



AN ARD-CHÚIRT
THE HIGH COURT

PROCEEDS OF CRIME

IN THE MATTER OF S.3(1) OF THE PROCEEDS OF CRIME ACT 1996

[2024] IEHC 399

[2021 No. 20 CAB]

BETWEEN:

CRIMINAL ASSETS BUREAU

APPLICANT

-AND-

JAMES GATELY AND CHARLENE LAM

RESPONDENTS

JUDGMENT of The Hon. Mr. Justice Alexander Owens delivered on the 19th day of June 2024.

1. These proceedings were commenced by originating notice of motion in December 2021.
2. The Criminal Assets Bureau (the Bureau) seeks orders under s.3(1) of the Proceeds of Crime Act 1996 (the 1996 Act) relating to three items of property. The first of these is a semi-detached house in Glyn Drive, Coolock in Dublin City (Glyn Drive). The second item is a 132D VW Golf motor car seized from outside Glyn Drive on 11 June 2019. The third item is a Rolex watch which was seized during a search of Glyn Drive on the same date.
3. James Gately was born in 1986. Charlene Lam was born in 1987. They have been partners for a number of years.
4. Charlene Lam has a son who was born in 2007. She also has a daughter who was born in 2011.

5. In 2013 James Gately bought Glyn Drive for €125,000. He got a mortgage loan of €112,500 from Ulster Bank to assist this purchase. This loan is repayable by monthly instalments over 30 years. The initial monthly instalment was €580.
6. James Gately represented in his loan application that he had €16,000 saved in the Capel Street branch of AIB Bank and that he was employed as a barber in Buckingham Street since June 2010. He produced copies of duplicate bank statements relating to his AIB Bank current and deposit accounts to verify savings and weekly income of €600 from his employment.
7. In November 2013 James Gately submitted an application for planning permission for improvements to Glyn Drive. These comprised a porch extension at the front of the dwelling, a two-storey extension to the rear and an attic conversion, together with other renovation and landscaping works.
8. This planning permission was granted in February 2014 and the building work was completed during that year. James Gately and Charlene Lam live in Glyn Drive with their children.
9. The Bureau claims that James Gately bought and renovated Glyn Drive using proceeds of crime. The Bureau also claims that James Gately and Charlene Lam used proceeds of crime to fund a lavish lifestyle which subsidised mortgage payments for Glyn Drive. The Bureau also claims that the Rolex watch and the VW Golf were acquired using assets derived from proceeds of crime.
10. As a first step in considering the evidence in this application, I evaluated material considered by the Chief Bureau Officer. The Chief Bureau Officer tendered belief evidence under s.8 of the 1996 Act in relation to each of the three assets claimed by the Bureau to be derived from proceeds of crime.
11. The Chief Bureau Officer believes that each of these assets was acquired and paid for using James Gately's proceeds of crime as a leading member of the Hutch organised crime gang (OCG) and that James Gately and Charlene Lam were in control of the Rolex watch and the 132D VW Golf up to the time that Gardaí seized them, and that they are in control of Glyn Drive.
12. This belief evidence was based on the materials in affidavits and exhibits relied on by the Bureau when this application was initiated. Material which is inadmissible as evidence may support belief evidence. In deciding whether or not material considered by the Chief Bureau officer provided a reasonable basis for his beliefs, I excluded from consideration evidence or material tendered after December 2021.

13. I also conducted an overall evaluation of the evidence. This evaluation included such admissible evidence as was adduced in affidavits sworn after December 2021. This additional evidence was relevant to my overall assessment of whether evidence presented, including belief evidence, established as a matter of prima facie probability that Glyn Drive, the 132D VW Golf and the Rolex Watch were proceeds of crime. This additional evidence covered some matters which were not before the Chief Bureau Officer. For example, tax returns of Charlene Lam for 2018 and subsequent years were not available when these proceedings were commenced.
14. Charlene Lam told Bureau Investigators in June 2019 that she had a salon called "*Bombshell Beauty by Charlene.*" The Bureau did not provide any evidence on where this salon was located or whether she worked from home. She told Bureau investigators in September 2019 that she worked as a beauty therapist since 2009 and she was earning €500 to €600 a week at that time and more if she did eyebrow treatment. She said she had also been working at a nail bar in Wicklow Street until the previous year.
15. In December 2020 Charlene Lam told Gardaí that she bought the Rolex watch from a friend of her father about eight years previously for €1,200 or €1,500 and that it came without a box. This watch has been valued at €4,400. Its date of manufacture is not stated.
16. In my evaluation I have accepted Charlene Lam's tax returns as evidence of her turnover and net earnings as a beautician. The accuracy of these returns and adequacy of whatever records and supporting documentation she provided to her accountant were not challenged by evidence presented by the Bureau. The most that could be said from evidence provided by the Bureau is that cash lodgements to her AIB Bank current account cannot be reconciled with recorded turnover and that it is difficult to identify trading expenses. There did not appear to be any payments for rent. I noted from some of her tax returns that expenditure on materials was minimal.
17. In absence of evidence relating to investigation of business records, tax records, bank accounts and trading activity of P & M Hair and Beauty Limited and relating to rent and rates on the shop premises in Buckingham Street, I have assumed that the amounts recorded in James Gately's bank statements correctly reflected drawings sourced from business receipts of that company, in line with tax returns. The evidence presented by the Bureau did not include tax or VAT information relating to trading of this company or explanation of why it was dissolved. No information was provided in relation its annual returns or abridged accounts or existence or non-existence of its books and records.
18. Suspicion that money recorded as drawn by James Gately from his company during this period was not derived from turnover of its business could not ripen into reasonable belief without information on results of investigation of these matters. This changed when James

Gately was no longer recorded in Revenue returns as in receipt of income from this company.

19. However, evidence tendered by the Bureau established on the balance of probabilities that James Gately did not have legitimate wherewithal to set up or fund operation of any businesses in the period between 2011 and 2015. This evidence also established that during 2013 and 2014 he had access to lots of money from undisclosed sources to fund the purchase of Glyn Drive and to carry out a complete refurbishment of that property. In addition, in 2014 he bought a car from Grange Motors with money from undisclosed sources.
20. I agree with the submission of counsel for James Gately and Charlene Lam that some assumptions which underpinned calculations by an accountant who provided evidence on behalf of the Bureau relating to lifestyle of James Gately and Charlene Lam were questionable. However, conclusions of this witness that their expenditure was greatly in excess of their declared income and legitimate means for a number of years; that they used money from undisclosed sources to enable them to buy Glyn Drive, extensively refurbish it, and that they were enabled to pay the mortgage on that property because their lifestyle was heavily subsidised by proceeds of crime, were fully supported by compelling evidence.
21. In order to assess the strength of material underpinning conclusions of the Bureau's forensic accountant, I examined bank records of transactions on Irish bank accounts of James Gately and Charlene Lam. This exercise involved following money used to pay for Glyn Drive and to meet mortgage instalments. This examination also looked at any evidence which showed other expenditure and assessed whether legitimate means of James Gately and Charlene Lam. could have funded that expenditure I examined information relating to motor vehicles and looked at whether the cost of acquiring and funding the running of these motor vehicles was sourced from legitimate means of James Gately and Charlene Lam.
22. I concluded that the belief evidence of the Chief Bureau Officer in relation to each of the three assets claimed by the Bureau was reasonable and was supported by admissible evidence and by other material which the Chief Bureau Officer relied on. I also concluded that the evidence relied on by the Bureau established on the balance of probabilities that, prima facie, each of these three assets was acquired using proceeds of crime.
23. I concluded on the balance of probabilities that the deposit money for Glyn Drive and the money used for the legal fees came from money derived from proceeds of crime and that most of the mortgage payments for Glyn Drive up to April 2019 were subsidised by proceeds of crime.

24. I also concluded that the explanation by Charlene Lam for how she bought the watch from a friend of her father for €1,200 or €1,500 in or around 2011 was unlikely to be correct. This was well below €4,400 which was the value of this watch in 2019. This was a standard Rolex ladies' watch. Rolex watches hold their value. This watch is likely to have been worth a lot more than €1,500 in 2011.
25. It was unlikely that somebody would choose to sell this watch in 2011 for €1,200 or €1,500. Charlene Lam did not have ready access to legitimate savings in 2010 or 2011 which would allow her to afford such a purchase, even at the price which she claims to have paid. I concluded on the balance of probabilities that this watch was acquired by or for Charlene Lam at some stage and was paid for out of cash proceeds of crime.
26. I also concluded on the balance of probabilities that the 132D VW Golf registered in the name of Charlene Lam was acquired using proceeds of crime. I formed the view that proceeds of crime were laundered into both cost of acquiring and importing 132D VW Golf and most of the cost of acquiring and importing a 131D VW Passat registered to Charlene Lam for which it was swapped.
27. It was submitted on behalf of James Gately and Charlene Lam that the Bureau's financial analysis stopped in 2019 and that there was insufficient evidence to enable any conclusion that their mortgage payments from that time were subsidised by proceeds of crime.
28. Evidence tendered suggested that James Gately and Charlene Lam may have continued to enjoy a lifestyle somewhat at odds with their legitimate income in 2019 and 2020 and into 2021 and 2022, with some foreign travel, including a trip by James Gately to Amsterdam with a member of the Hutch OCG, and they were able to use lottery winnings to buy a car rather than to make ends meet. I noted expenditure on Charlene Lam's Revolut account in the Canal Court Hotel in February 2020 which the Bureau relied on as evidence of travel. The Canal Court Hotel is in Newry.
29. I agree that there was insufficient evidence to establish that whatever mortgage payments were made after April 2019 and up to the commencement of these proceedings were subsidised by use of proceeds of crime. Such records have been exhibited by the Bureau show that in 2019 and 2020 a number of these monthly payments were missed.
30. These proceedings were not directly concerned with whether mortgage payments for Glyn Drive after their commencement were funded from proceeds of crime, though this issue is relevant to exercise of discretion under the proviso to s.3(1) of the 1996 Act.

31. Having come to these provisional conclusions adverse to James Gately and Charlene Lam, I then considered explanations provided by James Gately and Charlene Lam in their affidavits in these proceedings.
32. Their evidence repeated explanations to Gardaí who interviewed them in 2019. These explanations were, for the most part, unsupported assertions. Many of these claims had already been investigated. They were seriously at odds with objective evidence which demonstrated that they were inaccurate and unreliable. Repetition of these explanations did not make them more convincing. Their evidence did not persuade me that the three assets claimed by the Bureau were not acquired using proceeds of crime.
33. The Bureau introduced a surveyor's report obtained on behalf of James Gately and Charlene Lam. I have disregarded the content of this document because it was not put on affidavit by its author. The Bureau also noted that James Gately and Charlene Lam had obtained legal aid for a forensic accountant's report and did not tender any evidence from an accountant. I did not draw any inference adverse to James Gately and Charlene Lam from this.
34. My provisional conclusions were based on the following evidence and materials.
35. Garda Intelligence is that James Gately is a leading member of the Hutch OCG. He was a pallbearer at the funeral of Gary Hutch. The murder of Gary Hutch resulted in the feud between the Kinahan and the Hutch OCGs.
36. James Gately has spent long periods out of the State because of threats to his life following the murder of David Byrne in the Regency Hotel. Gardaí observed that the ground floor front window of Glyn Drive was protected by a sheet of Perspex when they searched that house on 11 June 2019.
37. James Gately was shot while in the company of his close friend and associate, Derek "Del-Boy" Hutch, in September 2008. Derek Hutch has convictions for serious criminal offences and is a senior member of the Hutch OCG. In April 2017, a professional assassin from Estonia was hired to kill James Gately. Gardaí foiled this conspiracy. The hitman was arrested and is now serving a term of imprisonment. Caolan Smyth shot James Gately in an attempt to murder him in May 2017.
38. Gardaí believe that James Gately is linked to serious offences, including murders of Dublin criminals, a post office robbery and a tiger kidnapping. He was given a three-year suspended sentence in 2011 relating to theft of a motor cycle in 2007. He was believed to be one of those behind a citywide spate of thefts at that time.

39. The evidence of D/G Fergal O'Flaherty provides strong support for belief of the Chief Bureau Officer that James Gately has been a leading member of the Hutch OCG for a number of years and has been involved in very serious crime during that period. The activities of this gang over the relevant period included importation and distribution of illegal drugs, armed robbery, murder of rivals and theft. It is reasonable to conclude that it he is likely to have received significant proceeds of crime as part of this gang.
40. James Gately is from the north inner-city of Dublin. Revenue records disclose that he was employed by a firm of mechanical contractors between 2004 and 2007 and earned a very modest salary from that occupation. He was unemployed and in receipt of State benefits and allowances between June 2007 and 2011. He received jobseeker's benefit of €5,202 and €4,747 in 2007 and 2008, respectively. He received jobseeker's allowance and supplementary welfare allowance of €6,865 in 2011. Apart from €50 in supplementary welfare allowance, he had no recorded source of income in 2009 and 2010.
41. James Gately opened a current account in the Upper O'Connell Street branch of AIB Bank in 2004. He opened a savings account at the Capel Street branch of AIB Bank in 2007.
42. Most of the payment transactions from Games Gately's current account during 2010, 2011, 2012 and 2013 comprised cash withdrawals using ATMs in convenience stores. He used his bank card to make a number of payments to fitness centre in Clontarf, and payments for a driving test, motor insurance and petrol.
43. James Gately was registered with Revenue as owner of a 02D scooter between May 2006 and January 2013. He was registered as owner of a 02D Yamaha motor cycle between September 2009 and August 2013. He was registered as owner of a 01D Nissan Almera from November 2005. He was registered as owner of a 03MH Mercedes Benz E200 from June 2008 until January 2012. He was registered as owner of a 10D Audi A3 between April 2013 and January 2014.
44. Prior to 2011 James Gately had no Revenue history of employment as a barber, beautician or hairdresser.
45. Charlene Lam's tax returns recorded net profits of €13,805 €6,970, €6,050 and €6,600 from self-employment as a beautician in the years 2009, 2010, 2011 and 2012. She did not return any income from this occupation in 2013.
46. Charlene Lam received various forms of social welfare in 2008, 2009, 2010, 2011, 2012, 2013 and 2014. The totals received by her in each of those years were €24,120, €23,802, €17,998, €19,990, €18,707, €16,297 and €11,263.

47. These social welfare payments included back-to-work allowance in 2008, 2009, 2010 and 2011. They included one-parent family payment in 2008, 2012, 2013 and 2014.
48. P & M Hair and Beauty Limited was incorporated on 7 July 2011, with a registered office at an address in Buckingham Street, Dublin 1. P & M Hair and Beauty Limited operated from a shop at that address. James Gately and "BF" were its directors and shareholders. Its last accounts were made up to 30 June 2013 and its last annual return was filed on 31 March 2014. The abridged accounts filed for 2012 and 2013 showed net losses of €4,471 and €10,684. This company was dissolved on 20 July 2016.
49. James Gately told Gardaí who interviewed him by arrangement in Dundalk Garda station in October 2019 that this business operated as a beauty and hair salon and that he had three employees working for him. He was getting €650 to €700 a week and "BF" was getting €500.
50. Evidence from the Bureau is that "BF" is linked to criminality. He had a role in an armed robbery of a cash-in-transit van in 2001, for which he received a suspended sentence. He is also suspected of having a role in other serious criminal activity. The Bureau did not provide any evidence relating to his means or sources of income in 2011.
51. James Gately told Gardaí in October 2019 that his business relationship with "BF" ended because of the Kinahan-Hutch feud. He told them that when he stopped the salon, he used the Buckingham Street premises as a sweet shop for about a year. He said that he leased this premises. He also said that he was gone from the Irish jurisdiction for four years and that "realistically" Charlene Lam was the owner of Glyn Drive. He claimed that for that four years Charlene Lam paid the mortgage on Glyn Drive, and "had done it up and all." He declined to say what he was earning while working during those four years. He said that he was not in the same line of work as previously while living in Northern Ireland.
52. Charlene Lam told Gardaí on 11 June 2019 that the extension was done to Glyn Drive "...when we got the house." She did not know who did the extension, but James Gately and friends "did a good bit of work on it." He converted the attic as well. She stated that she was paying the mortgage at that time and saved €150 a week into the bank and put money across. She said that she had an accident in 2015 and had a "claim" in 2017. She said she did some "bits and pieces" in the house. She thought that the insurer had paid out for her car and that she then got another Passat.
53. She stated that she got a loan of €20,000 off her dad for work on the house. That money was not paid in anywhere. It was given to her in bits and pieces. They got bits and pieces

done to the house. She also got some furniture with it. She did not know where the money came from to do up the house: *"You'd have to ask James that."*

54. Charlene Lam told Gardaí who interviewed her on 6 September 2019 that she got the 132D VW Golf from James Gately as a swap for a 2013 Passat and paid the VRT of €3,100 or €3,200 from repayment of money she lent a girl out of her compensation award in 2017. This girl gave her back €4,000 in a bank draft from her account.
55. Revenue records disclose that James Gately's gross pay from P & M Hair and Beauty Limited in the years 2011, 2012 and 2013 was €8,777, €14,031 and €34,300, respectively. His Revenue return recorded him as having received no income from this source in the period which ended on 30 June 2014.
56. Charlene Lam received gross pay of €4,631 as an employee between 1 February 2013 and 12 July 2013.
57. Charlene Lam was not registered with Revenue as owner of any motor vehicle until May 2016.
58. Charlene Lam opened a current account at Drumcondra branch of AIB Bank in 2006. Most of the credits to this account in years prior to 2013 consisted of payments of social welfare. She also had an AIB Bank savings account. She told Bureau investigators that she did not have any credit cards.
59. Charlene Lam's AIB Bank current account was used to receive children's allowances and social welfare benefit in 2009, 2010 and 2011. Bank records for the years 2010, 2011 and 2012 show that very few payment transactions were made from that bank account for periods spanning a number of months during those years.
60. Charlene Lam's AIB Bank current account was used to pay for a driving test on 19 August 2010 and to pay €234 motor tax on 8 November 2010. It was used to pay €317 to Liberty Insurance on 4 October 2012, and €116 to Liberty Insurance monthly thereafter. Most of the outbound transactions from that bank account during the period between 2010 and 2012 comprised round sum cash withdrawals using ATMs at banks and in shops.
61. Bank statements relating to Charlene Lam's current account show that it was used to pay for Aer Lingus and Ryanair flights during 2012 and in January 2013. They also show other payments consistent with use of bank cards relating to that current account abroad in the Euro area in 2010, 2011 and 2012.

62. A card associated with Charlene Lam's AIB Bank current account was used to make Euro withdrawals at a "Desplazado" ATM in Spain in August 2010. These were debited to her current account on 9 August 2010. Between 6 and 9 August 2010 this current account was also used to pay for hotel accommodation, car hire and other items in Spain. The total of this expenditure came to over €1,400. This expense was funded by a lodgement of €710 through "An Post 1035" and a cash lodgement of €1,000 from Bank of Ireland sort code 90 70 15.
63. The copy statements showing transactions on the current accounts of James Gately and Charlene Lam and business records obtained by Bureau from Aer Lingus and Ryanair relating to flights bought by James Gately and Charlene Lam do not disclose expenditure on flights associated with this trip or that James Gately or Charlene Lam travelled to Spain on those carriers.
64. James Gately was recorded by Aer Lingus as having travelled from Dublin to Malaga on 2 August 2012 and from Malaga to Dublin on 3 September 2012. Charlene Lam was recorded by Aer Lingus as having travelled in a party of two to Amsterdam in February 2013. James Gately, plus two others, were recorded by Ryanair as having travelled to Ibiza for 5 days in July 2013. James Gately, plus one other, were recorded by Ryanair as having travelled to Malaga for four days at the end of June 2013. These Ryanair flights in June and July 2013 cost €1,781.
65. None of the expense associated with these trips was reflected in transactions recorded in bank statements relating to James Gately's AIB Bank current account. A bank card associated with his current account was used to withdraw cash at a cash dispenser in the Gala store at Summerhill at 13.30 hours on 16 August 2012.
66. On 15 April 2011, a bank card associated with Charlene Lam's AIB Bank current account was used to make a Euro cash withdrawal from the Spanish bank, Banco Sabadell Atlántico.
67. On 5 July 2012, a sum €2,690 odd was credited to Charlene Lam's AIB Bank current account. On the same date this account was debited with €300 at "Rad Airport T1 Dep." A card issued on this was used to withdraw €120 at "SA Nostra." This amount was debited on 10 July 2012. A card issued on this bank account was also used to withdraw €250 at a "Desplazado" ATM in Spain. This amount was debited on 13 July 2012. A card issued on this bank account was used to buy items in Dunnes Stores in Donaghmede on the same date.
68. On 24 July 2012 Charlene Lam's current account was used to make a payment of €985 to Ryanair. This payment was funded by a lodgement of €1,000 which was made through

"An Post 3410" on the previous day. On 10 August 2012, this account was used to make a payment of €25 to Ryanair. Debits on 20, 21, 22 and 30 August 2012 show that a bank card associated with Charlene Lam's AIB Bank current account was used abroad to make Euro withdrawals using Barclay's Bank and "Desplazado" ATMs. On 31 August 2012, this account was used to make a payment of €370 to Aer Lingus. On 3 September 2012, a bank card associated with this account was used to withdraw money at an ATM in Donaghmede.

69. These transactions establish use of a bank card associated with Charlene Lam's AIB Bank current account to withdraw cash in Spain between 6 July 2012 and 13 July 2012. These transactions also establish that a bank card associated with this current account was used in transactions in Spain in late August 2012.
70. Charlene Lam's AIB Bank current account was also used to buy flights in 2012 and 2013. On 14 and 17 December 2012 it was used to make two payments to Aer Lingus which totalled €172. On 21 and 24 December 2012 it was used to make two payments to Ryanair which totalled €201. On 2 January 2013 it was used to make a payment of €30 to Ryanair. On 29 January 2013, this account was used to make a payment of €172 to Aer Lingus.
71. From 2 May 2012 regular credits of €350 were lodged to James Gately's current account. These credits were attributed in the statement narrative to "P & M Hair." Previously, this current account had been funded by irregular lodgements. These lodgements were used to meet payments for car insurance and to a health club in Clontarf.
72. Most of these lodgements were round sums. This indicates that they comprised cash in notes. These were usually made at an ATM at AIB Bank in O'Connell Street. The total amount lodged to James Gately's current account between 1 January 2009 and 31 April 2012 was €9,600 odd.
73. On 25 May 2012 James Gately opened a savings account in the Capel Street branch of AIB Bank with a transfer of €250 from his current account. This began a pattern of regular transfers of €250 from James Gately's current account into his savings account. These were funded by the credits attributed to "P & M Hair."
74. In 2012 the total of lodgements to James Gately's AIB Bank current account attributed to "P & M Hair" was €11,550. The total funds transferred from James Gately's current account to his deposit account during that period was €7,000. During that period €1,600 was transferred back to his current account from his savings account.
75. This pattern of lodgements and transfers continued through 2013 and until July 2014. The total of lodgements attributed to "P & M Hair" between 1 January 2013 and 16 October

2013 was €19,400. The total of transfers from James Gately's current account to his deposit account during that period was €13,850.

76. On 24 April 2013, the amount of each lodgement attributed to "P & M Hair" increased from €350 to €600. At the same time, the amount of each transfer from James Gately's current account to his savings account was increased from €250 to €450.
77. The total of transfers to James Gately's savings account in the period between 25 May 2012 to 16 October 2013 was €20,850. His total of receipts from 2 May 2012 to 16 October 2013 which were attributed to payments from "P & M Hair" was €30,950.
78. In 2013 James Gately decided to buy Glyn Drive for €125,000. He applied to Dublin Airport branch of Ulster Bank for a mortgage loan of €112,500, repayable over 30 years. He represented in his loan application form dated 8 August 2013 that he had been working as a barber for two, corrected in manuscript to three, years and that he had savings of €16,000 in AIB Bank. He stated that he was single, had no dependants, and lived at his home address in Dublin 1.
79. He provided copies of wage slips showing net take-home pay of €600 per week. He omitted to disclose, as required by his mortgage application form, that he was a director and shareholder of P & M Hair and Beauty Limited. Thus, he avoided any investigation which might require him to establish the financial soundness of that company.
80. He supplied copies of some bank statements relating to his AIB Bank current and savings accounts. These showed credits attributed to "P & M Hair" and transfers of funds from his current account to his savings account. As of 26 July 2013, his savings account was €14,851 in credit.
81. This mortgage loan was sanctioned by Ulster Bank on 13 September 2013. The projected monthly repayment was €580.
82. Part of James Gately's savings were represented by a credit of €5,000 which was moved from Charlene Lam's AIB Bank current account on 26 March 2013.
83. A number of out of course round sum lodgements were made to Charlene Lam's AIB Bank current account in February and March 2013. This money funded a withdrawal of €2,000 on 7 March 2013 and the further withdrawal of €5,000 on 26 March 2013 which was credited to James Gately's savings account.
84. €3,300 was credited to Charlene Lam's current account by three lodgements on 20 February 2013. These were made at an ATM at AIB Bank in Artane. "Card ending: 3816"

was used to make these lodgements. A further €3,000 was lodged to this bank account in two tranches on 20 and 28 February 2013. Both of these transfers came from "An Post 3410." A lodgement of €1,000 to Charlene Lam's current account on 22 March 2013 was recorded as coming from a "JR."

85. From March to June 2013, bank "Card ending: 3816" was used to make a further 14 smaller lodgements of cash to Charlene Lam's current account. These totalled €3,740. These lodgements were made at AIB Bank ATMs in Atrane, Drumcondra, Capel Street, Blanchardstown, Grafton Street and Dundrum. The total of lodgements from branches of An Post to Charlene Lam's AIB Bank current account during the period between February 2013 and October 2013 was €4,665. The total of lodgements using that bank card between February 2013 and June 2013 was €7,040. Most of the remaining credits during that period were monthly payments of €260 which probably related to child benefit. These receipts totalled €2,080.
86. It is not possible to reconcile lodgements to Charlene Lam's AIB Bank current account in the period between January and October 2013 with her disclosed PAYE earnings. These cash credits to her bank account were not consistent with social welfare receipts.
87. The normal deposit payable under a contract for the purchase of a house is ten percent of the purchase price. On a house with a purchase price of €125,000, this deposit would be €12,500.
88. On 8 August 2013 James Gately withdrew €5,000 from his AIB Bank savings account. He used this to buy a bank draft for a booking deposit of €5,000 for Glyn Drive. A sum of €5,000 was lodged to James Gately's savings account the following day. This came from an undisclosed source.
89. On 12 September 2013 James Gately withdrew a further €7,500 from his current account. He used this to buy a bank draft for €7,500. This represented the balance of the contract deposit for Glyn Drive. On 17 October he withdrew €3,385 from his savings account to pay stamp duty and legal fees on the purchase.
90. It is difficult to avoid the conclusion that in May 2012 James Gately decided to establish a documentary record of accomplishment of earnings and savings with a view to getting a mortgage loan to buy a house. In order to get this type of loan he needed to be able to demonstrate that he had saved a sum equivalent to at least 10% of the purchase price of his proposed house.
91. Abridged annual accounts P & M Hair and Beauty Limited for the period of nearly two years to 30 June 2013 have not been exhibited. I have been provided with no information

on its reported turnover, outgoings or loans from directors. Evidence does not disclose whether that company operated a bank account.

92. I have insufficient information to establish that James Gately's recorded receipts from "*P & M Hair*" into his current was not derived from turnover of this business. All that can be said is that evidence presented by the Bureau establishes that James Gately lacked legitimate means to set up and run a beauty and hair stylist's business in 2010, 2011 and 2012. There is no indication from his bank accounts or tax returns that he engaged in this type of business or any other legitimate business activity prior to incorporation of P & M Hair and Beauty Limited.
93. James Gately continued to lodge €600 per week to his current account which he designated as wages from "*P & M Hair*" until 26 June 2014. He continued to make transfers of €300 from this money into his savings account until 4 July 2014.
94. Even if James Gately were living at home with his parents, without responsibilities and not contributing anything to Charlene Lam or household expenditure, it would have been very difficult for him to get by on one third of his disclosed take-home pay from "*P & M Hair*" in the period between May 2012 and October 2013.
95. Charlene Lam's current account was credited with round sum lodgements of over €15,000 from undisclosed sources in the period leading up to the purchase of Glyn Drive. She gave James Gately €5,000 of this money. James Gately also received a further €5,000 from an undisclosed source. Both of these sums were lodged to his AIB Bank savings account. These credits helped fund his purchase of Glyn drive.
96. Both James Gately and Charlene Lam were insured and were driving motor vehicles during the period when James Gately was accumulating money in his savings account to buy Glyn Drive. There was next to no evidence of use of their bank cards expenditure on fuel for motor vehicles during this period. There was also very little evidence of use by them of their bank accounts to buy food, clothes or other day-to-day items for themselves or for Charlene Lam's children.
97. James Gately's AIB Bank current account showed no evidence of expenditure relating to foreign travel during that period. Only a small part of the cost of their foreign travel in the years 2010, 2011, 2012 and 2013 can be identified from transactions in Charlene Lam's current account. Yet, they were able to travel abroad and had money available for discretionary spending before and during the period when James Gately was supposedly saving two thirds of his take-home pay to buy Glyn Drive.

98. Evidence from the manner in which the current accounts of James Gately and Charlene Lam operated during the years 2012 and 2013 shows that they were not relying on PAYE earnings or Charlene Lam's earnings as a beautician and social welfare payments and had considerable undisclosed means. My provisional conclusion on the balance of probabilities was that James Gately used these undisclosed means to defray living expenses and for discretionary spending. This enabled him to save for Glyn Drive and to pay legal costs associated with buying that house. These savings were supplemented by further amounts totalling €10,000 which came into James Gately's savings account. This money cannot be traced to any legitimate source.
99. In early September 2013 Charlene Lam contacted an architect to prepare plans for an extension to Glyn Drive. This architect was paid cash for his services. He produced plans which he discussed with Charlene Lam. They exchanged emails during this process and he indicated that he was sending the drawings to builders for pricing. He processed an application for planning permission for renovations in accordance with the agreed plans. Emails disclose that James Gately and Charlene Lam started to renovate Glyn Drive in advance of obtaining planning permission. They were doing internal work on this house in December 2013.
100. Bureau exhibits include photographs of the exterior and interior of Glyn Drive before and after renovation by James Gately and Charlene Lam. They built a large two storey extension to the rear of the original house with an apex roof which joined into the main roof. They extended the ground floor of the original house at the front by the addition of a porch and bay window.
101. The interior of this house was radically reconfigured at ground floor and first floor levels. The stairs were extended to give access to a new level in the attic space. Windows were installed in the main roof at the back of the house to serve the attic. The front and rear gardens were landscaped and a rear patio was laid outside an open-plan kitchen and dining area.
102. James Gately and Charlene Lam put in new bathrooms and a new fitted kitchen with an island. They installed a solar panel on the roof. Their house was replumbed and rewired and a new heating system was installed.
103. Gardaí who interviewed James Gately in October 2019 asked him about the circumstances in which he came to buy and renovate Glyn Drive. He said that he got his savings from the business of "*P & M Limited*." He said he paid cash to the architect for the planning permission and that he had his own "*squad*" to build the house and that it was done over a period of time. He said that he had a friend who was a carpenter and he was a plumber. He said that the work was done over of year and a half. He claimed that Charlene Lam got a "*50 odd thousand claim not so long ago because of an accident in Fairview*" and

that she got IR£70,000 when she was 18, implying that this money funded the renovations.

104. The Bureau briefed a quantity surveyor with copies of the 2013 plans and Garda photographs of Glyn Drive. This surveyor also consulted aerial imagery. The front and rear extensions to Glyn Drive were completed prior to July 2014. Works to the front garden and driveway and the rear garden and patio were completed prior to June 2015.
105. This quantity surveyor concluded that overall cost of these works was €441,000 at time of construction. This estimate included costs of planning contributions, design team fees at 10% of building costs and VAT on construction costs and fees. It also included a figure for preliminaries and insurance.
106. Actual expenditure by James Gately on extending and renovating Glyn Drive was considerably less than this estimate. Their architect did not supervise construction. It is likely that James Gately and Charlene Lam paid cash to builders and other specialist trades engaged on this project. Their total expenditure on work and materials was more likely to have been in the range of €200,000 to €250,000.
107. Their explanations to Gardaí that James Gately did the plumbing and that the extensive works shown in the photographs were carried out by friends over time were unconvincing. This extensive extension and renovation were carried out as a single project by skilled builders and tradespeople who used expensive doors and windows and other expensive fixtures, fittings, and materials.
108. Bank statements relating to the accounts of James Gately and Charlene Lam during the period between November 2013 and the beginning of July 2014 show that they lacked legitimate means to pay for the work carried out to Glyn Drive and that most of their costs of daily living were not being met from their disclosed sources of income.
109. During this period James Gately withdrew €18,899 from his savings account at AIB Bank, Capel Street. The amounts withdrawn were €5,500, €2,249, €5,000, €4,250, €700 and €1,200. I am prepared to assume that this money was used to pay for improvements to Glyn Drive.
110. James Gately accumulated the money to fund these savings and withdrawals by weekly transfers of €450 and later €300 into his AIB Bank Capel Street savings account from his AIB Bank Upper O'Connell Street current account in the period between September 2013 and 4 July 2014. This current account was funded by weekly credits of €600 attributed to "P & M Hair" or "Wages James Gately" until 25 June 2014.

111. James Gately used his AIB Bank Upper O'Connell Street current account to pay monthly direct debits in favour of Ulster Bank for mortgage instalments from 18 November 2013., His expenditure in the period between 1 September 2013 and 4 July 2014 from this current account, other than for mortgage payments and mortgage protection cover, was €7,442. Most of these debits comprised round sum cash withdrawals at ATMs. For much of that period his use of this bank account was confined to meeting monthly debits for mortgage instalments and mortgage protection and to transfer money to his savings account in AIB Bank, Capel Street.
112. The only debit to James Gately's current account which could have related to expenditure on Glyn Drive during this period was a debit of €408 from ESB Networks on 25 March 2014. This may have been for an electricity connection fee. On 16 May 2014 Charlene Lam's current account was debited with €200, paid to "Concept Kitchen." Charlene Lam's current account was not used to make any other payment for work or materials for Glyn Drive during this period.
113. Charlene Lam's current account statements for the period between 1 September 2013 and 31 December 2014 show that she had no overdraft facility and that her credit balance was rarely in excess of €300. She had no PAYE income during 2014. She returned net profit of €8,820 on her turnover as a beautician during that period and was recorded by Revenue as having received €10,862 in social welfare during that year.
114. Disregarding cash from undisclosed sources which was lodged into her current account in September 2014, and which was used to buy a car, the total of round sum credits to Charlene Lam's current account in the period between 1 September 2013 and 31 December 2014, which did not relate to social welfare benefit or assistance, was €11,175.
115. This money was lodged into Charlene Lam's current account in cash at ATMs or using the An Post money transmission system. With the exception of one lodgement of €1,690 which was used to make a payment of €1,649 to Harvey Norman in August 2014, these transactions were consistent with use by Charlene Lam of her current account to make cash lodgements relating to her business as a beautician.
116. While Charlene Lam occasionally used her current account to make payments at shops during this period, it was not used for much day-to-day expenditure.
117. On 6 October 2014 Charlene Lam's current account was used to make a payment of €355 to Ryanair. This cannot be related to any flights recorded by Ryanair as taken by James Gately or Charlene Lam. The practice of selling extras for seating and baggage makes it difficult to relate payments debited to bank accounts to airline information on cost of flights.

118. Ryanair records disclose that James Gately flew from Dublin to Malaga on 3 October 2014 and returned on 5 October 2014. The cost of these flights was €425. Banking records exhibited for James Gately and Charlene Lam do not disclose that their Irish current accounts were not used for an equivalent expenditure on flights. The bank cards associated with these current accounts were not used outside Ireland during 2014.
119. Save for the €18,899 withdrawn from James Gately's AIB Bank savings account and the payment to "*Concept Kitchen*," the cost of improvements carried out to Glyn Drive in the period between November 2013 and July 2014 was met from undisclosed funds.
120. Grange Motors issued a receipt dated 10 September 2014 to James Gately for €5,000 paid towards the purchase of 10D VW "*Golf GTi DSG*" motor car. The balance due for this car was stated on this receipt to be €16,750. The word "*Cash*" was encircled on this receipt. The word "*Draft*" is also written on this receipt.
121. Neither James Gately nor Charlene Lam were registered as owners of this motor car. Charlene Lam was first recorded as registered as owner of a motor car on 25 May 2016, this was an 11D VW Passat.
122. On 11 September 2014 €5,000 was lodged to the credit of James Gately's AIB Bank current account. On the following day €5,003.50 was debited to this account and used to buy a bank draft for €5,000. The fee for this bank draft was €3.50 This may relate to the purchase of bank draft number 204935.
123. A bank draft for €5,000 numbered 204935 was bought from AIB Bank Upper O'Connell Street. The date on the copy of this bank draft which has been exhibited is illegible. This bank draft was payable to Grange Motors.
124. On 11 September 2014 bank draft number 260528 for €5,000 was bought at AIB Bank, Artane. This Bank Draft was drawn in favour of Grange Motors. The source of funding to buy this bank draft is not known.
125. On 12 September 2014, bank draft number 245390 for €6,500 in favour of Grange Motors was bought in the Drumcondra Road branch of AIB Bank. Charlene Lam's current account was debited on that date with €6,503.50 for the cost of this bank draft. Most of the funds used to pay for it were sourced in two lodgements of €3,280 and €3,000 to Charlene Lam's current account on 10 September 2014 and 11 September 2014. Both of these lodgements were made at an ATM at AIB Bank Capel Street using "*Card ending:7234*".
126. These three bank drafts were provided to Grange Motors by James Gately to pay for 10D VW Golf *GTi GSG*. A further receipt number 229040 from Grange Motors refers to the

amount of each of these three drafts and a total of €16,500. The money which James Gately used to pay for this car came from undisclosed sources.

127. Apart from the €5,000 cash lodgement which was used to buy the bank draft in favour of Grange Motors, there were seven further cash lodgements to James Gately's current account at AIB Bank Upper O'Connell Street account during the latter half of 2014. Five of these lodgements were made using the An Post lodgement service or at an ATM at AIB Bank Capel Street, using "Card ending:3052". The total lodged was €4,050. The main outgoings during that period were the monthly mortgage payments of €580 to Ulster Bank.
128. James Gately continued to use his AIB Bank Upper O'Connell Street current account to make mortgage payments to Ulster Bank during the period up to 17 January 2019. Copy bank statements exhibited by the Bureau show transactions on this bank account up to 6 March 2019.
129. The pattern of activities on James Gately's bank accounts changed somewhat during 2015. He opened a current account at AIB Bank in Capel Street on 27 February 2015. "Card ending 3480", "Card ending 6114" and "Card ending 8709" were used to make ATM lodgements to this current account. The total of round sum lodgements to this current account using ATMs during 2015 was in excess of €36,000. In addition, there were a number of in-branch lodgements and ATM lodgements of cheques during that year. Weekly amounts of €200 were paid out of this current account during that period by standing order in favour of a person having the initials "LM".
130. James Gately also made twenty-six transfers of €500 from this bank account into his current account in AIB Upper O'Connell Street between March and October 2015. These transfers had the appearance of being on foot of a weekly standing order. The total transferred was €13,000. In addition, he made lodgements of €2,900 to this bank account during 2015 using ATMs and the An Post money transfer facility. This money was used to meet his mortgage and other commitments and to make savings.
131. Most of the other payments from James Gately's AIB Bank Capel Street current account during 2015 consisted of direct debits for payments through "Paypoint." Direct debits and standing orders were frequently returned unpaid due to lack of funds.
132. James Gately's Irish bank accounts were rarely used to discharge expenses of day-to-day living during 2015. Bank cards associated with these bank accounts were not used outside Ireland during that year.

133. James Gately made intermittent weekly savings of €250 from his current account in AIB Bank Upper O'Connell Street to his savings account at that branch from 8 May 2015 until 10 July 2015, when the balance was €2,503. He closed this savings account and withdrew this money on 13 July 2015. €1,000 of this money was withdrawn in cash. The balance of €1,503 was transferred to his savings account at AIB Bank Capel Street
134. He made a series of eleven transfers of €250 from his AIB Bank Upper O'Connell Street current account into his savings account at AIB Bank Capel Street between 17 July 2015 and 2 October 2015. The total value of these transfers was €2,750.
135. "Gifts" and "loans" of money received as personal injuries compensation are frequently used as a method of money-laundering.
136. James Gately's AIB Bank savings account received a lodgement of €12,176 on 13 July 2015. This came from a compensation payment to James Gately's sister. His bank accounts disclose no evidence that this money was repaid or used in expenditure on his sister's behalf. He did not have legitimate means to repay this money.
137. Cash withdrawals of €500, €500, €1,000, €4,000 and €800 were made from this savings account in the period between 20 July 2015 and 23 September 2015. On 2 October 2015 €8,903.50 was withdrawn from this savings account to buy a bank draft for €8,900. This reduced the credit balance on that account to €96. This bank draft was lodged to the AIB bank current account of Charlene Lam.
138. Charlene Lam's AIB Bank current account received monthly payments of €270 for child benefit during 2015. During that year, a total of €19,060 in round sums was lodged to this bank account, at ATMs and through the An Post lodgement service. €8,900 of this money was lodged from James Gately on 2 October 2015. €4,000 of this money was then moved into Charlene Lam's AIB Bank savings account. The rest of this money was used for other expenditure, including a payment of €600 to meet James Gately's monthly mortgage payment for December 2015. Most of the money represented by this €8,900 bank draft was spent by the end of December 2015.
139. A lodgement of €1,890 on 26 March 2015 was used to meet a payment of €1,890 for car insurance. A lodgement of €1,550 on 17 December 2015 was used to pay accountants. A lodgement of €1,500 on 4 August 2015 was used to meet a payment of €1,580 to Aer Lingus for flights on 8 August 2015. Aer Lingus records show that on 9 August 2015 James Gately was the lead passenger in a party of four persons which travelled to Malaga on 9 August 2015.

140. Available information is insufficient to permit any conclusion on whether or not other lodgements recorded in bank statements relating to Charlene Lam's AIB Bank current account could be sourced in turnover from trading as beautician during 2015. The transactions recorded in the bank statements, with one exception relating to accountancy fees, show little evidence that Charlene Lam used this bank account to pay business expenses.
141. Charlene Lam's AIB Bank current account was used to pay €60 to Ryanair on 23 October 2015. This related to flights which Charlene Lam booked for four people on a day trip from Dublin to Liverpool on 4 November 2015. This bank account was also used to pay €229 to Aer Lingus on 24 June 2015. This payment cannot be related to Aer Lingus records relating to flights taken by James Gately and Charlene Lam during 2015.
142. Aer Lingus recorded James Gately as lead passenger in a party of two which travelled from Dublin to Amsterdam on 14 February 2015. He was recorded as having travelled on an Aer Lingus flight from Malaga to Dublin on 22 June 2015. He was recorded as lead passenger in a party of four which travelled by Ryanair from Dublin to Ibiza on 25 July 2015 at a cost of €844. Charlene Lam was recorded by Ryanair as having travelled from Dublin to Ibiza on 25 June 2015 and as having taken a return flight to Dublin on 30 June 2015. The cost of these flights was €542.
143. These flights cannot be matched to payments out of the AIB Bank current accounts of James Gately and Charlene Lam. Except for payments in Newry, bank cards associated with these current accounts were not used outside of the State to make withdrawals of cash or payments for goods or services or during 2015.
144. Charlene Lam's income tax return for 2015 relating to her business showed turnover of €30,240 and net profit of €22,810. James Gately did not make income tax returns in respect of any businesses during 2014 or 2015. He did not have legitimate income or means to establish a retail business in Blessington Street during 2014 or 2015. His bank accounts do not disclose any payment for rental of premises.
145. Records from tobacco suppliers disclose that James Gately received €4,475 commission on sales of cigarettes from a cigarette vending machine in his store in Buckingham Street in the period between 30 January 2015 and 1 February 2016. It is believed that this commission was paid on sales at the rate of 4%. If this is correct, the turnover generated by these sales was €111,875.
146. The manner in which James Gately and Charlene Lam operated their current accounts during 2015 suggests that they engaged in some trading activity which generated cash receipts during that year. Some payments from James Gately's AIB Bank Capel Street

current account during that year may have related to trading. Their current accounts were only used intermittently for day-to-day expenditure and discretionary spending. Most of this expenditure was funded from undisclosed sources.

147. During 2015 James Gately and Charlene Lam had ready cash and other sources of funding which they used to pay for family holidays and other trips abroad. They met most of the monthly mortgage payments for Glyn Drive by inter-account transfers of money which were funded by cash lodgements to James Gately's AIB Bank Capel Street current account. This cash came from undisclosed sources. A cheque lodgement of €1,539 related to commission paid on cigarette sales.
148. James Gately moved to Northern Ireland as a result of the Kinahan-Hutch feud. On two dates in October 2015 a bank card associated with Charlene Lam's AIB Bank current account was used in the Buttercrane Shopping Centre in Newry. He stated in an affidavit sworn in February 2022 in an application for legal aid in these proceedings that he did not work after October 2015 because of threats to his life.
149. On 11 June 2019 Gardaí searched Glyn Drive. They found a copy of a bogus reference for James Gately which purported to be dated 21 April 2016. This was on the headed notepaper of a non-existent business in Harold's Cross in Dublin. It pretended that he was employed full-time as a van driver on their Dublin-Newry route and vouched for his character. This related to an attempt by James Gately to rent accommodation in Belfast.
150. Returns to Revenue reveal that Charlene Lam's disclosed turnover from her business as a beautician in 2016 was €31,200. Her net profit on this turnover was €23,220.
151. In 2016 there were changes in the patterns of activity of bank accounts operated by James Gately and Charlene Lam. The first significant development was that James Gately's current account at AIB Bank in Capel Street went dormant on 15 January 2016. The number of debits returned unpaid from this account increased from October 2015. This was consistent with his departure to Northern Ireland and his explanation to Gardaí that he had no work income from October 2015.
152. The second significant development was lodgement of a cheque for €36,697 at an ATM at AIB Bank Drumcondra which was credited to Charlene Lam's AIB Bank current account on 4 January 2016. The narrative in the bank statement described this credit as a "*present*."
153. Bureau officers asked Charlene Lam about this payment on 15 November 2020. She stated that this money was from her mother and resulted from an injuries compensation claim against Dublin City Council. Her mother broke her ankle when a piece of wood fell

on it at her hall door. She stated that her mother did not have a bank or post office account. She stated that she used "*a good bit of this money*" on behalf of her mother to renovate her mother's flat and that she looked after her. There is little objective support for her claim that she used much of this money for her mother's benefit.

154. The effect of this payment was to increase the credit balance on Charlene Lam's AIB Bank current account from €294 to €36,991. Charlene Lam made intermittent weekly savings of €500 from this current account to her savings account at AIB Bank Drumcondra until May 2016. By 3 May 2016, the credit balance in Charlene Lam's current account had depleted to €148. The credit balance in her savings account at that time stood at €3,905.
155. Other credits to Charlene Lam's AIB Bank current account during this period consisted of monthly child benefit payments and cash lodgements made in-branch, at ATMs and via the An Post money transmission service. These lodgements totalled €7,120. Some of the debits to this account during that period in favour of suppliers such as "*Doors and Floors,*" "*Woodies,*" "*Home Store and More*" and "*Crown Paints*" are consistent with use of €5,231 of this money on home renovations. €17,000 was withdrawn from this current account on 11 April 2016.
156. On 25 May 2016 Charlene Lam was registered as owner of 11D VW Passat 2.0 TDI.
157. Most of the transactions during this period were consistent with use by Charlene Lam of money received from her mother for personal expenditure such as car insurance. €394 was debited to her current account for Ryanair tickets on 9 February 2016. €86 was debited to this current account for Ryanair tickets on 31 March 2016. €184 was debited to this account for Ryanair tickets on 25 April 2016. On the same date a bank card on her account was used to make a cash withdrawal of €100 at an ATM at "*T2 Depart Unde.*"
158. This trend of use of Charlene Lam's AIB Bank current account to fund expenses relating foreign travel continued after 3 May 2016. On 16 May 2016, her current account was used to buy Irish Ferries tickets costing €449. On 31 May 2016 she paid €50 to Ryanair. On 3 June 2016 she paid €35 to Ryanair. On 7 July 2016, this account was used to pay Ryanair €400 for flights. On 18 July 2016, her current account was used in the UK to pay STG£85 for "*Directline*" flights. On 8 September 2016, a bank card associated with this current account was used to make payments of €50 and €110 to Ryanair. On 20 December 2016 Charlene Lam's AIB Bank was used to pay €50 to "*FLYBE.*" On 30 December 2016 Charlene Lam's current account was used to make payments of €245 and €22 to Ryanair for flights.
159. It is not possible to match up use of Charlene Lam's current account for Ryanair purchases with Ryanair records of flights taken by James Gately and Charlene Lam during 2016. James Gately and two others were recorded as travelling from Dublin to Poland on 23

January 2016 and as returning to Dublin on 25 January 2016. The cost of the outward flights was €285. The return flights were paid for using Polish currency. Their cost equated to €379. These flights were not paid for out of any Irish current accounts of James Gately and Charlene Lamb.

160. On 14 May 2016, James Gately, Charlene Lam and two others took a Ryanair flight from Dublin to Manchester. Their Ryanair return flight was two days later. These flights related to the payment of €86 to Ryanair for flights on 31 March 2016.
161. On 28 May 2016 James Gately and Charlene Lam flew by Ryanair from Dublin to Treviso in Italy. They returned to Dublin on a Ryanair flight on 31 May 2016. Ryanair records disclose that the cost of these flights was €309.
162. On 9 September 2016 Charlene Lam and one other person took a Ryanair flight from Dublin to Alicante. They returned to Dublin on a Ryanair flight on 12 September 2016. Ryanair records disclose that these flights cost €376.
163. Irish bank accounts of James Gately and Charlene Lam were not used to fund expenditure incurred while in the UK during the ferry trip, or while they were abroad during trips to Poland, Manchester, Treviso or Alicante. They funded accommodation expenses and spending money for these trips from undisclosed sources.
164. The Bureau's principal witness averred that James Gately, Charlene Lam and their children flew to Manchester from Dublin on 24 December 2016 along with other members of James Gately's family and Charlene Lam's family and that they flew back from Manchester on 9 January 2017 and went on a Caribbean cruise in the meantime. This trip is verified by an exhibit which comprises copies of photographs taken from a computer device seized by members of the Bureau. These show a cruise ship. They also show members of the family on board a plane and a ship and on beaches at holiday locations which are consistent with the Caribbean.
165. Charlene Lam's AIB Bank current account was used to make a payment of €70 to Dublin Airport Authority for car parking at that time. This payment was debited to her current account on 29 December 2016. Costs of two travel insurance policies were also debited to her current account on 29 December 2016.
166. A bank card relating to Charlene Lam's AIB Bank current account was used to make a payment at Terminal 2 of Manchester Airport on 29 December 2016. A bank card relating to this current account was also used to make a pounds sterling purchase at a branch of WH Smith on the same date. This bank card was next used on 10 January 2017 at an

ATM in a shop in Fairview. An in-branch lodgement of €149 odd was made to this bank account on 9 January 2017.

167. The only other evidence of expenditure from Irish bank accounts of James Gately and Charlene Lam which could relate to this holiday was a payment of STG£500 to "Thomson" on 14 October 2016. This was funded by three cash lodgements which were made through An Post on 12 and 13 October 2016. The total cash lodged was €685.
168. Apart from the purchases in Manchester Airport, Irish bank accounts of James Gately and Charlene Lam were not used during their Caribbean cruise or on travel to and from that cruise. Most of the money which they spent to buy this holiday and during the time they were on vacation came from undisclosed sources.
169. From April and May 2016 a bank card associated with Charlene Lam's AIB Bank current account was used to make a number of sterling purchase transactions. This included use in Warrenpoint and Lisburn. It was also used to make cash withdrawals at ATMs in Northern Ireland. This use was consistent with James Gately being in Northern Ireland during 2016.
170. On €1,307 was transferred from Charlene Lam's AIB Bank current account by internet to an unknown account of James Gately on 3 May 2016.
171. James Gately's current account at AIB Bank Upper O'Connell Street was funded by cash lodgements until July 2016. Most of these lodgements were made through the An Post money transmission service. The total lodged between 4 January 2016 and 1 July 2006 was €4,800. This money was used to pay monthly mortgage instalments for Glyn Drive. This cash came from undisclosed sources. These lodgements cannot be traced to other Irish bank accounts of Charlene Lam or James Gately.
172. Round sum cash lodgements into Charlene Lam's current account between 3 May 2016 and 31 December 2016 totalled €8,700. These were made through the An Post money transmission service or at ATMs, using "Card ending 2120." Previous ATM lodgements to this bank account used "Card ending 0016." In addition, this current account received a cheque lodgement of €540, monthly payments of €280 for child benefit and a number of transfers from Charlene Lam's AIB Bank savings account.
173. On 18 July 2016 €600 was transferred from Charlene Lam's AIB Bank current account to James Gately's AIB Bank current account. This was used to meet James Gately's mortgage payment of €566. On the same date €500 was transferred from Charlene Lam's AIB Bank current Account to her AIB Bank Deposit account. Both of these payments were funded by a cash lodgement of €1,000 to her AIB Bank current account on 15 July 2016.

174. On 17 August 2016 €600 was transferred from Charlene Lam's AIB Bank savings account to James Gately's AIB Bank current account to meet his mortgage payment of €566. This was funded by a series of cash lodgements to her AIB current account which were transferred to her savings account between 3 May 2016 and 17 August 2016 to keep that account topped-up with funds.
175. On 16 September 2016 €800 was transferred from Charlene Lam's AIB Bank current account to James Gately's AIB Bank Current account and a further €100 was lodged to that current account, using the An Post money transmission service. These funds were used to meet James Gately's mortgage payment of €566 on 19 September 2016. This payment of €800 was funded by a transfer of €760 from Charlene Lam's AIB Bank savings account. This payment was funded by cash lodgements to Charlene Lam's AIB Bank current account which were then transferred to her savings account to keep it topped-up. The credit balance on her savings account after that transaction was €10.
176. The monthly mortgage instalment of €566 for October 2016 was not debited to James Gately's AIB Bank current account. His current account had insufficient funds to meet that payment and the direct debit bounced. On 24 October 2016, a cash lodgement of €1,050 was made to James Gately's current account at an ATM at AIB Bank Artane using "*Card ending 3052.*" This card number was associated with James Gately's AIB Bank Upper O'Connell Street Current account since September 2013.
177. This cash lodgement was used to meet the mortgage payment of €566 on 17 November 2016. James Gately's current account lacked funds to meet the mortgage payment for December 2016 and the direct debit for this bounced.
178. Lodgements to Charlene Lam's AIB Bank current account during 2016 cannot be reconciled with her declared turnover. For long periods during 2016 Charlene Lam's AIB Bank current account was not used for any significant day to day expenditure on daily necessities of life. James Gately was in Northern Ireland. His AIB Bank current account shows no evidence that he used it to receive legitimate earnings to fund monthly mortgage payments or for expenditure on his daily necessities of life.
179. Charlene Lam provided very limited financial assistance towards payment of the mortgage for Glyn Drive during 2016. Most of the money used to pay this mortgage came from cash lodgements to James Gately's AIB Bank current account.
180. While it is likely that cash used by Charlene Lam to fund mortgage payments from her bank accounts originated in receipts from her business as a beautician during this period, she was able to do this only because she and James Gately had access to funds from undisclosed sources to meet their day-to-day commitments and to subsidise their lifestyle.

My provisional conclusion on the balance of probabilities, based on evidence provided by the Bureau, was that monthly mortgage payments to Ulster Bank for Glyn Drive during 2016 were mostly directly or indirectly derived from proceeds of crime.

181. Bank statements and airline and other records show that during 2017 James Gately and Charlene Lam continued to enjoy a lavish lifestyle. Their financial circumstances changed in in June 2017. Charlene Lam received an injuries compensation payment of €48,262. She lodged to her AIB Bank current account on 15 June 2017. She made a payment of €2,250 to Ulster Bank on 22 June 2017. This payment discharged mortgage arrears arising from missed monthly payments during 2016 and in February and April 2017. Her compensation money was also used to fund monthly mortgage payments for June, July, August, October and November 2017.
182. This compensation money was spent by November 2017. Direct debits for monthly mortgage payments to Ulster Bank were returned unpaid in September and December 2017. The copy bank statements show no evidence of any withdrawal consistent with use by Charlene Lam of this compensation to make a loan of €4,000 to a friend.
183. Charlene Lam's Revenue return for 2017 declared turnover of €37,123 and net profit of €28,293. Assuming continuous earnings at an average level throughout that year, this would provide a net revenue stream of €544 per week, before providing for any tax.
184. The total of recorded cash lodgements to Charlene Lam's current account during 2017 was €17,047. Cash lodgements to this current account were used to fund credit transfers by her of funds into James Gately's AIB Bank Current account to meet monthly mortgage payments for January, March, and May 2017.
185. While most of the Aer Lingus and Ryanair records of air travel by James Gately and Charlene Lam during 2017 relate to trips while she was spending her compensation money, some of this travel and of expenditure on flights preceded receipt by her of this money. James Gately used his AIB Bank current account to pay €183 to "FLYBE" for flights on 27 January 2017.
186. Charlene Lam flew on Aer Lingus from Dublin to Verona on 13 April 2017 as lead passenger in a part of four people. This related to a trip to "Keycamp" at Lake Garda. The cost of this holiday was €497. Charlene Lam booked this on 10 March 2017. She paid by Visa debit card ending 4464. This bank card did not relate to her AIB Bank current account. The €497 did not come from that bank account.

187. On 11 April 2017 she paid €2,084 to Aer Lingus for flights which may have related to this trip or to a subsequent trip to a soccer camp. James Gately paid US\$995 to a soccer camp on 26 June 2017.
188. On 12 June 2017 James Gately flew from Dublin to Montpelier. Charlene Lam flew from Dublin to Montpelier on 23 June 2017. Charlene Lam's AIB Bank current account showed no expenditure on transactions in Italy or France relating to these trips. Any costs of accommodation and spending money for these trips were not paid for out of her AIB Bank current account or the AIB Bank current account of James Gately.
189. A bank card relating to Charlene Lam's AIB Bank current was used in Northern Ireland during March, April, October and November 2017. This was consistent with James Gately's presence in Northern Ireland during those periods. Her bank account was mostly used during 2017 for general expenditure, and discretionary spending and to meet a tax bill and recurrent bills such as gas bills, bin charges and a monthly payment to a Northern Ireland motor finance house.
190. Charlene Lam's expenditure from her AIB Bank current account in the period prior to her receipt of her compensation in 2017 included the cost of insuring her motor car. It was insufficient to cover ordinary day-to-day expenditure on the necessities of living. This bank account was not used to make payments in discharge of her trading expenses during that period.
191. It is probable that during this period prior to 15 June 2017 James Gately and Charlene Lam continued to use income from undisclosed sources to fund their day-to-day expenditure in the State and in Northern Ireland and for discretionary spending. Not all of Charlene Lam's cash receipts from her business as a beautician were lodged to her AIB Bank current account. Her net receipts from this business were not anywhere near sufficient to meet their living expenses and outgoings during this period. I have come to the same conclusion in relation to the period after Charlene Lam had spent her compensation money at the end of 2017.
192. It followed from this that my provisional conclusion on the balance of probabilities, based on evidence provided by the Bureau, was that proceeds of crime were indirectly used to fund mortgage payments for Glyn Drive for the months of January, March and May 2017. Payments for February, April, June, July, August, October and November of 2017 were made from Charlene Lam's legitimate means, as was the payment of mortgage arrears. The monthly mortgage payment for December 2017 was missed, due to lack of funds in James Gately's AIB Bank current account.

193. On 2 December 2017 Charlene Lam was registered as owner of a 131D VW Passat 2.0 TDI. This car was imported from Northern Ireland by her on 22 November 2017. She provided a bank draft drawn on AIB Bank Artane dated 22 November 2017 for €2,979 in discharge of the import VRT due. This payment was mostly funded by a credit balance in her AIB Bank current account which was made up of a mixture of cash lodgements, child benefit credits and the compensation payment which she had received in June 2017. A small part of funding came from a cash lodgement of €1,000 to her current account on 22 November 2017.
194. When Charlene Lam presented this car for assessment of import duty, she produced to Irish vehicle registration authority a manuscript receipt issued by "GMCA." He had an address in Belfast. This document asserted that the issuer sold the VW Passat for €6,500 on 2 November 2017. Records of transactions on Irish bank accounts of James Gately and Charlene Lam do not disclose any withdrawal which could match this payment. Any value used to acquire this motor car came from an undisclosed source.
195. An investigator from the Bureau ascertained from the subsequent registered owner that this car was subsequently sold by a motor dealer in Dublin to a purchaser from Roscommon for €14,500. This dealer claimed that he bought it in December 2017 for €11,000 and sold it to the Roscommon purchaser for €11,450 on 28 July 2018. This dealer has strong links with one of the Hutch family. The mobile phone number of the referee in the bogus reference which James Gately provided for the purpose of renting accommodation in Belfast corresponded with the mobile telephone number of this motor dealer.
196. The VRT charged on this import and the price realised on resale suggest that €6,500 was well below the open market selling price of this car in December 2017. Charlene Lam ceased to be registered as owner of this car in September 2018.
197. Charlene Lam and James Gately told Bureau investigators that James Gately swapped the 132D VW Golf which was seized by Gardai from outside Glyn Drive for this 131D VW Passat. She said that she paid €3,100 or €3,200 duty on the 132D VW Golf.
198. The amount of VRT payable on the import of the 132D VW Golf from Northern Ireland was €3,135. Charlene Lam used a bank draft on AIB Bank Artane dated 20 June 2018 to make this payment. The funds in Charlene Lam's AIB Bank current account which enabled her to buy this bank draft comprised an in-branch lodgement of €4,000 to her AIB Bank current account on 13 June 2018.

199. Documents produced to the registering authority indicated that James Gately was the previous registered owner in of the VW Golf in Northern Ireland and that he gave her this car because she needed it to transport her children.
200. When interviewed by Gardaí on 15 October 2019 in Dundalk Garda Station, James Gately claimed that he bought this VW Golf in Northern Ireland for €6,500. He said that he bought it as a crashed car and fixed it up for €1,500. He also stated that he sold the 131D Passat for €11,000.
201. He claimed that he was getting by through repairing and selling cars and that he had a couple of "lads" working for him for €5 an hour in Northern Ireland. He also stated that he stayed with these men when he was in Northern Ireland.
202. Charlene Lam was registered as owner of the 132 D VW Golf on 23 June 2018. She ceased to be registered as owner of her 11D VW Passat on 30 April 2018. The Bureau did not provide evidence of the cost of this motor car or the amount paid by the next owner after it was disposed of by her. No evidence has been presented relating to what became of the VW Golf which James Gately bought from Grange Motors in 2014.
203. Charlene Lam supplied details of her income in 2018 in an affidavit sworn on 16 February 2022 in the context of her application for legal aid. Her Revenue return for that year disclosed turnover as a beautician of €28,600 and gross trading profits after purchases of €27,820. After deduction of other expenses, her net profit was €16,830. Her employment earnings were €6,889. Her tax payable was €2,996.
204. Charlene Lam received a total of €5,523 in credit transfers for wages into her AIB Bank current account during 2018. I have assumed that two transfers recorded as received from "Gotr Projects Ltd" were wages. Her current account received €25,680 in round sum lodgements which were made at ATMs in AIB Bank branches and through the An Post. It also received an out-of-course lodgement of €1,000 described as "Eva" and the lodgement of €4,000 which was used to fund the bank draft for vehicle registration duty paid on import of the 132D VW Golf.
205. Monthly payments to Ulster Bank of mortgage instalments during 2018 came from James Gately's AIB Bank current account. Most of these were funded by credit transfers from Charlene Lam's AIB Bank current account into James Gately's AIB Bank current account. Monthly payments were missed in March, July and October 2018, due to insufficient funds in James Gately's AIB Bank current account. The mortgage instalment for December 2018 was funded by a cash lodgement on 17 December 2018 of €1,280 through an ATM at the Drumcondra branch of AIB using "Card ending 3052."

206. James Gately's Ulster Bank mortgage account received out-of-course credits of €600 and €2,000 on 16 August 2018 and 29 November 2018 to catch up on mortgage arrears.
207. The credit of €600 came from James Gately's AIB Bank current account. This was funded by transfers of €300 and €400 from Charlene Lam's AIB Bank current account on 7 August 2018 and 14 August 2018. These transfers were funded by three credits to Charlene Lam's AIB Bank current account. The first of these was a cash lodgement of €1,270 at an ATM at AIB Bank Artane on 31 July 2017. This was described on the bank statement as "wages." The second was a cash lodgement of €940 at an ATM at AIB Bank Drumcondra on 7 August 2018. This was also described on the bank statement as "wages." The third credit was a monthly payment of €280 for child benefit.
208. The credit of €2,000 also came from James Gately's AIB Bank current account. This was funded by a cash lodgement of €500 "lodged An Post3410" on 28 November 2018 and a credit transfer of €1,500 from Charlene Lam's AIB Bank current account on the same date. This credit transfer was funded by a cash lodgement on the same date of €2,000 to Charlene Lam's AIB Bank current account. This was also "lodged An Post3410".
209. Charlene Lam's AIB Bank current account was rarely used during 2018 for grocery shopping. It was used in Northern Ireland in October and November 2018.
210. One of the sterling debits to this current account in November 2018 was a payment to for a ticket to a Manchester United game. Aer Lingus and Ryanair flight records during 2017 showed frequent trips to Manchester. Some expenditure by James Gately on flights to Manchester was not reflected in bank records. A bank card on James Gately's AIB Bank current account was used to pay for hotel accommodation in Manchester on 29 August 2017. Three of the family members returned from a month's holiday in Croatia on 29 August 2017.
211. Charlene Lam's AIB Bank current account was used to spend €57.28 on Ryanair Flights on 28 November 2017. Records relating to this current account disclose that she spent very little in the Christmas period of 2017. James Gately paid €36 to Dublin Airport Car Park on 2 January 2018.
212. James Gately spent €137 on Ryanair flights on 6 February 2018. He also spent STG£ 824.95 on "Flybe" flights in February 2018. This expenditure was funded by credit transfers from Charlene Lam's AIB Bank current account. On 7 February 2018 James Gately flew by Ryanair from Birmingham to Madrid. Ryanair records show that this flight cost STG€113. His expenditure while in Madrid was funded from undisclosed means.

213. Charlene Lam's AIB Bank current account was used to pay a parking fee of €40 to Dublin Airport Authority on 5 February 2018. This bank account was used to make a purchase of STG£23 at "WH Smith Trav" which was also debited on 5 February 2018.
214. Charlene Lam's AIB Bank current account was used to pay €247 to Ryanair for flights on 22 January 2018. She used her AIB Bank current account to spend €80 on Dublin Airport car park fees on 5 March 2018. Her current account was also used to pay €38 to Ryanair on 6 March 2018 and a further €38 to Ryanair which was debited on 13 March 2018.
215. Ryanair records disclose that James Gately and Charlene Lam travelled by air from Dublin to Poland on 6 March 2018 and returned to Dublin on 10 March 2018. The cost of these flights was €323. They spent €657 on hotel accommodation while in Poland on that trip. James Gately's AIB Bank current account was used to pay this hotel bill. This payment was funded by a cash lodgement of €1,000, made through An Post on 5 March 2018. Their other expenditure while in Poland was funded from undisclosed means.
216. On 4 April 2018 Charlene Lam's AIB Bank current account was debited with a payment of €119 to "Alpha Holidays."
217. On 15 May 2018 James Gately's AIB bank current account was used to pay STG£362 for insurance in Northern Ireland.
218. Air Lingus records disclose that James Gately travelled on a flight from Belfast to Faro on 25 July 2018. His expenditure while in Portugal and the cost of his return flight were funded from undisclosed means.
219. In 2018 Charlene Lam booked a cruise with Princess Cruises from Singapore to Shanghai through Trailfinders in Belfast. Trailfinders produced a cruise itinerary for sixteen days from 21 December 2018 until 5 January 2019. The flights from Ireland were scheduled to depart on 16 December and were via Abu Dhabi. The passengers were James Gately, Charlene Lam and their two children. Their package also included hotel accommodation in Singapore for four nights. The Trailfinders itinerary indicated that this package cost STG£9,228 which was recorded as paid. This was paid in cash by James Gately in three instalments on 2 March 2018, 28 August 2018 and 3 September 2018.
220. A further €2,051 relating to his cruise was debited to James Gately's AIB Bank current account on 24 December 2018. This extra payment was made directly to the cruise ship operator. The amount billed was US\$2,311. This payment was funded by transfers of €1,200 and €100 into James Gately's current account from Charlene Lam's AIB Bank current account on 21 December 2018 and by the cash lodgement of €1,280 on 17

December 2018 at Drumcondra Branch of AIB Bank which also funded his mortgage payment for December 2018.

221. Charlene Lam's wherewithal to make these credit transfers came from a cash lodgement of €1,850 to her AIB Bank current account. This was also made at an ATM at Drumcondra branch of AIB Bank, on 17 December 2018.
222. Charlene Lam's AIB Bank current account was debited with transactions in Abu Dhabi currency on 17 December 2018. This was consistent with being on layover there in accordance with the Trailfinders itinerary. Her current account was also debited by the cruise ship operator with €727 on 7 January 2019. It is likely that this payment covered additional expenditure incurred during this cruise. Out of pocket expenses incurred during the stay in Singapore were funded from undisclosed means.
223. Bank and itinerary records show that the extra money paid by James Gately to the cruise ship operator and to meet James Gately's December 2018 mortgage instalment was funded by lodgements at AIB Bank Drumcondra and transfers between their bank accounts which were made after the date of their departure on holiday.
224. Introduction of €4,000 to pay for vehicle registration duty on the import the 132D VW Golf and the lodgements at AIB Bank Drumcondra on 17 December 2018 to meet the December 2018 mortgage instalment and pay extras during the cruise in South East Asia were inconsistent with cash receipts from Charlene Lam's earnings as a beautician. All of the money which was used by James Gately and Charlene Lam to pay for this Singapore holiday and cruise came from undisclosed means.
225. My provisional conclusion was that the evidence tendered by the Bureau demonstrated on the balance of probabilities that James Gately and Charlene Lam lived off James Gately's proceeds of crime during 2018. Most of their expenditure on necessities of family living and discretionary spending during 2018 was funded from undisclosed means. The likely source of these means was James Gately's proceeds of crime.
226. There was nothing to show that James Gately was making a living by buying crashed cars in Northern Ireland for the purpose of repairing them and selling them on in the State. Charlene Lam's modest sources of income and receipts of child benefit could not support their lifestyle. Any use by her of trading receipts from her business as a beautician or of her PAYE earnings or other legitimate income to make mortgage payments was a matter of choice. She was able to do this because proceeds of crime were available to herself and James Gately meet their other commitments.

227. I concluded that evidence tendered by the Bureau established on the balance of probabilities that proceeds of crime were used to fund acquisition of the 131D VW Passat in 2017 and to fund payment of a small part of the vehicle registration duty on import of that car into the State. I also concluded that evidence tendered by the Bureau established on the balance of probabilities that proceeds of crime were used to acquire the 132D VW Goff which is the subject of this application and to fund payment of vehicle registration duty on import of that car into the State.
228. The Bureau exhibited copy statements relating to Charlene Lam's AIB Bank Drumcondra current account showing transactions up to 9 April 2019. A total of €5,800 in cash was lodged to this current account in the period between 1 January 2019 and 9 April 2019. In addition, a sum of €560 was transferred into that account and she received credit transfers of €96, €250 and €110.00 which were designated as PAYE wages.
229. During that period, a bank card relating to Charlene Lam's AIB Bank current account was used to withdraw money at an ATM at Arrecife in Lanzarote on 4 April 2019 and to make a purchase in Puerto Del Carmen which was debited on 8 April 2019. It was also used to pay Aer Lingus €98 on 2 April 2019 and €57.00 on 9 April 2019. Aer Lingus records indicate that Charlene Lam travelled on a flight from Dublin to Lanzarote on 31 March 2019 and that she was booked on flights from Lanzarote to Dublin on 5 and 7 April 2019.
230. On 1 March 2019 Charlene Lam's AIB Bank Account was used to make sterling denominated purchases for tickets and flights. €413 was spent on "tickets" and €176 was spent on "FLYBE.COM" flights. It was also used to make small purchases in pounds sterling between 5 and 11 March 2019. These included purchases from British Airways and at Heathrow Airport, Terminal 5. One of these payments on 6 March 2019 was to "Dixon's Travel." James Gately's AIB Bank current account was also used to make a payment to "Dixon's Travel" on the same date. The funding for this trip came from undisclosed means.
231. A cash lodgement of €550 to Charlene Lam's current account at an ATM at AIB Bank Drumcondra on 17 January 2019 was transferred into James Gately's AIB Bank current account and used to meet the direct debit for his monthly mortgage payment for January 2019. On 19 March 2019 €280 was transferred from Charlene Lam's AIB Bank Current account with a designation "*MOBIMORTGAGE." This was funded by a lodgement of €560 to her current account on 14 March 2019.
232. Copy statements exhibited by the Bureau which relate to James Gately's Ulster Bank mortgage account showed mortgage payment history until 18 October 2021. At that stage, the mortgage balance outstanding on this account was €104,164. Monthly payments were missed in February, April and December 2019; in February, March, April, June, August and October 2020, and in May 2021.

233. Charlene Lam returned a net profit of €22,430 for 2019 and had PAYE income of €457. She received €19,303 in net profit and pandemic payments during 2020. She opened a "Business Start-up" in AIB Bank Artane. The only account statements which have been exhibited which relate to that account are pages 18 to 23 which cover the period between 6 January 2022 and 9 February 2022. The only further statements exhibited relating to her AIB Bank Drumcondra current account are pages 253 to 255 which cover the period from 29 November 2021 to 8 February 2022. These show a credit transfer from her business current account to her personal current account for "wages" on 17 January 2022, followed by a credit transfer from her personal current account of €580 from the latter account with the narrative "*MOBIMORTGAGE." Her personal current account was not used to make any credit transfer to meet the Ulster Bank mortgage in December 2021.
234. The Bureau has exhibited statements relating to Charlene Lam's "Revolut" account which was opened on 1 September 2019. These statements cover transactions up to 3 March 2022 and show third party transfers of €41,917.84 and "top up" of €13,321.
235. The available evidence established as a matter of probability that Charlene Lam was enjoying a lifestyle which was heavily subsidised by proceeds of crime up to 9 April 2019 and that any use by Charlene Lam of legitimate earnings to pay mortgage instalments up to that date was a lifestyle choice.
236. There was insufficient evidence to enable me to draw a conclusion on whether mortgage payments which were funded from Charlene Lam's personal AIB Bank current account after 9 April 2019 were facilitated by introduction of proceeds of crime. The bank statements exhibited only showed information relevant to one such payment.
237. Having come to my provisional conclusions, I considered explanations provided in affidavits of James Gately and Charlene Lam. Some of these affidavits were sworn in the context of their legal aid application. Their affidavits made general assertions and did not engage with many of the important issues highlighted in evidence tendered by the Bureau. These explanations did not persuade me to alter my provisional conclusions. Many of these explanations were repetitions of their assertions to Gardaí in 2019. Many of these assertions were unreliable and at odds with verifiable objective information.
238. Charlene Lam stated that the building works on Glyn Drive were carried out by her deceased father, along with James Gately and his friends, and that her father ran a building business which enabled him to get materials cheaply or worked as a driver for the owner of a construction business. Her claim that costs of this work were discharged from lawful sources was a vague assertion. Both James Gately and Charlene Lam asserted that these friends gave their services for free, that James Gately was a plumber, and the others were qualified or skilled as bricklayers and carpenters. She has also stated that

her late father contributed to the cost of the family cruise at the end of 2016. She claimed that the cruise at the end of 2018 was paid for by James Gately in small instalments.

239. Charlene Lam stated on affidavit that she got a personal injuries award of IR£30,000 when she was 18 and that her father spent a large amount of this money and kept the remainder which he gave back to her in cash amounts totalling €20,000 between 2015 and 2017. She produced no documentary proof of withdrawals from bank or other savings to vouch these assertions. Her claim that she used such money to pay for refurbishment and renovation of the interior of her house was unsupported by any documentary evidence of expenditure.
240. Charlene Lam's father suffered from Parkinson's disease and passed away in January 2017. He was on disability allowance since 2002 and nominated his daughter to collect this money from 2012 because he was unable to do so himself. Disability allowance is means tested. Her claim that he assisted in carrying out work to Glyn Drive is improbable. He had no record of PAYE employment. Her claims that he provided €20,000 in cash to her and contributed to the cost of a cruise undertaken very shortly before his death in a hospice were improbable.
241. Charlene Lam's father did not hold a commercial driving licence. He was the first Irish registered owner of the 11D Passat which was registered in Charlene Lam's name in 2016. This vehicle was imported into the State from the UK in 2014 through a garage in County Dublin with links to criminals. Her acquisition of this 11D Passat did not relate to money received on the write-off of another vehicle in the road traffic accident in 2014 or 2015 which led to her personal injuries compensation claim. On 16 December 2020 she told Gardaí that she sold her 11D Passat and could not remember what she got for it.
242. The possibility that the €17,000 transferred out of Charlene Lam's bank account in April 2016 was used to buy her 11D Passat can be discounted. It was improbable that her father was the real owner of this car or drove it, given the precarious state of his health and lack of means. The signature on a document authorising the garage to "VRT" it in his name did not accord with his signature on his copy driving licence which was produced to the registration authorities as evidence of identification.
243. It was clear from Charlene Lam's previous admission to Gardaí and from evidence of the Bureau's surveyor that most of the work on Glyn Drive was completed by June 2014, and certainly prior to June 2016. It is obvious from photographs of Glyn Drive exhibited by the Bureau that external and internal extensions and renovations to this house were completed as part of an organised single building project in accordance with plans prepared by the architect in 2013. These works were not carried out gradually by James Gately with voluntary casual assistance from family and friends.

244. James Gately stopped working as an apprentice plumber for his then employer in July 2007. A letter from FÁS to this employer in July 2008 stated that he had failed to attend for phase 4 of his apprenticeship assessments to become a qualified plumber. Documents exhibited show that he completed 8 out of 10 assessments in phase 3.
245. James Gately agreed that he did not finish his apprenticeship and claimed that he got a redundancy payment as a result of a lay off in 2007. It is most unlikely that any small sum which he received at that time was available to assist in the purchase of Glyn Drive in 2013.
246. Charlene Lam and James Gately asserted that the €5,000 which Charlene Lam claims to have paid on 26 March 2013 "*to fund the booking deposit*" was from a combination of social welfare, PAYE and business profits. This was inconsistent with the sequence and amounts of large cash lodgements on 20, 27 and 28 February 2013. Her evidence did not engage with why she conducted her banking transactions by making separate cash lodgements on these dates. Her social welfare income in 2013 was very limited. She made a nil return for turnover as a beautician in 2013 and had minimal PAYE income during that year.
247. James Gately explained that he saved money he received from P & M Hair and Beauty Limited to buy Glyn Drive. He did not address the provenance of extra money used by him to pay for the deposit on this house and legal fees or how he came to have the wherewithal to set up and run P & M Hair and Beauty Limited.
248. James Gately claimed that since October 2015 all of the money used to make mortgage payments to Ulster Bank were provided by Charlene Lam and channelled into his account. While many such payments were funded by cash lodgements to Charlene Lam's AIB Bank current account in the period between early 2016 and April 2019, not all of them came from this source. Some were funded by cash lodgements directly into James Gately's current account.
249. James Gately claimed that the renovation of the interior of Glyn Drive took place between 2015 and 2017 and not in 2016. He produced no vouchers in relation to this alleged expenditure. He had no returned trading income during this period and there was nothing in his bank statements or Charlene Lam's bank statements to show any expenditure which could be related to work to the interior of Glyn Drive. Charlene Lam's AIB Bank current account did receive money from her mother in 2016 and she said that some of this money was used to refurbish her mother's house.
250. James Gately's explanation for funding of cost of materials used on Glyn Drive was that Charlene Lam's deceased father was working as a driver for a construction company and

was able to get building materials at a reduced rate or for free. He stated that he got windows from Munster Joinery at a reduced rate and has identified a number of friends as those who carried out the construction work on Glyn Drive and the garden area for free. He did not produce documentation relating to any of the costs incurred to suppliers for the materials used on extending, refurbishing, replumbing, rewiring, redecorating and fitting out Glyn Drive.

251. Even if James Gately's claim that the interior of Glyn Drive was refurbished between 2015 and 2017 was accepted, his AIB Bank current account and the AIB Bank current account of Charlene Lam show no transactions which reflect this expenditure. The bank records of transactions which show expenditure of Charlene Lam's compensation award in 2017 do not support her assertion that she used *"...some of the money from this award in paying for the refurbishment and renovation of the interior of this house."*
252. Other compelling evidence shows that all of the work on the interior of this house was carried out prior to 2016. Detective Sergeant Ronan McMorro searched this house on 23 February 2016. James Gately and Charlene Lam were present during that search. His information was that this house was in both their names at that time and she said she was paying the Ulster Bank mortgage. She said she worked for two days a week in a beauty salon. She claimed that James Gately's friends helped build the extension. She refused to divulge where he got the money for it.
253. Detective Sergeant McMorro noted that Glyn Drive was fully renovated and had a fully functioning kitchen. This property was finished to a high standard. There was no sign of ongoing renovation work. The work on the house appeared to have been recently undertaken and was complete. Glyn Drive had a reinforced steel front door and CCTV throughout.
254. Charlene Lam stated that she used approximately €17,000 of the €36,967 she received from her mother to renovate her mother's flat. This amount was the same as the €17,000 which was withdrawn from her AIB Bank current account on 11 April 2016. She claimed that she spent the rest on her mother in discharge of her living expenses. She claimed that as her mother had alcohol issues it was more prudent for her to manage the money.
255. Following this withdrawal of €17,000, little or nothing of the €36,967 was left in Charlene Lam's AIB Bank current account. It is not clear what happened to this €17,000. Apart from a cash withdrawal of €2,000 and some €6,500 expenditure in January and February 2016 no transactions recorded on this account were consistent with Charlene Lam using her mother's money for renovations to her flat or for her benefit. The other transactions during that period were consistent with Charlene Lam spending the money from her mother for her own purposes.

256. Charlene Lam's claim that James Gately made mortgage repayments through legitimate sources of income and that she made mortgage repayments using income derived from her beautician's business ignores the very large contribution to their finances from money from undisclosed sources in the period up to April 2019. Mortgage payments during that period which were funded from legitimate means of Charlene Lam and not subsidised by use of proceeds of crime have already been identified by me. They came from her compensation. Charlene Lam's evidence on this did not persuade me to alter my view.
257. It is unclear how many mortgage payments were made after March 2019. Ten missed payments have been identified from the Ulster Bank Statement for the period up to October 2021. The last of these missed payments was for May 2021. In her affidavit of 10 February 2013 Charlene Lam stated that these mortgage arrears were eliminated and that the mortgagee was no longer seeking to repossess Glyn Drive.
258. Any business activity by James Gately of opening and operating a sweet shop in Buckingham Street could only have been funded from proceeds of crime. His income from this activity and for whatever business activity was going on in that shop during 2014 and 2015 was untaxed and the takings went straight into his pocket.
259. James Gately claimed that he had no income from late 2015 and relied primarily on the assistance of Charlene Lam to get by. He claims that while he was in Northern Ireland he only engaged in cleaning and valeting cars. He had no legitimate income, but he had plenty of money to spend on a series of trips and holidays and was able to subsidise their lifestyle and cover their living expenses from undisclosed means. The cash which he used in 2018 pay Trailfinders for the cruise and to fund a further payment to the cruise ship operator illustrates this.
260. Charlene Lam admitted that she went on the trips set out by the Bureau's principal deponent and said that she saved for these holidays by putting aside money every week as part of a savings club. She produced no evidence of this. The many trips undertaken by Charlene Lam and James Gately and their family could not have been financed out of small savings of this sort.
261. Charlene Lam disclosed in her replying affidavit that in 2013 she established a new beauty salon at Summerhill Parade, Dublin 1. Her evidence was that this business continues to operate and is now called "*Bombshell Beauty by Charlene.*" She disclosed that she also worked in a nail bar in Wicklow Street. She said that business was a cash business up to recently. She has now opened an AIB Bank business account and a Revolut account which is used to receive payments. I have accepted that her non-PAYE turnover and earnings from this business were reflected correctly in her income tax returns up to 2019.

262. James Gately admitted that he occasionally bought and sold motor cars. His evidence is silent on his wherewithal to engage in these activities. He did not explain the sources of funding for the purchases of the two VW Golf cars and the two VW Passat cars.
263. James Gately and Charlene Lam did not adequately engage with the mass of information in banking, taxation, social welfare, airline and travel records which shows that they had access to undisclosed means to fund their day-to-day expenditure and considerable discretionary spending in the years between 2010 and 2019.
264. Charlene Lam transferred funds from her AIB Bank current account during 2016, 2017 and 2018 to meet monthly mortgage payments for Glynn Drive. I am prepared to accept that cash receipts from money earned by her as a beautician were available to fund these payments. However, any such use by her of these cash receipts was only possible because she had access to James Gately's proceeds of crime to fund her lifestyle. I was not persuaded by her claims to alter my initial analysis relating to the sources of wherewithal to meet these mortgage payments.
265. There was nothing in the transactions recorded in Charlene Lam's bank statements relating to her AIB Bank current account to support her assertion that she used the compensation award which she received in 2017 to do improvements to Glyn Drive. She used money from this award to make monthly mortgage payments and pay arrears during part of 2017.
266. Charlene Lam repeated on affidavit her explanation of how she came to get the Rolex watch. She identified the name of her father's friend, without disclosing where he could be located. She claimed that the money she paid came from a mixture of earnings and social welfare. I agree with the Bureau's contention that even if she was correct in stating what she paid for this watch, such a payment was beyond any legitimate means of a person in her financial position in 2011 and 2012. I did not alter my provisional conclusion that this watch was acquired with proceeds of crime and that even in 2011 or 2012 it was worth a lot more than €1,500.
267. James Gately and Charlene Lam have not explained satisfactorily the source of their wherewithal to buy or repair or import the 132D VW Golf into the State. The payment of €4,000 cannot be linked to any alleged loan or loans by Charlene Lam to the provider of this money out of her personal injuries compensation. Her bank account shows no withdrawal or transfer of money which could support this explanation. The source of the money used by James Gately to buy this motor car in Northern Ireland has not been satisfactorily explained. This money was most likely proceeds of crime. The same conclusion applies to most of the money used to buy and import the 131D Passat for which the 132D VW Golf was swapped. If this swap explanation is correct, the 132D VW Golf still represents proceeds of crime.

268. It follows from these findings that there must be an order under s.3(1) of the 1996 Act in relation to the Rolex watch and the 132D VW Golf, or their proceeds if they have already been sold. Glyn Drive was bought with proceeds of crime and renovated with proceeds of crime. Up to April 2019 the mortgage payments were financed from proceeds of crime, with the exception of five monthly mortgage instalments totalling €2,837 and €2,250 paid for arrears. The total of that is €5,087. In the unapproved version of this judgment, I had double counted two monthly payments.
269. This means that the overwhelming proportion of the current value of the equity in Glyn Drive represents proceeds of crime.
270. It may be that up to about €35,000 more may have been paid off the mortgage since April 2019. This has not adequately established, as the claim that Ulster Bank mortgage arrears have been discharged has not been vouched.
271. Section 3(1) of the 1996 Act requires that the High Court should not make an order if satisfied that a serious risk of injustice would result. So far, the evidence does not establish that a serious risk of injustice would result from an order under s.3(1), so long as Charlene Lam is recompensed for the €5,087 and for whatever later mortgage payments she has made if evidence establishes that she has not been subsidising a lifestyle which allows her to use her earnings to make these mortgage payments by using proceeds of crime.
272. The issue of whether mortgage payments made after the commencement of these proceedings were made from proceeds of crime was not a live one in these proceedings.
273. James Gately and Charlene Lam had a reverse burden of proof under the 1996 Act once the Bureau tendered evidence which established as a matter of probability that Glyn Drive was partly bought, refurbished and paid for using proceeds of crime. They also had an opportunity to make a positive case, based payment of mortgage instalments during the periods before and after March 2019 in the context of the proviso to s.3(1) to the 1996 Act. They chose not to do so.
274. This litigation has dragged along since it was started in late 2021. A large part of the reason for this passage of time flowed from repeated failures by the respondents to adhere to time limits set for taking steps to progress the case to a hearing.
275. James Gately and Charlene Lam have enjoyed occupation of Glyn Drive which overwhelmingly represents proceeds of crime since the commencement of these proceedings. It was obvious to both of them that this property was bought and refurbished

with proceeds of crime. Proceeds of crime were the mainstay of their lifestyle which subsidised the mortgage payments for a number of years.

276. While they continue to occupy this property which is found to represent proceeds of crime it is reasonable that they should continue to defray the mortgage and not occupy it free of charge.

277. There will be an order under s.3(1) in relation to Glyn Drive, subject to a lien over any eventual proceeds of sale to repay Charlene Lam the €5,087 and any mortgage payments since April 2019 which can be demonstrated not to have been funded by proceeds of crime. This will be sufficient to ensure that that the order under s.3(1) of the 1996 Act relating to Glyn Drive is proportionate. I will give James Gately and Charlene Lam a further opportunity to address that issue.