effect of the definition of “*proceeds of crime*” in s.1(1) and the wording “*....and that property constitutes, directly or indirectly, proceeds of crime,*” and “*.... property that, directly or indirectly, constitutes proceeds of crime,*” in s.2 (1)(a), (i) and (ii) and s.3(1)(a), (i) and (ii) is that a person who receives money or other property which could not be said to be the proceeds of any criminal offence or connected with a criminal offence at the time of initial receipt, would later find that his or her general assets would become the “*proceeds of crime*” because of a criminal failure to make a tax return or pay tax or bring an item which the tax code considers to be a receipt into consideration in making a return.
32. Section 1(1) of the 1996 Act defines “*proceeds of crime*” as meaning “*any property obtained or received at any time (whether before or after the passing of this Act) by or as a result of or in connection with criminal conduct*”. In my view, conduct by a recipient of property such as earnings or payments which takes place after receipt of that property and which involves criminal offences such as failing to make tax returns or payments cannot, without more, convert that property or the general assets of that person into “*the proceeds of crime*”.
33. Proof of “*result of or connection with criminal conduct*” will not cause difficulty in many cases involving tax evasion. Criminal conduct connected with tax evasion often involves a fraudulent intent to cheat the Revenue by concealing receipt of taxable income. Payments are often inextricably connected with specific offences set out in the tax code which are committed at time of receipt.
34. Any residual category of activities which involve cheating the Revenue out of tax or duty, or conspiracies to carry out these types of fraud is criminalised by s.1078(1A) of the Taxes Consolidation Act 1997 as inserted by s.142 of the Finance Act 2005. This section introduces an offence of tax evasion and makes clear that all arrangements for “*hot money*” payments, or to “*cook the books*”, or for “*under the counter*” receipts with intent to evade tax and cause loss to the Revenue, whether made alone or in concert with others, constitute criminal offences. This section places on a statutory footing what

was believed by many to be the common law position prior to the decision of the Supreme Court in *Attorney General v. Hilton* [2005] 2 I.R. 374.

35. I now turn to the next question which is whether there is sufficient evidence to persuade me to accept the belief evidence tendered on behalf of the Bureau and come to a prima facie conclusion that the mortgage repayments were sourced directly or indirectly from the proceeds of Mr. McCormack's criminal activities. The effect of the payments was that Mr. McCormack acquired a further proprietary interest in *Purcell Park* by paying off the mortgage over twenty years. *Purcell Park* was valued by Mr. Gilligan at €80,000 in 2015. The total of mortgage payments was in the order of €50,000 to €55,000.
36. The monthly mortgage payments varied in amount. In the years up to 2015 payments were about €230 a month, which was not an onerous commitment. In the 1990s and 2000s the repayments would have been more onerous for a person having Mr. McCormack's ostensible income.
37. We do not have documents relating to any bank account used to pay the mortgage prior to 2002. Examination of later bank statements shows a number of re-presentations of unpaid direct debits for mortgage payments over the years. Payment was often funded by lodgements of round sums which look to be cash. The McCormack business bank accounts such as the *Midwest Joinery* account give an appearance of lack of substantial means and of "*pulling the Devil by the tail*" for long periods. Many items were returned unpaid due to insufficient funds and the accounts did not enjoy overdraft facilities. It is difficult to get an overdraft facility for a business if no reliable accounts and financial information can be produced to the bank manager.
38. This appearance of lack of resources is at odds with evidence showing that Mr. and Mrs. McCormack had the wherewithal to engage in acquisitions of six properties here and in the Canary Islands between 2005 and 2012.
39. The affidavits on behalf of the Bureau rely on tax and social welfare records. These records do not disclose any source of income which could have given Mr. McCormack capacity to make mortgage payments during the period from 1995 to 2002. His recorded PAYE earnings in the years from 1994 to 1996 were minimal. There is no tax return

evidence in the years directly following 1996 which indicates that he was in any employment or in receipt of any income.

40. Apart from the *Shannonside Printers* certificate included in the ICS Building society loan application, the only other document relating to earnings is a copy of a P60 form dated 5<sup>th</sup> April 2000 held in records kept by *GE Capital Woodchester Finance*. This related to a car loan application. It states that Mr. McCormack earned IR£23,000 in the tax year to April 2000 working in a public house in Pallasgreen, County Limerick.
41. This does not correspond to any tax record and covers a period during part of which Mr. McCormack was in the Canary Islands. It is difficult to avoid the conclusion that somebody produced it to hoodwink the lender into believing that Mr. McCormack had a legitimate income sufficient to fund repayments on a car at a time when he did not. It indicates that Mr. McCormack was unable to demonstrate that he was engaged in any lawful employment or business in 2000.
42. Turning to sources of income to fund repayment of the loan after the return of Mr. McCormack from the Canary Islands, the bank accounts give no indication of sources of capital which could have funded the establishment or trading of businesses such as *Midwest Joinery* or *Kilmurray Steel Sheds*. The latter trading name did not feature in revenue details but there is a mention of a steel sheds business in the affidavit of Bureau Forensic Accountant No. 4.
43. This point about absence of any apparent sources of funding for establishment capital and working capital also applies to other business ventures engaged in by Mr. McCormack and his wife. These are car sales referred to in revenue returns, *Jade's Hair Salon*, *Advanced Painting and Spraying*, *Oatfield Kennels*, and *Munster Plant Hire*. These businesses, with one possible exception, were established and operated without any loans or overdrafts to fund start-up or working capital.
44. Mr. McCormack's counsel has criticised the approach taken by Bureau Forensic Accountant No. 4 and referred to possible errors by her in interpretation of revenue returns. She has explained in evidence that her conclusions are based on bank accounts and other materials made available to her and that she has not been in a position to

comment on balance sheets, business accounts and other items which have not been made available to her. She conceded that there may be some errors in figures she used from the revenue details of turnover.

45. It was suggested to this witness that the total of receipts relating to Mr. McCormack comes to €710,000 rather than €650,695 which she tabulated. Counsel was unable to direct the witness to where figures giving rise to the alleged discrepancy arose so she cannot be expected to comment on that. I looked at the bank accounts. I was not sure that her figures included all of the receipts to the *Oatfield Kennels* account, but I did not do my own recalculation as I felt that this was unnecessary. The exercise which this witness performed is of limited assistance and she pointed this out in her evidence. Her essential point is that the receipts shown in the bank accounts are difficult to reconcile with what is shown in the tax returns and that the bank accounts and other information available suggest that the resources available for the acquisition of the three properties targeted by the Bureau are unexplained.
46. Mrs. McCormack began making returns for the dog breeding business in 2011 and 2012. The source of many credits to the *Midwest Joinery* bank account during the period when *Munster Plant Hire* was not trading from 2008 to 2010 is not apparent from the bank account and Mr. McCormack failed to make any returns of taxable income during that period.
47. The affidavits are silent on tax returns after 2012. I gathered from the evidence at the hearing that returns were made, and the basis of these returns was that the credit items in the *Oatfield Kennels* bank account for rent and sale of dogs were returned as income in accordance with Mr. McCormack's most recent affidavit sworn on 18<sup>th</sup> June 2020.
48. In determining whether the evidence in fact shows that the mortgage payments were derived from proceeds of crime, I examined the available bank and credit union accounts. I looked to see whether they shed any light upon income streams or sources of finance which set up businesses disclosed in tax returns or the source of funds paid into bank accounts funding direct debit repayments of the monthly mortgage payments to ICS Building Society. I have also examined these accounts to see whether they were used to defray normal family expenses such as the discharge of utilities, motoring

expenses and expenses of day to day living and the costs of acquiring and servicing mortgages on the properties in Fuerteventura.

49. This information from the bank and credit union accounts of Mr. McCormack and his wife has also been used in my assessment of whether the Bureau have sufficient underlying support to enable me to accept the belief evidence tendered by the Chief Superintendents that *Cloontra West* and *Claughan Fort* were bought with assets which directly or indirectly constituted the proceeds of crime. These are issues which I will revisit later in this judgment.
50. The banking records available relating to Mr. McCormack start in February 2001. At that stage he had an AIB *Cashsave* account which became active from March 2002 when it was used to pay car loan and ICS mortgage direct debits. Credits to this account comprised of round sum lodgements. This indicates that cash was lodged.
51. The source of the funds to make mortgage payments in 2000, 2001 and into 2002 is not explained by revenue records of income and we do not have bank accounts which deal with this. It is possible that lodgements to the *Cashsave* account in 2002 were treated as relating to turnover of *Midwest Joinery* by Mr. McCormack's accountant in preparing his tax return for 2002.
52. The *Midwest Joinery* AIB current account was opened by Mr. McCormack in October 2002 and immediately became active with substantial lodgements. It was used to pay the ICS and car loan direct debits from 2003. It was later used to make repayments on a Shannon Credit Union loan of €20,000. This loan was drawn down in August 2005 and lodged to the *Midwest Joinery* bank account.
53. There is nothing in the bank accounts which gives any indication of the source of funds to set up *Midwest Joinery* or provide that business with working capital. Revenue records indicate that the business started in October 2002 and returns were made in respect of trading activities for years up to the end of 2005. From 2005 until the end of 2007, returns made by Mr. McCormack featured profits relating to *Munster Plant Hire* and *Jade's Hair Salon*. The 2007 return also mentioned car sales. The spray-painting

business featured along with sheds in 2003 and 2004 income. Assessable profit was returned as €21,391 in 2002.

54. On looking at the *Midwest Joinery* bank account, it would be very difficult to figure out that Mr. McCormack was in fact in the business of hiring out plant and machinery from the end of 2005 until 2007 or to figure out what his sources of income, other than compensation awards, were derived from after 2007. There is nothing in the *Midwest Joinery* bank account which gives any clue about the source of finance for capital investment in a plant hire business.
55. A separate *Jade's Hair Salon* bank account at Ulster Bank operated from June 2007 and the last lodgement which might relate to business was in October 2008. The main function of this bank account was to pay rent. Many cheques and direct debits were dishonoured. This account enjoyed no overdraft permission and was not operated in a manner consistent with a going concern in which cash was being properly accounted for. The bank accounts give no clue of the source of finance to establish or provide working capital for this business or how the wages paid to Helen Collopy disclosed in tax records were funded. No receipts from this business can be identified as funding mortgage payments.
56. No mortgage payments came out of Helen Collopy's Ulster Bank Account 20043052. The account was not used to pay household expenses. There is not much information in the bank accounts of Mr. and Mrs McCormack during periods in the years between 2001 and 2010 which shows expenditure on items such as shopping and other normal living expenses. Cash from wedding presents totalling €12,400 was credited to Helen Collopy's Ulster Bank account on 16<sup>th</sup> October 2008 and sent to an account in the Canary Islands some days later.
57. A lodgement of €7,254 was made to pay off Mr. McCormack's credit union loan on 9<sup>th</sup> September 2008 and €12,255 in credit union savings were withdrawn and transferred to the *Midwest Joinery* bank account, from which they were sent to the Canary Islands.
58. The Helen Collopy Ulster Bank account ran from October 2006 to November 2009 and was funded by cash lodgements. Payments include many cash withdrawals, including

withdrawals in Fuerteventura. Some mortgage payments to an account in Fuerteventura were made from this account. These were funded by cash lodgements. The source and method of funding for other mortgage payments for Fuerteventura properties is unclear.

59. The *Oatfield Kennels* current account was opened in AIB Bank by Helen McCormack in March 2011. The ICS mortgage was paid out of this account from 5<sup>th</sup> July 2011 to 7<sup>th</sup> April 2015 which was the 20<sup>th</sup> anniversary of the loan and I suspect that the loan was fully paid off then. Some credits are attributed in the account statements to rent, stud fees and sales of dogs, cars and whelping boxes, and there are some unexplained lodgements. Expenditure includes items attributable to household items and normal outgoings as well as business expenses on items such as veterinary fees. Transfers were made to another AIB account of Helen McCormack, numbered 13437183 which was used for some day to day expenses and foreign travel. The first notation of receipts from dog sales is on the *Midwest Joinery* bank account in February 2011. Mr. McCormack did not operate any active Irish bank account after January 2012.

60. Prior to the hearing I had not looked in detail at the entries relating to sales of dogs in the *Oatfield Kennels* bank account. I permitted Mr. McCormack to provide another affidavit which was sworn by him on 18<sup>th</sup> June 2020 as he wished to relate dog sales recorded in manuscript sales notes to lodgements which recorded items as receipts from sales of dogs.

61. The total of lodgements to the account in 2011, excluding items I have deemed irrelevant to business earnings and rent, is approximately €29,500 and a further €2,500 was lodged to the *Midwest Joinery* account in that year. This compares with lodgements of about €25,200 to the *Midwest Joinery* Account the previous year. The lodgements to the *Oatfield Kennels* account which might be attributable to earnings in 2012, 2013 and 2014 were approximately €33,700, €28,890 and €13,550.

62. I am satisfied that Mr. and Mrs. McCormack were engaged in some business as dog breeders in the period between 2011 and 2015 and that many of the lodgements to the accounts during this period are attributable to dog sales. Returns were made by Helen McCormack give rental income in 2011 and 2012 as €4,230 in each year and assessable profits from sales of dogs are returned for 2011 at €7,477 and for 2012 at €9,970. In his

affidavit sworn on 18<sup>th</sup> June 2020, Mr. McCormack gives a total turnover figure of €33,460 for dogs sold from 9<sup>th</sup> December 2011 to 2<sup>nd</sup> January 2015. As I understand this affidavit, he is supplying a figure for sales by both himself and his wife.

63. Turning to the credit union accounts, there are regular lodgements to Mr. McCormack's account in 1997, 1998 and 1999. In early 1997 some of these have the appearance of weekly payments and there are monthly payments later in that year. These lodgements were used to save and to repay loans and they continued up to the time he left Ireland in 1999. I suspect that some of the lodgements related to savings of children's allowances. None of these accounts were used to fund the monthly mortgage payments on *Purcell Park*. Nothing much happened on these accounts until repayments and savings resumed in October 2003 with regular cash payments which at the time of the €20,000 loan for machinery on 3<sup>rd</sup> August 2005 amounted to €15,450 of which €11,320 was savings which secured that loan.
64. I was also provided with some credit card statements disclosing that cards were used for some household and domestic expenses, travel and entertainment. I was not provided with any Spanish bank and savings bank account details because these were not held by the Bureau. There is an account at a branch of Bankia in Antigua, Fuerteventura to which money was transferred by Mr. Lynch, solicitor. Bank statements relating to the Helen Collopy Ulster Bank account 20043052 disclose mortgage payments to an account at a branch of Caja Canarias.
65. I looked at the personal injuries award amounts credited to accounts used to pay the ICS mortgage and I have concluded that these lodgements made a minimal impact on repayment. The funds from settlement cheques for €26,060 and €15,000 lodged to the *Midwest Joinery* account on 6<sup>th</sup> June 2008 and 22<sup>nd</sup> September 2008 were gone by November 2008. The €17,700 lodged to the *Midwest Joinery* Account on 2<sup>nd</sup> December 2010 was gone out of the account by January 2011. The €9,118 lodged to the *Oatfields Kennels* account on 5<sup>th</sup> April 2013 was gone from that account within a month.
66. My overall assessment on examining the operation of these bank and credit union accounts, taken together with the tax and social welfare information relating to the businesses, employments and tax returns of Mr. McCormack and his wife, is that the

beliefs of the Chief Superintendents that the sources of the mortgage payments come from the proceeds of his criminality over the years are well-founded. This conclusion extends to the whole of the period of repayment of the mortgage except the brief periods when the funding accounts held the proceeds of personal injuries compensation claims. It is difficult to see how any other prima facie conclusion could be arrived at. It follows that the burden of establishing to my satisfaction that the mortgage was not paid out of the proceeds of crime rests with Mr. McCormack.

67. While it is undoubtedly the case that receipts attributed to sales of dogs, sales of sheds, and possibly, spray painting, hairdressing and renting of plant and machinery made their way into bank accounts over the years and that some of these were part of credit balances which funded mortgage payments, the overall information available shows no legitimate assets or income streams available to Mr. McCormack from which he financed the establishment and operation of these income streams.
68. There is little evidence from bank accounts that rental income contributed to payment of the ICS mortgage. Even where rentals are shown as lodged to accounts used to pay the mortgage, issues arise as to whether these rentals are themselves derived from the proceeds of crime. Other evidence establishes prima facie, that these rentals are derived from assets acquired using the proceeds of crime.
69. The next matter which I looked at was the Bureau evidence on the funding for the purchase of *Cloontra West* in 2005 and the subsequent development of that property. Mr. McCormack was registered as owner of *Cloontra West* on 5<sup>th</sup> March 2007. Stamp duty records show that the purchase was on 4<sup>th</sup> November 2005. The price disclosed was €18,000. After the purchase this property was developed in the manner which I have described.
70. When I looked at the possible source of finance for the purchase of *Cloontra West* in the bank statements, the only payment which I could find was the €24,139.70 debited to the *Midwest Joinery* bank account on 24<sup>th</sup> October 2005 which, according to Bureau Forensic Accountant No. 4 included a bank draft for €17,000. There are a number of earlier withdrawals from that bank account and it is possible that some of these may relate to the €1,000 balance of the price and the legal fees.

71. From 4<sup>th</sup> August 2005 a number of transactions took place on the *Midwest Joinery* bank account. On that date €20,000 was lodged to the account corresponding with the Shannon Credit Union loan on 3<sup>rd</sup> August 2005. This brought the balance on the *Midwest Joinery* account to €21,588. Between that date and 14<sup>th</sup> September 2005 there were debits from the account of €6,442 and credits to the account of €2,210. On 14<sup>th</sup> September 2005 there was a lodgement of €20,000 to the account bringing the credit balance to €37,344.
72. On 27<sup>th</sup> September 2005 there was a withdrawal of €20,000. The evidence of Mr. McCormack which I will refer to later, is that this was used to buy second-hand machinery for his plant-hire business. Other withdrawals and lodgements to the account up to 18<sup>th</sup> October 2005 total €2,700 and €1,680 odd, and there are some other debits for account fees. The credit balance was €16,259 odd on 18<sup>th</sup> October 2005. On 19<sup>th</sup> October 2005 there was a further lodgement of €8,000 which is likely to have been cash or a draft because value is given for it immediately to part-fund the withdrawal of €24,139 for the three drafts.
73. The revenue records at this time for assessable profits on Mr. McCormack's businesses for 2004 and 2005 do not disclose any basis on which Mr. McCormack could have generated €18,000 plus the fees to fund the purchase of *Cloontra West*. The sources of the €8,000 lodged on 19<sup>th</sup> October 2005 and the €20,000 lodged on 16<sup>th</sup> September 2005 and the other lodgements in the period analysed by me are unexplained.
74. The costs of developing the facilities installed at *Cloontra West* have not been quantified. However, it is clear from the description of the facilities that there was considerable expenditure. Payments for this development cannot be identified in the bank accounts and the source of the funds for this expenditure is unknown. There is no indication of savings or other sources of income which could explain the source of funds to develop this property.
75. The obvious explanation for the source of the money to buy and develop *Cloontra West* is that the funds for this were introduced into the *Midwest Joinery* bank account from undisclosed assets which are the proceeds of crime. In my view, the Bureau has

advanced sufficient evidence to support as well-founded the beliefs of the Chief Superintendents that *Cloontra West* was acquired and developed using money which either came directly from the proceeds of crime or was derived from the proceeds of crime and I accept the belief evidence tendered on this issue.

76. The evidence is sufficient to enable me to conclude on a prima facie basis that the purchase and development of *Cloontra West* were funded from the proceeds of crime. It establishes that, prima facie, any businesses which Mr. McCormack was operating at the time of the purchase and development of *Cloontra West* and which might potentially generate any part of the wherewithal to pay for this purchase and development were themselves set up and funded using the proceeds of crime. So, even if bank lodgements which funded the purchase could be established as coming from the McCormack businesses, they were still derived from the proceeds of crime.
77. The next issue which I considered was whether the Bureau has adduced sufficient evidence to satisfy me on a prima facie basis that *Claughan Fort* was bought with property which, directly or indirectly, constituted proceeds of crime. In my view, there is strong evidence which establishes that this property was acquired using the proceeds of crime or assets derived from the proceeds of crime. It would be difficult to conclude otherwise. There is plenty of material which supports the beliefs of the Chief Superintendents on this issue and I am accepting their beliefs as evidence.
78. The stamp duty records show that *Claughan Fort* was bought for €55,000 in 2011. and the documents disclose that Mr. McCormack became registered as owner on 11<sup>th</sup> May 2011. There is nothing to show that he was earning any income at that time beyond what was shown as lodged into the *Oatfield Kennels* bank account and what was returned to the Revenue Commissioners by his wife for the *Oatfield Kennels* and rent for that year. The bank accounts show nothing which suggests that any payment of €55,000 or any other sum was made in order to pay the vendor and close the sale. Nothing is available which indicates that the wherewithal to buy this property came from a compensation payment or any other legitimate source such as savings or the sale of a property acquired using a non-criminal source of income. Prima facie, the Bureau evidence is sufficient to persuade me that the wherewithal used to acquire this property must have come from the proceeds of crime.

79. Having reached these conclusions in relation to each of the three properties, I turn to the evidence presented by and on behalf of Mr. McCormack. This evidence does not persuade me on the balance of probabilities that any of the three properties were not acquired, in whole or in part, with or in connection with property that, directly or indirectly, constituted proceeds of crime.
80. I found Mr. McCormack's explanations for transactions and activities in his affidavits and in his oral evidence to be contrived and unconvincing and I am not persuaded by this evidence. An example of this is an explanation that a 2004 personal injuries settlement payment was still available and used to pay the 2005 deposit for the erection of the conservatory at *Purcell Park*. Detective Garda Davis avers that this payment was made in cash. The amount was €5,500 and a contra of €500 was allowed later for work which was omitted.
81. Some of the documents produced by Mr. McCormack either do not provide evidential support for the points which they purport to address or raise other issues. As examples I refer to letters from Weatherbys in 2006, 2008 and 2009 which accompany stallion earnings details from 1998 and 1999. These letters cannot support ownership of thoroughbreds generating stud fees or horse sales some ten years earlier.
82. The exhibits relating to the dog business include a 12<sup>th</sup> March 2013 credit card receipt showing a payment to a supplier in County Kilkenny using a dollar denominated Bank of America credit card. This was not one of the bank or credit card accounts identified in the affidavits. I asked Mr. McCormack about this and he was unable to come up with an explanation there and then but he promised to look into the matter and revert to me. He later explained in evidence that he had the use of this card from *Aherlow Equipment Services* to buy dog supplies. I noted that there were insufficient funds in the *Oatfield Kennels* account to make the payment on that date. It is difficult to understand why *Aherlow Equipment Services* would have a dollar denominated credit card and why Mr. McCormack had the use of this card.
83. An issue also arose as to the genuineness of the *Four Seasons Plant Hire* invoice dated 27<sup>th</sup> September 2005. A copy of this invoice was exhibited to show use of the credit

union loan to acquire machinery from *Four Seasons Plant Hire* in September 2005. The letterhead featured an 089 mobile number which was unlikely to have existed in 2005. Mr. McCormack's explanation was that this invoice was a copy of an earlier invoice which had been lost. He said that the document exhibited had in fact been issued as a manuscript duplication of the content of the original lost document as a result of a query by his accountant at the time that he bought *Claughan Fort* and that it was put on a letterhead current at that time. The evidence up to when I raised the point about the telephone number conveyed the impression that what I was looking at was a photocopy of an invoice, the original of which had been issued in 2005 and not in 2011.

84. This evidence about documentation somewhat undermined my confidence that I could rely on Mr. McCormack's evidence relating to his financial affairs. I am not persuaded that I can rely on the genuineness of the *Four Seasons Plant Hire* invoice.
85. Mr. McCormack's general approach in his evidence dealing with his wherewithal to meet mortgage payments on *Purcell Park* and other expenditures such as acquisitions of *Cloontra West* and properties in Fuerteventura, was to show that he had sources of income from personal injuries awards, gifts, trading activities, sale of a steel sheds business, personal injuries claims, working in the Channel Islands, rents from a property in Roxboro, Limerick, money paid by lodgers, stud fees, dog sales and sales of businesses to relations and others which enabled him to, buy property, make payments and support his lifestyle.
86. Mr. McCormack maintained that in his income tax returns and back-up records he accounted for any income elements in his bank accounts and that he had provided the records to his accountant who prepared his returns and returned receipts as business income. It is likely that if Mr. McCormack's accountant was provided with copies of the business bank accounts he would have treated lodgements as business income in the tax returns in the absence of any other explanation. No evidence was given on how his accounts and tax returns were prepared and no sets of accounts were exhibited.
87. Treatment of lodgements as receipts in tax returns is not sufficient to show that the source of the money to pay the mortgage was not derived from the proceeds of crime.

It is difficult to have much confidence that lodgements to the bank and credit union accounts which look to be cash payments, and which may have been treated as business receipts in tax returns and assessments were in fact receipts of the businesses which Mr. McCormack and his wife engaged in over the years.

88. Even if I could be satisfied the lodgements represented business receipts, Mr. McCormack did not link payments to legitimate sources of income in the sense that he did not show to my satisfaction the legitimacy of the sources of finance which he used to establish and operate various business activities which could have accounted for the wherewithal to buy and develop these properties and to pay the mortgage on *Purcell Park*.

89. It is possible to show that mortgage payments were made for short periods using credit balances derived from legitimate sources of income, such as receipts from personal injuries awards. The rest of the lodgements relate to periods when a variety of businesses were being carried on using the *Midwest Joinery* and *Oatfield Kennels* bank accounts and these lodgements may or may not relate to sales by those businesses.

90. While I accept that Mr. and Mrs. McCormack were engaged in dog breeding between 2011 and early 2015 and that many of the lodgements are from sales of these items, no information is given in relation to the set-up of this business or where it operated from, though it may be assumed that the kennels in *Cloontra West* were used.

91. The source of funds relating to the capital investment in this business and the costs of purchases which led to the sales are not disclosed or analysed. I have concluded that the dog facility which is one of the developments on *Cloontra West* was bought and developed with money derived from the proceeds of crime. It follows that the benefit of the acquisition, setting-up and free use of this facility for the business of *Oatfield Kennels* has a knock-on effect on how I must regard receipts representing turnover on sales of dogs.

92. The same point also applies to other business activities of Mr. McCormack and his wife over the years. These include trading in cars and gates, claimed sales of horses to

an abattoir and the businesses of *Jade's Hair Salon*, *Advanced Painting and Spraying*, *Midwest Joinery*, *Kilmurray Steel Sheds* and *Munster Plant Hire*.

93. As far as I can see, the only item in the bank accounts of possible significance as a source of capital relating to any of the McCormack business activities is a credit union loan for €20,000 advanced for the purpose of purchasing machinery in 2005. This loan cannot be regarded as completely divorced from unexplained income as it is backed by a lien over credit union shares representing deposit savings of cash from unknown sources equal to over half the value of the amount advanced.
94. I have no idea what cash or assets were introduced as capital into these businesses or the sources of these funds or of working capital. I was told by Mr. McCormack that payments for the machinery detailed in the invoice dated 27<sup>th</sup> September 2005, which he says he bought from *Four Seasons Plant Hire*, have not been fully discharged even now some fifteen years later. It is impossible to identify any payments in the bank accounts which could relate to any paid element of the balance of €26,600 supposedly to be paid to *Four Seasons Plant Hire* over a four-year period in accordance with that document.
95. Mr. McCormack gave evidence that at the time he bought *Purcell Park* he was working for *Shannonside Printing* on a part-time basis and was also in receipt of social welfare and had to pay back social welfare. The taxation records of employment earnings and of the social welfare received do not show regular employment and earnings cannot account for a source of income for the deposit on *Purcell Park* or the fees relating to the purchase.
96. When I raised this issue with Mr. McCormack he gave evidence that the deposit was funded by a personal injuries award arising from the September 1993 "Aherne" collision. This litigation resulted in an eventual compensation payment of IR£5,000. On being queried further on this, he stated that his solicitor in *Connolly Sellors Geraghty*, who has since died, gave him an advance on the award which was used to fund the deposit. This strikes me as unlikely as the deposit of IR£3,791 amounted to nearly four-fifths of the eventual settlement amount received in the conclusion of the

litigation which was then still in its early stages. The averment of Detective Garda Davis that the payment of the deposit was made in cash has not been contradicted.

97. I am conscious that the transaction relating to the deposit for *Purcell Park* took place a long time ago. It is not reasonable to expect a person to be in a position to produce witnesses who may be dead to verify an account of a transaction or to have access to perfect records of his affairs going back years and years. However, this does not address how Mr. McCormack failed to provide this explanation in his affidavits. I have formed the view that Mr. McCormack's explanation is unlikely to be true and that it was improvised by him during the course of his evidence to fit in with what the documents relating to the *Aherne* litigation showed.
98. I now turn to Mr. McCormack's evidence touching on his wherewithal to pay the mortgage. There is nothing to show that social welfare payments to him or his PAYE income or his wife's income which came into the picture later were used to pay the mortgage on *Purcell Park*, or that he had a source of social welfare or taxable income sufficient to pay the mortgage in the period between 1995 and March 1998. Mr. McCormack's evidence on this matter was unsatisfactory. He distanced himself from responsibility for information provided on his behalf to ICS Building Society at the time when he was applying for a mortgage to buy *Purcell Park*. It is clear that the information provided on his behalf at that time was incorrect.
99. His explanation that his social welfare was cut because he was found to be working at *Shannonside Printers* did not explain the discrepancy between reality and what was being advanced as to his income in the mortgage application documents relating to *Purcell Park*. This is evident from his tax and social welfare history during the relevant period.
100. The explanations that he had income from lodgers before he started his relationship with his wife and that rent from the property at Glasgow Park, Roxboro was used to pay the mortgage are unconvincing. He is not recorded as receiving social welfare during this period. The social welfare history shows that Helen Collopy was in receipt of child benefit from late 1996.

101. Mr. McCormack's affidavit evidence is vouched by copies of manuscript records of income from stallion fees from March 1998 and horse and trap sales in June 1999 which he has totalled at IR£38,145 in an exhibit. In affidavit evidence Mr. McCormack gives the total for stud fees in 1998 and 1999 as €22,480 and horse and trap sales at €16,350, making a total of €38,830. The sales recorded coincide with the time when he left for the Canary Islands. There is no indication of how the mortgage was paid while he was abroad.
102. He gave evidence that he sold his house in Glasgow Park, Roxboro, Limerick in 2000 and that he did not pay capital gains tax on the disposal because he resided in this house for a year. This evolved into a different explanation that he was non-resident because he was in the Canary Islands when the house was sold. I formed the view that Mr. McCormack improvised his answer to explain his conduct during the course of his evidence because he was worried that he might have to account for tax on capital gains. He was obliged to pay tax on any capital gain on a disposal of land in the State.
103. The evidence relating to stud fees and sales of horses and carriages is offered without any explanation of how this business was set up and financed. No information was provided on how the horses were bought or where the business operated from. In the absence of this sort of supporting information, I cannot be satisfied that it is more likely than not that turnover at the levels suggested by the records took place or that any stallions and other horses which Mr. McCormack owned or disposed of were not acquired with money derived from criminal activity.
104. Other evidence of horse related income is supported by copies of manuscript entries on printed forms which are claimed relate to animals sold to an abattoir. These are unconvincing documents which could relate to anything.
105. I accept that Mr. McCormack did have some income from business activities relating to horses. Some of this was tax free income from stud fees. It is possible that some of this income went towards paying his living expenses, including the mortgage. This is not sufficient to prove to my satisfaction that the wherewithal to engage in this business did not come from criminal activity.

106. No sources of income are identified which would account for payment of the mortgage during the period between the return of Mr. McCormack from the Canary Islands in 2000 and 2002 when *Midwest Joinery* started to trade. Mr. McCormack says he disposed of his house at Glasgow Park for IR£35,000 in 2000. No information has been provided about what happened to the proceeds of this sale and he does not point to any asset or income which was used to pay the mortgage. Given the lack of any credible explanation for Mr. McCormack's wherewithal to purchase the house at Glasgow Park in 1992 and his criminal career at that time, I think it more likely than not that this property was also bought using the proceeds of crime.

107. The explanations given by Mr. McCormack for the income into his *Midwest Joinery* bank account after the disposal of the *Kilmurray Steel Sheds* business are unconvincing. Some of the same pattern of receipts to the *Midwest Joinery* bank account is evident after he had supposedly sold these businesses and ceased trading in wooden and steel sheds. In my view, the credits to the bank account cannot be accounted for as post cessation receipts from the sale of sheds. Mr. McCormack at one point in his evidence suggested that the lodgements to that account from 2005 could be accounted for by sales of dogs but there is nothing to support that assertion. Furthermore, it is difficult to establish from examination of the *Midwest Joinery* bank account that lodgements from September 2005 onwards relate to hire of the machinery listed in the September 2005 documents exhibited by Mr. McCormack.

108. The next matter which I have considered is Mr. McCormack's explanation of the source of the money to pay for the purchase of *Cloontra West*. His evidence is that he sold the wooden sheds element of his business which he called *Midwest Joinery* to his brother in 2004 for €25,000 which was not paid to him at that time and that he sold the steel sheds business which he called *Kilmurray Steel Sheds* to Antoinette Walsh and Stephen Walsh for €20,000 in 2005. He has identified a copy of an Ulster Bank draft for €20,000 which corresponds with the lodgement of €20,000 to the *Midwest Joinery* current account on 27<sup>th</sup> September 2005. I am prepared to accept Mr. McCormack's evidence that Mr. and Mrs. Walsh did pay Mr. McCormack €20,000 for this business.

109. This still leaves the €8,000 cash lodged on 19<sup>th</sup> October 2005 and other sums which were lodged to the *Midwest Joinery* bank account around that time unaccounted for.

These helped fund the purchase. Mr. McCormack is also faced with the problem that the value of any stock in trade, contracts and goodwill sold to Mr. and Mrs. Walsh, which the €20,000 received by Mr. McCormack represents, has not been proved not to be derived from a business capitalised by the proceeds of crime.

110.If a person invests the proceeds of crime in a business or in other assets, the value and benefits of the business or assets acquired become proceeds of crime. That business may then be carried on in a lawful tax-compliant way. However, the value of the goodwill of such a business and the benefits to the proprietor, including any receipts upon its eventual sale, are derived from the proceeds of crime, and are caught by s.3(1)(a) of the 1996 Act.

111.Mr. McCormack's explanations relating to the works and structures put up on the site at *Cloontra West* are vague and unsatisfactory. These works are substantial. There is a large shed with a hard stand area, stables, a tack room, a sand arena and kennels. The development is wired and has security cameras. I do not accept the evidence that these works were carried out at little cost. While I doubt that this property is worth the figure quoted by the valuer for the Bureau because it is not confirmed that the development is planning compliant, the works have added significant value to what was there before. There is insufficient evidence that the expenditure on these works was derived from legitimate resources.

112.The next matter which I have considered is the explanation given for the purchase of *Claughan Fort* from Mr. McNamara in 2011. The transfer relating to this transaction specifies that €55,000 was paid as the consideration for the sale and there is an acknowledgment of receipt of this sum. Mr. McCormack was clear in his evidence that no sum was paid and that nothing went into his solicitor's client account. The same solicitor acted for both vendor and purchaser.

113.Mr. McCormack maintains that the contract specified that the €55,000 consideration was the agreed value of the second-hand plant and machinery bought by him in 2005 which is referred to in *Four Seasons Plant Hire* and *Aherlow Equipment Services* documents. No such contract has been exhibited. If this was the deal, there was no disclosure to the Revenue Commissioners of these facts and circumstances. These

matters were relevant to the correct assessment of duty on the transfer. If the consideration for the sale was non-cash, this was at odds with the terms of the transfer and ought to have been disclosed when stamp duty was paid.

114. Mr. McCormack's explanation for this transaction is implausible. I am asked to believe that machinery which was mostly second-hand when bought by him in 2005 with a supposed vat-inclusive value of €66,600 was still worth €55,000 when he sold it in 2011. I am also asked to believe that an employee of a Cash and Carry business in Limerick was interested in taking a swap of this machinery for a house on the suggestion of Mr. McCormack. Mr. McCormack gave evidence that Mr. McNamara may have wanted to acquire this machinery on the basis that he might be able to offload it to his wife's relations who had some sort of business involving plant and machinery.

115. The machinery listed in the *Four Seasons Plant Hire* invoice was used machinery. I have grave doubts about whether this document is genuine. Mr. McCormack's explanations that there was no depreciation of the type of machinery referred to in the *Four Seasons Plant Hire* and *Aherlow Equipment Services* documents between 2005 and 2011 and that he sold this machinery to Mr. McNamara at retail value rather than trade value make no sense to me. In my view, it is unlikely that *Claughan Fort* was paid for with used machinery. It is likely that it was paid for in some other way which has not been explained in evidence.

116. The evidence of the history of Mr. McCormack's plant and machinery business is that it stopped trading in 2008. There was vague evidence that some machines were later sent to Wolverhampton in connection with a project which never got started and that the rest of the machines were stored in premises at Sixmilebridge, County Clare. Mr. McCormack's evidence on whether the machinery which was allegedly in Wolverhampton was or was not on hire by him was unsatisfactory as were his explanations relating to how machinery for his business was bought and paid for. I find Mr. McCormack's explanation that he left payment outstanding for plant machinery supplied by *Four Seasons Plant Hire* and did side-deals which postponed final payment to be unconvincing. Any receipts of income which Mr. McCormack derived from ownership or use of machinery in Wolverhampton or elsewhere in the period between 2008 and 2011 were not accounted for and involved tax evasion.

117. Mr. McCormack's affidavit and supporting documents give no clear picture of how his plant hire business, such as it was, was funded or operated. The evidence is that this business was set up on the back of a credit union loan for €20,000. The notion that this loan could be the sole source of capital for the establishment and running of a business involving the hire of heavy plant and machinery is improbable. Even if I were to run with the explanation that *Claughan Fort* was paid for with a swap of used plant and machinery, I would have to be satisfied that the acquisition of that plant and machinery was not itself funded directly or indirectly out of the proceeds of crime. The evidence which Mr. McCormack has adduced falls a very long way short of persuading me on this issue.

118. It follows from these conclusions that I find that rentals paid to Mr. McCormack for *Cloontra West* and *Claughan Fort* were also the proceeds of crime as they were derived from assets acquired with the proceeds of crime. The same goes for any rentals which he received from the house at Glasgow park, Roxboro.

119. Turning to the four properties in Fuerteventura, I am asked to believe that one property was taken on his brother's death in 2014 to discharge a debt of €25,000 outstanding since the disposal of the wooden sheds business of *Midwest Joinery* to him back in 2004. This is an improbable explanation and I reject it. Nothing has been put before me to vouch the costs or values of the properties or the sources of the funds and claimed savings available to Mr. and Mrs. McCormack to buy them.

120. The Spanish bank accounts have not been exhibited. It is clear that at least one bank account in Fuerteventura has been operating since 2007. Transfers to Fuerteventura from Irish bank accounts and elsewhere include the proceeds of one personal injuries award for €22,258.14 in 2013 sent directly from Mr. Lynch. This has not been linked to the acquisition of any of the four properties. Amounts totalling €40,228 from earlier awards in 2008 to 2010 plus a sum of €7,001 sent to Top Caleta Investments and the wedding presents money have not been linked to these property purchases either. There is no evidence of what this money was used for.

121. While the Bureau make no claim to the properties in Fuerteventura, the evidence relating the purchase and funding of these properties and the bank accounts there is relevant. The issues raised by the Bureau relating to the wherewithal of the respondent and his wife to acquire, pay the mortgages on and service the running costs of these properties have not been addressed. The funding of these purchases and expenses cannot be accounted for by the sources of income identified; selling pedigree dogs, wedding presents, rental of machinery, selling gates, rental of the sheds in *Cloontra West* and the house at *Claughan Fort*, lottery wins and dealing in used and antique cars. The only credible explanation is that the hole in financing has been filled by cash and other value which represented the proceeds of serious crime and I am satisfied that the assets used to acquire them were not merely derived from an increase in wealth as a result of having taxed or untaxed income from legitimate business activities.

122. In my view, the evidence establishes that any businesses which Mr. McCormack and his wife engaged in over the years were side-lines financed by his criminal activities and that his main business and the source of finance for these side-lines and much of his wealth was crime. The acquisitions of the three properties at *Purcell Park*, *Cloontra West* and *Claughan Fort* were funded from the proceeds of crime and I must make interlocutory orders under s.3(1) of the Proceeds of Crime Act 1996 in relation to each of the three properties. In the light of my findings as set out in this judgment, there is no basis on which I could be satisfied that there is a serious risk of injustice to Mr. McCormack and his family by the making of these orders.