

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

RICHARD M. COAN,
Plaintiff-Trustee,

v.

SEAN DUNNE, *et al.,*
Defendants.

No. 3:15-cv-00050 (JAM)

**LETTERS ROGATORY
TO THE HIGH COURT OF IRELAND, INNS QUAY, DUBLIN 7, IRELAND
RE MR. ROSS CONNOLLY**

The United States District Court for the District of Connecticut, Honorable Jeffrey A. Meyer, located at 141 Church Street, New Haven, Connecticut 06510, United States of America, presents its compliments to the High Court of the Republic of Ireland and requests international judicial assistance pursuant to the Foreign Tribunals Evidence Act 1856 and Order 39, Rules 39–44 of the Rules of the Superior Courts 1986, to obtain the testimony of Mr. Ross Connolly who has knowledge of matters described herein, for use in the determination of the above-captioned civil proceedings pending before the District Court.

Mr. Connolly is within the jurisdiction of the High Court of Ireland. On information and belief, Mr. Connolly's residential address is 38 Knockabawn, Rush, Co. Dublin, and his business address is 67 Merion Square, Dublin 2, and c/o Clerkin Lynch, 30 Molesworth Street, Dublin 2.

The firm of AMOSS Solicitors, which has been retained by Coan, Lewendon, Gulliver & Miltenburg, LLC, counsel to the Plaintiff, is hereby authorized to make the application to the High Court of Ireland on behalf of this Court.

PROCEEDINGS

The evidence requested relates to the action pending in the United States District Court, District of Connecticut, entitled *Richard M. Coan, Trustee of the Bankruptcy Estate of Sean Dunne v. Sean Dunne et al.*, Civil Action No. 3:15-cv-0050-JAM, consolidated with an adversary proceeding filed in the Bankruptcy Court for the District of Connecticut and seeking to recover from defendants assets that allegedly belong to the bankruptcy estate of Sean Dunne ("Dunne").

NATURE AND PURPOSE OF PROCEEDINGS AND SUMMARY OF FACTS

Plaintiff's Claims and Allegations

Plaintiff is the Chapter 7 (personal bankruptcy) Trustee of Sean Dunne ("Debtor") in the United States. The Trustee alleges that Dunne fraudulently transferred assets to family members or otherwise

concealed assets in various entities, with the purpose of defeating the claims of creditors or otherwise making those assets unavailable for distribution to those creditors.

The Trustee seeks to avoid and recover these various transactions on the alleged basis that they were fraudulent as to Dunne's creditors and to prevent assets from becoming available to the trustee for distribution to creditors. Among the transactions sought to be set aside (including on the basis that there were transfers for no consideration and/or the Dunne was insolvent at the time) are:

- (a) a transfer of property known as Walford located on Shrewsbury Road, Dublin;
- (b) a transfer of property located at 81 North Wall, Dublin;
- (c) the transfer, by assignment, of rents due Dunne from a property called Ouragh in Dublin, subject to a lease as an Embassy to the Government of the Republic of South Africa;
- (d) the transfer of monies between Dunne and Gayle Killilea between their respective Credit Suisse accounts, located in Switzerland;
- (e) the transfer of income due to Dunne from a partnership known as the Lucy Partnership;
- (f) the transfer of Dunne's interests in Mountbrook USA, LLC;
- (g) the transfer of Dunne's interest in condominiums located in Geneva, Switzerland;
- (h) the transfer of furniture and fixtures from the Ouragh property;
- (i) the transfer of sums held in a joint Credit Suisse account to Killilea exclusively;
- (j) the transfer of director's loans owed to Dunne by Beara Properties, an Irish Corporation;
- (k) the transfer of lands known as the IGB Lands, located in Ireland. (collectively "the Transfers"); and
- (l) the concealment of monies and assets in the name of Gayle Killilea and/or companies nominally owned by her.

Defendants' Responses and Defenses

Defendants deny that the transfers and concealment were for inadequate consideration, and they further claim that they took place prior to the four year look-back period for the bankruptcy or alternatively took place while Dunne was solvent.

Procedural History of U.S. Proceedings

The parties have exchanged written discovery and are continuing to conduct discovery. Expert discovery was due to occur on December 21, 2018. Factual discovery will close March 2019, with a trial to proceed in May 2019.

Relationship of Connolly to the Plaintiff

There is no relationship between Mr. Connolly and the Plaintiff. Mr. Connolly is a financial advisor to Dunne. Plaintiff seeks testimony from Mr. Connolly, who has knowledge relevant to the lines of inquiry identified below. Mr. Connolly is likely to have knowledge to testify concerning various matters having been disclosed in Defendants Initial Disclosures as having information relating to counts I-IV, XXIII-IV, XXX, XXXIII-XXXIV of Plaintiff's Complaint.

Necessity for Examination in Ireland

Mr. Connolly is an Irish resident and citizen who is familiar with the financial affairs during the relevant periods of Sean Dunne and Gayle Killilea. The courts of the United States do not have jurisdiction over him to compel him to sit for a pre-trial deposition or to provide documents associated with any such testimony as he might give.

LINES OF INQUIRY

Plaintiff has represented to the Court that it needs to obtain the testimony of Mr. Connolly concerning the business and financial affairs of Sean Dunne, and companies owned and controlled by Dunne, and related topics.

Accordingly, Plaintiff requests that Mr. Connolly be deposed, under oath, as to his knowledge of the following matters, which are relevant to the issues in the Action:

1. The matters referred to in the Defendant's Initial Disclosures pertaining to knowledge held by Mr. Connolly.
2. Dunne's state of solvency during the period 2005 to the present.
3. The earliest date that Dunne became insolvent during the period 2005 to the present.
4. Mr. Connolly's knowledge of the finances of Dunne from 2005 to the present.
5. The content of any non-privileged advice given to Dunne or any associate or family member in relation to asset protection from 2005 to the present.
6. The content of any non-privileged advice given to Dunne or any associate or family member in relation to immigration to either Switzerland or the United States.

7. The location of any original copies of the 2005 Agreement or the 2008 Agreement referred to by Dunne in his Answer.
8. Any assistance provided by Mr. Connolly in the creation of the 2005 Agreement or the 2008 Agreement, or any advice given in relation thereto.
9. Knowledge of or involvement with any of the Transfers.
10. Any advice given in relation to the Transfers or similar transfers.
11. Knowledge of the location of any documents that might be relevant to setting aside the Transfers.
12. Connolly's knowledge and recollection of the witnessing of the 2008 Agreement.
13. The content and substance of Connolly's Affidavit sworn August 8, 2012 in the *NAMA v. Sean Dunne* matter in the High Court of Ireland bearing file number 2011/5119S.
14. The financial and business affairs of Dunne, Killilea or any of the defendants in the action.
15. The use of offshore trusts, entities, financial institutions and other agents by Dunne, Killilea or any other defendants in the action.
16. Any assistance provided to Dunne, Killilea or any of the defendants in the action to prepare any bankruptcy filing, bankruptcy schedule or to prepare for any creditors' meeting or court hearing.

DOCUMENTS

The Court requests that Mr. Connolly also be compelled to bring to the examination all documentation in his possession, power, or control which are relevant to the issues in this proceeding, including documents relating to the lines of inquiry identified above.

RECIPROCITY

It is the understanding of this Court that the granting of assistance of the type herein requested is authorized by the laws of the Republic of Ireland and, in particular, by the Foreign Tribunals Evidence Act 1856 and Order 39, rules 39-44 of the Rules of the Superior Courts 1986. The courts of the United States are authorized by statute, 28 USC §1782, to extend similar assistance to the tribunals of Ireland.

REIMBURSEMENT OF COSTS

Plaintiff has assured this Court that it is prepared to reimburse your Honorable Court for all the reasonable costs incurred in executing this request.

REQUESTS

Having regard to the foregoing, the undersigned, The Honorable Jeffrey A. Meyer, U.S. District Judge for the United States District Court in the District of Connecticut, respectfully requests:

1. that the said Mr. Ross Connolly be directed to attend, at such times and places as you shall appoint, before such person who, according to the procedure of your Court is competent to preside over the examination of witnesses under oath, to be examined upon oath, or affirmation by oral interrogatories or otherwise in relation to matters relating to and touching on these proceedings including, but not limited to, the lines of inquiry identified above; and
2. that the said Mr. Ross Connolly bring with him to the examinations all documentation in his possession, power, or control touching on these proceedings including, but not limited to the lines of inquiry identified above; and
3. that the testimony of the said Mr. Ross Connolly be recorded by video and by a stenographer and be reduced to writing; and
4. that there be authentication of the testimony of the said Mr. Ross Connolly by the seal of your Honorable Court or in such other way as is prescribed by the procedure of your Honorable Court; and
5. that any documentation produced by the witnesses on examination be marked for identification and that there be authentication of any such documents or copies of same or any extracts therefrom by the seal of your Honorable Court or in such other way as is prescribed by the procedure of your Honorable Court; and
6. that the transcript and videoed testimony of the witnesses as well as any documents be transmitted to this Court in a sealed envelope addressed to the Clerk of the United States District Court, District of Connecticut 141 Church Street, New Haven, Connecticut, United States of America; and
7. that your Honorable Court cause to be sent to the Clerk of Court at the above address a note of the charges and expenses payable in respect of the execution of the within request; and
8. that your Honorable Court make such further order pursuant to this request as it appears fit.

Dated: 23 January, 2019

/s/

The Honorable Jeffrey A. Meyer
U.S. District Judge, District of Connecticut