

1                   **Given the foregoing, we are constrained**  
2                   **from reproducing the document or turning**  
3                   **same over.**

4                   I pause Mr. Chairman. This is December  
5                   of 1996. You will recall that the  
6                   evidence from the Bank of Jamaica's  
7                   witness is that the Trust was used as a  
8                   basis for persons to say I have no  
9                   control over the company and I cannot  
10                  produce this information. In answer to  
11                  my question Dr. Chen-Young says that was  
12                  not true and he provided information as  
13                  requested. A Judgment of our Court of  
14,                 Appeal that quotes a letter from  
15                  Dr. Chen-Young which contradicts what he  
16                  said and confirms in my submission what  
17                  the Bank of Jamaica witness said must be  
18                  relevant to the Commission's mandate and  
19                  to the Commission's assessment of the  
20                  credibility of this witness and the  
21                  Governor of the Bank of Jamaica.

22                 MR SMALL:                   There is no, I submit, Mr. Chairman...

23                   A:                                 Correction.

24                 COMM BOGLE:                 Not, yet Mr. Chen-Young.

25                 MR. SMALL:                   It is my submission that first of all

1 the tribunal has ruled, one. Two .

2 MR. HYLTON: The Chairman asked me a question and I

3 was answering.

4 Q: Undoubtedly, otherwise I would object,

5 but I am saying nonetheless you have

6 ruled. Two, my submission that the

7 Commission accepted, I submit still

8 stands because there is no inconsistency

9 between what Dr. Chen-Young has said in

10 answer to the question, the particular

11 material that he is being juxtaposed

12 with and this; and in any event this is

13 coming from interlocutory proceedings

14 before the matters have been defined.

15 MR. HYLTON: It is his letter.

16 MR. SMALL: It is his letter but it does not

17 represent a contradiction.

18 MR. HYLTON: That is a matter for submission.

19 MR. SMALL: But I am saying it can't be a matter

20 purely for submission, it is a matter of

21 whether or not it is permissible for him

22 to be confronted with this, at this time

23 and in particular in proceedings that

24 are interlocutory?

25 COMM. BOGLE: Mr. Hylton I still stand by my ruling.

1 MR. HYLTON: Chairman, does your ruling also apply in  
2 further answer to your question, turn to  
3 page 11 ...

4 MR. SMALL: So he is getting it in this way.

5 MR. HYLTON: Page 11, learned judge, and I won't read  
6 all of this because my friend is  
7 concerned that I am reading it aloud,  
8 starts by referring to paragraph -- in  
9 the statement of claim, it says, **The**  
10 **master company Jellapore incorporated**  
11 **beyond the seas.** Here are the answers  
12 given by Chen-Young on this issue. It  
13 sets out something and I won't read it  
14 and the court then says.

15 **Be it noted that Chen-Young refers to**  
16 **Jellapore as his assets although the**  
17 **firm of Myers and Alberga gives a**  
18 **different version. The right hand did**  
19 **not know what the left hand was doing or**  
20 **Myers and Alberga did not know that the**  
21 **Bank of Jamaica was entitled to the**  
22 **information as the Central Bank could**  
23 **resort to it statutory powers.**

24 Maybe Mr. Chairman that confirms the  
25 Bank of Jamaica's evidence, contradicts

1 Dr. Chen-Young's and is relevant, if  
2 only for the credibility of the witness  
3 and your need to assess the credibility  
4 of the witness .

5 MR. SMALL: Mr. Chairman, I stand by my submission  
6 and I reinforce it by this comment. The  
7 learned judge, if he were here would  
8 tell you .

9 MR. HYLTON: Judges.

10 MR. SMALL: The learned judge, if he were he would  
11 tell you that pronouncements made in an  
12 interlocutory proceeding do not in  
13 anyway binding a full hearing of the  
14 matter. It is inappropriate for  
15 Mr. Hylton to be picking out extracts  
16 and then no doubt when the Commission  
17 rules you stand by that ruling, he will  
18 then turn to another page and yet  
19 another page to....

20 MR. HYLTON: There are that many of them?

21 MR. SMALL: No, no you will fish out of the sea

22 anything to hope that it will colour  
23 these proceedings or the inappropriate  
24 use of what I go back to, my fundamental  
25 submission, the judgment in an

1 interlocutory proceeding is  
2 inappropriate if it is to be presented  
3 in this form.

4 COMM. BOGLE: Mr. Hylton, i still stand by my ruling.

5 MR. HYLTON: As you please. Dr. Chen-Young.

6 A: Yes I am here.

7 Q: Do you recall writing to the Bank of  
8 Jamaica on December 5, 1996 indicating  
9 in response to their question as to who  
10 owned Jeliapore, that Jellapore  
11 Investment is a privately owned Cayman  
12 Incorporated Trust and the Cayman  
13 trustees have advised that the deed  
14 ought not to be released to a third  
15 party and you are constrained from  
16 reproducing the document or turning the  
17 same over. You recall writing that?

18 A: Yes I recall, that is correct.

19 Q: Don't you agree that that is exactly  
20 what the Bank of Jamaica complained  
21 about when they said that you could  
22 argue -- that the de facto owner, you,  
23 could argue that you have no influence  
24 or control over Jellapore?

25 MR. SMALL: Mr. Chairman those are two separate

1 matters.

2 MR. HYLTON: He can say that.

3 MR. SMALL: But it is not a fair confrontation of  
4 the witness with material which is not  
5 inconsistent, it is not proper unless he  
6 is hoping to trick him in some kind of  
7 admission, it is not a fair  
8 juxtaposition of two separate and  
9 distinct documents. And if he can say  
10 so, it reinforces my submission that it  
11 is an inappropriate confrontation of a  
12 witness with something which is not  
13 inconsistent.

14 MR. HYLTON: Mr. Chairman, I need not pursue the  
15 question since the witness would end up  
16 saying the answer.

17 MR. SMALL: Oh, I provided him with the answer.  
18 MR. HYLTON: I did not say.

19 MR. SMALL: Let's get to what you are saying.

20 COMM. BOGLE: Let's us move on.

21 MR. HYLTON: I have to move on because that point is  
22 done. Dr. Chen-Young, I suggest to  
23 you...

24 A: What is that, I am here.

25 Q: I heard something, I wasn't sure what it

1 was. I suggest to you Dr. Chen-Young  
2 that the passage from the Bank of  
3 Jamaica's evidence that I read to you is  
4 accurate and true in relation to how the  
5 Jellapore Trust was used by the de facto  
6 owner of the EF Group. You want me to  
7 read it again?

8 A: That is the Bank of Jamaica's opinion,  
9 my opinion is quite different, I created  
10 the trust legally without any ..

11 Q: I understand, I just need to put the  
12 case to you, you can say yes or no. Let  
13 us move on Dr. Chen-Young because there  
14 are many other issues with your  
15 submission. Let's go back to your  
16 submission and let's go to page 27. Oh  
17 I am sorry, if I can just ask one other  
18 question about that judgment. Did you  
19 appeal against it?

20 A: Appeal against what?

21 Q: The Court of Appeal judgment.

22 A: There are so many appeals, I can't  
23 respond unless I know specifically what  
24 you are asking.

25 Q: We just referred to a Court of Appeal

1 judgment and I was not allowed to ask  
2 you further questions about the content  
3 of the judgment, that one, July 2002,  
4 did you appeal against it, it is either  
5 yes or no.

6 A: I do not recall that sort of detail  
7 about the appeal, there have been so  
8 many and I really can't answer that  
9 question. You can check with my  
10 attorney.

11 Q: Page 27. The first page of Chapter 4?

12 A: What?

13 Q: First page of Chapter 4 because your  
14 page numbers are different apparently.

15 A: Chapter 4, okay. Okay sir.

16 Q: The second paragraph that begins, 'First  
17 in 1994'.

18 A: Yes.

19 Q: The last sentence of that paragraph  
20 reads.

21 **By 1997 there was a real crisis when**  
22 **every major domestic owned financial**  
23 **entity effectively collapsed.**

24 Is that what you have there?

25 A: Yes.

1 Q: Is that what you have there?

2 A: Yes, I am on the same page.

3 Q: Is that statement correct, you still  
4 stand by that?

5 A: It is correct, I said every major, that  
6 is the operative word.

7 Q: Mr. Chairman, I would like to look at  
8 page 12 of the Bank of Jamaica  
9 submission. That page and the following  
10 Pages 12 and 13 of Table 2 which sets  
11 out the relative size of various  
12 financial institutions by assets  
13 starting smallest first. Reading from  
14 the end, then according to this  
15 evidence, Dr. Chen-Young, the largest,  
16 the five largest deposit taking  
17 institutions were, as at December 31st  
18 1997 which as it happened is the same  
19 time period you referred to in your  
20 submission, the five largest were  
21 National Commercial Bank, Bank of Nova  
22 Scotia, Jamaica National Building  
23 Society, Victoria Mutual Building  
24 Society, CIBC Jamaica Limited. Are you  
25 in disagreement with that that those are

1 the five largest, in that order?

2 A: Yes, but again if you read the  
3 sentence...

4 Q: No, no, I am asking you, do you agree,  
5 Dr. Chen-Young, do you agree those were  
6 the five largest, that is all I am  
7 asking?

8 A: If that is the what the statistics show.

9 Q: You were a banker, you would have an  
10 idea of the largest, anyway those are  
11 the five largest. I suggest to you that  
12 of those five, four of them were not  
13 intervened in anyway.

14 A: But Mr. Hylton, the operative word there  
15 is 'domestic owned'.

16 Do you agree with me that Jamaica  
17 National Building Society is domestic  
18 owned?

19 A: Yes.

20 Q: Do you agree that Victoria Mutual  
21 Building Society is domestic owned?

22 A: Yes.

23 Q: Okay. So, the third and fourth largest  
24 domestic owned financial institutions  
25 were not intervened. Bank of Nova

1 Scotia was not intervened, did not  
2 effectively collapse?

3 A: I was referring to banks, so that  
4 sentence should be corrected, not  
5 financial institutions, banks, that is  
6 an incorrect statement.

7 Q: I see, your statement is incorrect, you  
8 meant banks.

9 A: Yes, that is correct.

10 Q: Did First Global Bank effectively  
11 collapse, it was Trafalgar Bank at the  
12 time, Trafalgar Commercial Bank.

13 A: What about them?

14 Q: Did it effectively collapse?

15 A: No, they were not a major entity, they  
16 were very small.

17 Q: Capital and Credit Merchant Bank, Pan  
18 Caribbean?

19 A: At that time they were not a major  
20 entity at that time.

21 Q: There were a number of entities that did  
22 not effectively collapse but some were  
23 not banks, some were not major, some  
24 were not domestic so if you take out all  
25 of those, then your sentence is right.

1           A:           That is correct.

2           Q:           You continue, Dr. Chen-Young on the same  
3                       page, on that page Dr. Chen-Young, the  
4                       following paragraph that begins  
5                       'Second', you say, **A legitimate question**  
6                       **that should be addressed was whether the**  
7                       **Bank of Jamaica and the Superintendent**  
8                       **of Insurance sounded any alarm to the**  
9                       **Minister of Finance before the collapse**  
10                      **of the domestic financial sector. If**  
11                      **so, when?**

12                      That question, a very similar question  
13                      was asked by the Commission and the Bank  
14                      gave a very detailed response which I  
15                      would like to take you through to see  
16                      whether it answers your question that  
17                      you now raise. Mr. Chairman that begins  
18                      at page 22 of the submission. Now  
19                      question 9, Dr. Chen-Young, asked by the  
20                      Commission was, **Did the bank of Jamaica**  
21                      **foresee the pending failure of some of**  
22                      **these institutions and if so what**  
23                      **actions were taken to avoid same?** And I  
24                      think you will agree that that is fairly  
25                      similar to the question you asked.



1 required remedial action?

2 A: I don't recall the details of those  
3 reports.

4 Q: Okay. Continuing on the following  
5 paragraph. **The Bank introduced the**  
6 **specific requirements that board members**  
7 **expressly acknowledge that they had read**  
8 **and considered the on-site examination**  
9 **reports and its findings.** You recall  
10 that requirement?

11 A: That is correct, yes.

12 Q: The Bank also established key target  
13 timelines for ameliorative action, is  
14 that also correct?

15 A: Yes, that is correct.

16 Q: There is some reference to legislative  
17 amendments that the Bank recommended and  
18 represented which I won't trouble you  
19 with. On the following page, Chairman,  
20 the Bank says there were some amendments  
21 to the legislation in 1997 which gave it  
22 powers for the first time and it says  
23 with the above-mentioned powers  
24 consequent on the failure/intervention  
25 of several financial institutions the

1 BOJ imposed the following statutory  
2 supervisory actions, and it list the  
3 various undertakings of the various  
4 entities which I expect you might not be  
5 able to speak to so I won't ask you  
6 about that. But, on the following page  
7 in the middle Chairman beginning  
8 'Sanction effected'. **Sanction effected**  
9 **by the Minister of Finance on the**  
10 **recommendation of the Bank of Jamaica**  
11 **for the period 1990 to 1998 included.**  
12 **Assumption of Temporary Management of**  
13 **Tower Merchant and Trust Bank on**  
14 **February 1993, following recommendations**  
15 **by the Bank in January 1993 and June**  
16 **1992,** do you recall the temporary  
17 management of Tower?

18 A: No, I can't recall.

19 Q: Blaise entities, various?

20 A: What is that?

21 Q: Blaise entities?

22 A: Yes, I recall Blaise being taken over,  
23 yes.

24 Q: The Bank says they issued various  
25 statutory directions and I assume you

1                   wouldn't know, but there is the  
2                   temporary management that you would know  
3                   of? There is temporary management of  
4                   Century Financial entities, you know  
5                   about that?

6           A:           I recall that, yes.

7           Q:           You made reference in your submission  
8                   to, talking about Eagle now, and the  
9                   point at which the intervention took  
10                  place, in your submission you refer to a  
11                  meeting in April. The evidence from the  
12                  Bank of Jamaica said that there was the  
13                  nominal sale on the 14th of March 1997,  
14                  I don't think that is a big point but I  
15                  think that is the correct date, not  
16                  April, I don't know if you recall?

17          A:           I don't recall it, sir.

18          Q:           But what this says is that the take-over  
19                  of the Eagle Financial entities on March  
20                  14, 1997 was by way of the nominal sale  
21                  of Crown Eagle Life Insurance and its  
22                  subsidiaries to the Government for a  
23                  dollar, is that correct? Your  
24                  submission doesn't say that, is this  
25                  correct?





1 have supported these entities.

2 Q: No, no, let me tell you exactly what you  
3 said, go to page 29 of your submission.

4 A: Which paragraph.

5 Q: Is it Chapter 4, a number of paragraphs,  
6 the paragraph beginning 'fifth'.

7 A: Which paragraph?

8 Q: The paragraph beginning 'Fifth', it  
9 reads, **Did FINSAC consider other models**  
10 **and intervention initiatives used in**  
11 **other countries that experienced a**  
12 **similar financial crisis? For example,**  
13 **in Mexico, the Government did not take**  
14 **over banks but supported the troubled**  
15 **entities by buying bad loans in return**  
16 **for bonds to help re-capitalize the**  
17 **banks.**

18 Is that exactly what was done in a  
19 number of entities?

20 A: What is the question? What is done?

21 Q: What you said here that the Government  
22 should have considered, isn't that  
23 exactly what they did in many cases?  
24 Dr. Chen-Young, isn't it a...

25 A: I am just trying to understand because

1 in our case...

2 Q: I don't mean your case.

3 A: In our case there was no bond, I don't  
4 know what you are talking about.

5 Q: Dr. Chen-Young, this paragraph doesn't  
6 talk about Eagle, this paragraph is a  
7 part of a chapter, not dealing with  
8 Eagle but issues generally to be  
9 considered by the Commission for what  
10 policy the Government should...

11 A: I don't know what other arrangements  
12 were entered into.

13 Q: So that when you say in paragraph  
14 numbered five that FINSAC and the  
15 Government should consider other models,  
16 you effectively don't know whether they  
17 did do exactly what you say here in  
18 respect to those entities, is that what  
19 I understand you to be saying?

20 A: I am getting a hollow sound -- I don't  
21 know, the sound is not very clear, maybe  
22 you should speak a little slower.

23 Q: I am sorry. Do I understand you to be  
24 saying Dr. Chen-Young that you don't  
25 know what remedial or other actions were

1 taken in relation to other entities and  
2 when you made this statement here you  
3 are just making a general statement  
4 without any knowledge of what actually  
5 was done?

6 A: Well, my understanding, I don't know the  
7 detail but my understanding was that  
8 there was no funding which allowed for  
9 participation via convertible notes into  
10 shares or any participation in the  
11 improvement of the balance sheet of  
12 these companies, that was my  
13 understanding, generally speaking.

14 Q: Earlier this morning when your counsel  
15 was inviting you to make general  
16 comments, you spoke about instances  
17 which the Government cleaned up the  
18 balance sheets of entities and sold them  
19 to somebody else, you recall?

20 A: Yes.

21 Q: And cleaned up the balance sheet is in  
22 effect what is referred to in some of  
23 these instances here, buying the bad  
24 loans in return for bonds, that is an  
25 example of cleaning up the balance

1 sheet, correct?

2 A: With some participation features.

3 Q: But here is what I am getting at; your  
4 complaint is not that the Government  
5 didn't follow this model and clean up  
6 the balance sheet and so on, your  
7 complaint is that having cleaned it up  
8 they didn't give it back to the same  
9 people who were running it before, that  
10 is your complaint.

11 A: No, not the same people, no.

12 Q: That they did not give it back to  
13 Jellapore, is that the complaint?

14 A: I don't understand that question and I  
15 am not trying to be difficult.

16 Q: Your complaint Dr. Chen-Young is not the  
17 type of remedial action taken, for  
18 example, your paragraph numbered fifth  
19 invites the Government to consider a  
20 specific course of action, buying bad  
21 loans in return for bonds to help to  
22 re-capitalize the banks. The problem you  
have is not that this was not done because you admit that it was done,  
23 your problem is that having done it, the

24

25

26

1 Government did not give the institutions  
2 back to the persons who were running it  
3 before, that is your problem?

4 A: No, some institutions, the ownership was  
5 left unchanged, like National Commercial  
6 Bank and Life of Jamaica.

7 Q: And those that weren't should have been  
8 left unchanged like Eagle?

9 A: Depending on the merits based on the  
10 analysis to be done by FINSAC as to  
11 whether they could be restored to  
12 viability. For example, in the case of  
13 Eagle, if we had six billion dollars in  
14 high cost funds, if we had got six  
15 billion dollars at say, five percent,  
16 then Eagle would have been viable and  
17 would have paid out the high cost money  
18 as we did projections and submitted to  
19 the Ministry of Finance to support that  
20 position.

21 Q: You would agree with me that earlier  
22 Dr. Chen-Young that you agreed with  
23 Mr. Bussieres actually in his comment  
24 about the desirability of the regulator  
25 being able to examine, I think was the

1 word, the ultimate shareholding of a  
2 licensed institution, you recall?

3 A: I am having difficulty hearing, can you  
4 speak up a little clearly.

5 Q: Earlier on you agreed with Governor  
6 Bussieres' statement that it would be  
7 desirable for regulators to be able to  
8 examine, was his word, ultimate  
9 shareholders of regulated entities?

10 A: Yes.

11 Q: You recall?

12 A: Yes.

13 Q: You also agreed that that was impossible  
14 in the case of Eagle because of  
15 Jellapore and the position that you took  
16 in the letter that I quoted to you?

17 A: Well, no proposition was put forward to  
18 Eagle to say you have to do this, you  
19 have to change the shareholding because  
20 the shareholdings were in a trust.  
21 Concerns were raised but no specific  
22 request or condition was set down to say  
23 if we are to help you, you must see if  
24 any change can be made which I don't  
25 know would have been possible but that

1 option was not put on the table.

2 Q: I think you are answering the wrong  
3 question. My question was, having  
4 agreed that it is desirable for the  
5 regulator to be able to examine the  
6 ultimate shareholder, do you agree with  
7 me that such examination was impossible  
8 in the case of Eagle, given the status  
9 of its ownership of the ultimate  
10 shareholder, Jellapore, and the position  
11 you took in the letter that you wrote to  
12 the Bank of Jamaica?

13 A: It depends on the type of information  
14 which is required and I am just thinking  
15 aloud that if there is a trustee holding  
16 these shares and if the entities who  
17 owned these shares are in trouble, and  
18 if the regulator's approach is for the  
19 trustee to say this has to be done or  
20 that has to be done, then that is for  
21 the trustee to exercise his discretion  
22 and hopefully meet the requirements of  
23 the regulators in order to get  
24 assistance, that would be my response.

25 Q: You know Daryl Myers?

1 A: What is that?

2 Q: Do you know Daryl Myers? Are you  
3 familiar with Daryl Myers?

4 A: What is that?

5 Q: Do you know Daryl Myers?

6 A: I can't see Mr. Hilton's face, I don't  
7 know what he was saying.

8 Q: Do you know Daryl Myers?

9 A: Who?

10 Q: D-A-R-Y-L. M-Y-E-R-S, a lawyer in the  
11 Cayman Islands?

12 A: Yes.

13 Q: He is a partner of Myers Alberga?

14 A: Yes.

15 Q: Myers Alberga represents the trustees of  
16 Jellapore?

17 A: Yes.

18 Q: Did you send to the Bank of Jamaica a  
19 letter that Daryl Myers wrote to you  
20 which said: that **we act for Jellapore**  
21 **which has bought a number of shares from**  
22 **you. The company acquired these shares**  
23 **in simple debentures. Jellapore is a**  
24 **Cayman company which were never**  
25 **shareholders nor directors which had no**

1                   **connection with you whatsoever and**  
2                   **therefore we are unable to give you any**  
3                   **information whatsoever concerning its**  
4                   **debentures or shareholdings, nor are we**  
5                   **able to give you a copy of his accounts.**

6                   Recall that letter?

7           A:           To the Bank of Jamaica?

8           Q:           You gave that letter to the Bank of  
9                   Jamaica to support your refusal to give  
10                  them, or your inability, let me use that  
11                  term, to give them any of this  
12                  information just quoted.

13          A:           Let me respond by saying that there was  
14                   no secret to the shareholders or  
15                   beneficiaries of Jellapore Investment  
16                   Trust; a list of them, sir, was sent by  
17                   me to the Bank of Jamaica so there is no  
18                   secret, there is nothing to hide.  
19                   Now as regard information requested by  
20                   Bank of Jamaica, my recollection at  
21                   least, is that no specific information  
22                   was requested for Jellapore to provide  
23                   this or that. It was a general, some  
24                   general things; that is my recollection  
25                   but I stand corrected and the point I

1 was making was this, that if Jellapore  
2 which owns the shares of the Eagle group  
3 saw where the Eagle group was insolvent  
4 and one of the conditions was to provide  
5 certain types of information, then the  
6 trustee would have a fiduciary duty to  
7 provide that information so I don't see  
8 what is the problem and I don't see why  
9 that avenue was not explored with  
10 specific request and I do not recall any  
11 specific requests being made. That is  
12 my recollection.

13 COMM BOGLE: Okay Dr. Chen-Young.

14 MR. HYLTON: I tried to make a point, Dr. Chen-Young,  
15 of your timing. Those letters; the  
16 letter from you to Bank of Jamaica and  
17 sending the letter from Myers and  
18 Alberga were December '96. The meeting,  
19 your last meeting with Bank of Jamaica  
20 was February '97. In February, 1997 as  
21 I indicated from the evidence of the  
22 Bank of Jamaica this was a problem.  
23 The takeover, to use that phrase, was in  
24 March 97. That is the sequence and  
25 timing of this issue. It was not in any

1 way arbitrary, or uncalled for. I  
2 suggest to you.

3 A: I disagree totally, I have no  
4 recollection. I have no recollection  
5 whatsoever and the meeting with the Bank  
6 of Jamaica, with the officials or  
7 directors of Eagle, that this issue was  
8 raised. The Bank of Jamaica were  
9 interested in how to save Eagle. You  
10 are saying or suggesting that the 1997  
11 meeting, at that meeting the issue of  
12 Jellapore was discussed?

13 Q: Absolutely?

14 A: And serious concerns were raised. I do  
15 not recall that arising at all.

16 Q: In the circumstances, I suggest to you  
17 that the Bank of Jamaica's  
18 recommendation in relation to Eagle were  
19 entirely justified.

20 A: Bank of Jamaica never wrote to us and  
21 say we would like to help you, we are  
22 prepared to consider lending you, but  
23 the matter of Jellapore is an obstacle  
24 which had to be addressed. Never did we  
25 get any correspondence to that effect.

1 They raised concerns about Jellapore and  
2 responded as I said earlier, that I  
3 could not give the information, I am not  
4 able to do that. That's what I said, I  
5 didn't say I did not provide any  
6 information, I said I can provide only  
7 information in which I have the capacity  
8 to do so because it is a trust and there  
9 are regulations regarding trusts.

10 Q: Pause a moment.

11 A: The real point Mr. Hylton, it is very  
12 important. I am making the point that in  
13 the 1997 meeting, Bank of Jamaica  
14 brought up at that meeting, that  
15 Jellapore matter was a sore point and  
16 that no assistance could be provided.

17 Q: I didn't say anything about assistance.

18 A: The Bank of Jamaica has never written.

19 COMM BOGLE: Mr. Chen-Young.

20 MR. HYLTON: Just to be clear, what you said just now  
21 you couldn't give information that you  
22 couldn't give in a certain place. I  
23 think that's what you said. That  
24 information you couldn't give would  
25 include information concerning the

1 directors, the shareholders or the  
2 accounts of Jellapore?

3 A: The information that I could give is  
4 what is allowed and there are laws and  
5 regulations pertaining the  
6 administration of a trust.

7 COMM BOGLE: Dr. Chen-Young, the question is what  
8 information you could not give.

9 MR. HYLTON: Thank you, Mr. Chairman.

10 A: What I could not give.

11 COMM BOGLE: Yes, what you cannot give. Was there  
12 any information that was requested that  
13 you could not give?

14 MR. HYLTON: Does that include the information in  
15 relation to the directors, shareholders  
16 and accounts for Jellapore?

17 A: Let's deal with the shareholders. As I  
18 said before Jellapore was a trust  
19 created for my family and I gave a list  
20 of the members or the beneficiaries of  
21 Jellapore so that is not an issue  
22 because there are no shareholders of  
23 Jellapore?

24 Q: You gave a list at the take over and  
25 after?

1           A:           Is there an objection?

2           Q:           I am talking about what you did prior to  
3                        March 14, 1997 at the take over. That's  
4                        what I am trying to see?

5           A:           Prior to that when the Banking Act was  
6                        passed in the early 1990s, I went and  
7                        gave the Bank of Jamaica a list of the  
8                        members, all the beneficiaries of  
9                        Jellapore. I wrote to them to say I have  
10                      had a change in ownership for estate  
11                      planning purposes and you very well know  
12                      that in all estate planning, if somebody  
13                      dies and there is no cash to pay, the  
14                      beneficiaries are put in deep water  
15                      because they can't pay the debt tax and  
16                      from the advice of my attorney and  
17                      accountant we said we would create the  
18                      trust for my family and I gave the Bank  
19                      of Jamaica voluntarily that information.  
20                      As regards the accounts, I don't recall  
21                      specifically that the accounts were  
22                      investigated. It may have been.  
23                      And what was the other matter, the  
24                      directors?

25          Q:           Yes.

1           A:           There could be no directors because it  
2                           is a trust and the trust is managed by a  
3                           company and that company would have  
4                           directors and there would be no problem  
5                           in giving the directors of that company  
6                           so I don't see what the issue is.

7           Q:           Dr. Chen-Young, if we can go to your  
8                           submission, go to the start of Chapter  
9                           6.

10          A:           What page?

11          Q:           I am actually on page 35 towards the end  
12                           of Chapter 5 but my understanding is  
13                           that your page numbers are different. It  
14                           is the paragraph that refers to Hon  
15                           Daisy Coke and Honourable Oswald  
16                           Harding. Found it?

17                       **On the important issue of the**  
18                       **responsibility of Directors, it is**  
19                       **ironic that two of the most influential**  
20                       **directors of Eagle companies, Mrs. Coke**  
21                       **and Senator Oswald Harding, who**  
22                       **participated and approved every single**  
23                       **major decision taken by all the Eagle**  
24                       **entities, were to testify against me in**  
25                       **court. Their affidavits submitted to**

1                   **the court were very similar.**

2                   Now, those two persons don't need me to  
3                   defend them, but when you say affidavit,  
4                   just to be clear, you are aware they did  
5                   not give evidence by affidavits, they  
6                   physically attended court, gave evidence  
7                   and were cross-examined. You were aware  
8                   of that?

9           A:           What is the question about the  
10           affidavit? Is the affidavit the document  
11           submitted to the court?

12          Q:           It was actually a statement. I just want  
13           to establish whether you are aware they  
14           actually attended court and were  
15           cross-examined?

16          A:           I would like to see your face,  
17           Mr. Hylton. What is the question?

18          Q:           Do you agree that Honourable Daisy coke  
19           and Honourable Oswald Harding both  
20           attended court and were cross-examined  
21           by your attorney?

22          A:           Both Harding and Coke, is that what you  
23           are asking, were cross-examined.

24          Q:           Correct.

25          A:           Yes.

1 Q: It is just that that affidavit might  
2 give the impression that they didn't  
3 attend court and gave an affidavit,  
4 which they did. You follow?

5 A: Yes.

6 Q: The point you make is this, this  
7 paragraph about them participating in  
8 every single major decision, is it not  
9 the fact, Dr. Chen-Young, that both  
10 Honourable Daisy Coke and Honourable  
11 Oswald Harding gave evidence that you  
12 withheld information from the board and  
13 so they made decisions without having  
14 certain critical information?

15 A: It might have felt so but they were  
16 incorrect and the Minutes of both  
17 meetings would say. That was one of the  
18 points argued by my attorney.

19 Q: I am not arguing whether they were  
20 correct now, I just want to enquire for  
21 the records, is that not what they said?

22 A: Well you are getting a half answer, you  
23 have to get the full answer.

24 Q: The full answer?

25 A: Our attorney argued that the minutes

1 contradict any such statement.

2 Q: But better than that, you had ..

3 A: You don't want to get into the Appeal  
4 Court.

5 Q: No, not the Appeal Court, what you have  
6 said here. You also gave evidence to  
7 the contrary. You gave evidence saying  
8 what you are saying now is that they had  
9 all the facts.

10 A: Say what?

11 Q: You gave evidence saying what you are  
12 saying now is that they had all the  
13 facts. You are being consistent?

14 A: I have a difficulty understanding that  
15 question, honestly.

16 COMM BOGLE: Ladies and gentlemen, can we have a ten  
17 minute break.

18 MR. SMALL: Perhaps you should tell Mr. Chen-Young  
19 so he can make use of the time.

20 B R E A K

21 CHAIRMAN: Ladies and gentlemen, this enquiry is  
22 now back in session. Dr Chen-Young,  
23 again a reminder that you are still  
24 under oath.

25 MR. HYLTON: Dr. Chen-Young, the other lawyers are

1 complaining that I am taking too long  
2 and not giving them a chance to start  
3 cross-questioning you, so I'll just call  
4 it a day. Thank you very much. All the  
5 best.

6 Mr. Chairman, those are my questions.

7 COMM BOGLE: Mr. Garcia?

8 CROSS-EXAMINATION OF DR. CHEN-YOUNG BY

9 MR. DAVE GARCIA

10 MR. GARCIA: Mr. Chairman, I don't know why it is  
11 being passed to me after that last  
12 comment from Mr. Hylton.

13 COMM BOGLE: Mr. Garcia, can we go ahead.

14 MR. GARCIA: Thank you, sir.

15 Good afternoon, Dr Chen-Young.

16 A: Afternoon, sir.

17 Q: I am Dave Garcia. I am appearing for  
18 Patrick Hylton. I have hopefully, only a  
19 few questions for you.

20 A: Yes, sir.

21 Q: Dr Chen-Young, is it correct that  
22 immediately prior to the government's  
23 intervention into the Eagle group, the  
24 group as a whole was massively  
25 insolvent?

- 1           A:           One company was insolvent, not the  
2                           group.
- 3           Q:           Which company is that, sir, that was  
4                           insolvent?
- 5           A:           Crown Eagle Life Insurance Company.
- 6           Q:           What was the size of Eagle Commercial  
7                           Bank's overdraft at the Bank of Jamaica  
8                           at the time?
- 9           A:           I don't recall all that detail or any  
10                          other such detail now.
- 11          Q:           It might have been in the region of over  
12                          ten billion dollars?
- 13          A:           I don't recall. It is possible but  
14                          there were assets to back it, back the  
15                          overdraft.
- 16          Q:           Earlier in answer to my friend, learned  
17                          Queen's Counsel, Mr. Hylton, you did  
18                          confirm that the group was sold for the  
19                          price of one dollar, that is, one  
20                          Jamaican Dollar, correct?
- 21          A:           Yes.
- 22          Q:           Which might have been a fair price for  
23                          an insolvent institution but not for a  
24                          solvent one?
- 25          A:           I thought a penny would have been a

1 better price.

2 Q: Could you remind me of the entities that  
3 were to benefit from the financing  
4 sought through the Eagle Premium Growth  
5 bonds?

6 A: They are listed in the information, but  
7 my recollection is that Eagle Commercial  
8 - sorry I am corrected. The Eagle  
9 Premium Growth Fund was to be used for  
10 the five financial entities, that's  
11 Eagle Commercial Bank, Eagle Merchant,  
12 Eagle General Insurance Company, Eagle  
13 Unit Trust and Eagle Permanent Building  
14 Society. These were all viable entities  
15 and their assets along with the  
16 commercial buildings and other things,  
17 these would have raised \$6 billion had  
18 we been successful; this \$6 billion  
19 would have been used to pay off  
20 short-term high cost commercial papers  
21 by Crown Eagle Life Insurance Company so  
22 the intention was to use the entities in  
23 the Eagle Premium Growth Funds to raise  
24 moneys for the parent of these companies  
25 because the reorganization took place

1 where they all fell under the umbrella  
2 of Crown Eagle, so the money would have  
3 been used to pay off high cost short  
4 term funds by Crown Eagle and the entire  
5 group would have been solvent.

6 Q: So the purpose of the financing was to  
7 restore the group, was to restructure  
8 the finances of the group and to achieve  
9 its viability, is that correct?

10 A: That is correct, yes.

11 Q: So you needed funding to achieve the  
12 viability of the other entities, is that  
13 your evidence?

14 A: Viability of what?

15 Q: I am asking if it is therefore that you  
16 needed funding to achieve the viability  
17 of the viable entities, is that your  
18 evidence?

19 A: We needed funding to pay off the  
20 billions of dollars of high cost funds  
21 of Crown Eagle. The other entities were  
22 viable, we did not need any funds for  
23 the other entities. The other entities  
24 were viable so why would we need funding  
25 for them?

1       COMM BOGLE:               Dr. Chen-Young -- have you got an answer  
2                                   to your question Mr.Garcia?  
3       MR. GARCIA:               No.

4           A:                    Mr. Chairman, my understanding of the  
5                                   question is whether we needed funds for  
6                                   viable entities and I said no, and I  
7                                   gave him an answer already on that; We  
8                                   needed to raise \$6 billion dollars to  
9                                   pay high cost debts of Crown Eagle. I  
10                                  don't understand the question.

11          Q:                    I am putting it to you that the effect  
12                                   of your evidence is that you needed  
13                                   funding to achieve the viability of what  
14                                   you say were viable entities; do you  
15                                   agree or you disagree?

16          A:                    I disagree, we do not need funds for  
17                                   viable entities.

18          Q:                    Now I am going to ask you, sir, to look  
19                                   at Chapter 6 of your submission. It is  
20                                   in the copy that I have, Page 40.

21          A:                    Yes.

22          Q:                    And I am looking at a paragraph that  
23                                   says, that begins: "**Directors went to a**  
24                                   **meeting in April, 1997...**

25          A:                    Yes, I see that.



1                   Linguist?

2           A:           Yes.

3           Q:           Are you aware sir, that the at the time  
4                   of the termination of their services  
5                   they had not completed a report?

6           A:           They had not or had completed?

7           Q:           Had not completed a report.

8           A:           I don't know of that. What I am aware  
9                   of is that Dr Bonnick told me that they  
10                  had completed a report, it was  
11                  considered by the board and the board  
12                  felt there was no need to continue with  
13                  their services and that there was no  
14                  need for any action against Eagle.  
15                  That's what I was told.

16          Q:           Since you are so aware of the  
17                   termination, are you also aware that the  
18                   reason for the termination of their  
19                   services at the time was the concern as  
20                   to cost of those services?

21          A:           I have no idea, I have no knowledge of  
22                   that.

23          Q:           And would you agree with me that at the  
24                   time they had made no conclusion as to  
25                   whether or not either a civil or a

1 criminal proceeding against you ought to  
2 be commenced?

3 A: I have no knowledge of that other than  
4 the information conveyed to me by Dr  
5 Bonnick.

6 Q: I see.  
7 Dr. Chen-Young, did you or any entity  
8 within the Eagle group borrow funds from  
9 FINSAC Limited?

10 A: I can't recall, I don't recall that.

11 Q: Didn't borrow anything from Refin Trust  
12 Limited either?

13 A: I cannot recall that.

14 Q: Nor from Financial Institution Services  
15 Limited?

16 A: I can't recall that, not when I was in  
17 charge.

18 Q: Did you borrow any funds from any entity  
19 which were then sold to FINSAC Limited?

20 A: You, mean Paul Chen-Young?

21 Q: I am sorry.

22 A: Did who borrow funds?

23 Q: I am sorry, let me rephrase. Did you or  
24 any of the then Eagle entities borrow  
25 funds from any entity with the debt

1 later being sold to FINSAC Limited?

2 A: I certainly did not borrow anything and  
3 as far as the entities are concerned,  
4 after the meeting when Dr Bonnick  
5 announced the government taking over of  
6 Eagle, I know nothing after that, I have  
7 no knowledge of that.

8 Q: So there was no debt that was  
9 outstanding from you or from the Eagle  
10 Group to FINSAC or any of its related  
11 entities, is that correct?

12 A: Not to my knowledge. The entities  
13 continued after I stepped down and what  
14 happened with these entities I have no  
15 idea.

16 Q: Thank you, sir. I just ask, you see,  
17 because that aspect of the matter is  
18 rather important to the Terms of  
19 Reference insofar as they relate to  
20 FINSAC.

21 A: May I respond to that, sir?

22 MR. GARCIA: No, no it wasn't a question.

23 COMM BOGLE: I don't think it is a question.

24 MR. GARCIA: I suggest to you, sir, that FINSAC

25 Limited commenced its operations in

1 January 1996, would you agree or do you  
2 not know?

3 A: Whatever the date is, the legal date can  
4 be tested, I don't know. I think so.

5 Q: Now, in Chapter 3 of your submission,  
6 page 18 of the copy that I have, and in  
7 the second page of that chapter, you  
8 make reference to - I am sorry sir,  
9 before I go there, I believe that I just  
10 put the incorrect date to you. I am  
11 putting it to you that it is in January  
12 of 1997 that FINSAC commenced its  
13 operation.

14 A: That is so.

15 MR. GARCIA: Now, in Chapter 3 of your submission,  
16 page 18 of the copy that I have and  
17 that's the second page of that chapter  
18 you make reference to - I am sorry, sir,  
19 before I go there, sir, I believe that I  
20 just put the incorrect date to you. I  
21 am putting it to you that it was in  
22 January of 1997 that FINSAC commenced  
23 its operations.

24 MR. CHEN-YOUNG: If that is so...

25

1 Q: Now, to Chapter 3, page 18 you refer to  
2 the mandate of the terms of reference of  
3 FINSAC. Now, you would agree with me  
4 that the paragraph that you have  
5 included from the terms of reference is  
6 but one of seven terms of reference for  
7 FINSAC Limited, yes?

8 A: I think that is correct, yes.

9 Q: Do you recall this term of reference,  
10 **Based on the experience gained in its**  
11 **work, FINSAC will advise the Government**  
12 **on the prudential regulation of the**  
13 **sector and on the renewal, suspension**  
14 **and revocation of operating charters of**  
15 **individual institutions within the**  
16 **sector.**

17 Do you recall seeing that term of  
18 reference?

19 A: I don't recall.

20 Q: Do you also recall or - well, you didn't  
21 recall the first one. Do you recall the  
22 term of reference speaking to FINSAC  
23 **sponsoring and/or undertaking diagnostic**  
24 **studies of the overall health of the**  
25 **financial sector with specific focus on**

1                   **the institutions which require**  
2                   **assistance?**

3           A:           I think so.

4           Q:           And so such a term of reference, you  
5                        would agree with me, sir, might  
6                        incorporate the work of forensic  
7                        auditors engaged by FINSAC?

8           A:           Yes.

9           Q:           Would you also agree with me that the  
10                       terms of reference that include the  
11                       possible recommendations as to the  
12                       possible renewal, suspension and  
13                       revocation of operating charters of  
14                       institutions would suggest that not all  
15                       institutions were to be rehabilitated in  
16                       the programme?

17          A:           Yes.

18          Q:           Now, would you agree with me, sir, that  
19                       today the financial sector in Jamaica  
20                       does not continue to experience the  
21                       problems of solvency and liquidity that  
22                       it faced in the 1990s?

23          A:           Yes.

24          Q:           And you will recall from the mandate  
25                       which you quoted that **"FINSAC Limited**

1                   **was incorporated with the specific**  
2                   **mandate from Government to resolve the**  
3                   **problems of solvency and liquidity being**  
4                   **experienced by the financial sector."**

5           A:           Yes.

6           Q:           And so that problem has been resolved,  
7                           yes?

8           A:           In another way, yes.

9           Q:           Now, you had occasions, sir, to see the  
10                       report of the forensic auditors in  
11                       relation to the operations of the Eagle  
12                       Group, did you not?

13          A:           Yes, I would disagree with some of their  
14                       findings, most of their substantial  
15                       findings. That was the basis of the  
16                       court case and arguments.

17          Q:           But those forensic auditors did find  
18                       that there was serious mismanagement and  
19                       massive insolvency across the Group, is  
20                       that not correct?

21          A:           We disagree with the forensic auditors  
22                       and as I cited earlier this morning  
23                       there were...

24          Q:           I asked if you disagree?

25          A:           I disagree, yes.

- 1 Q: You disagree?
- 2 A: Yes, I disagree.
- 3 Q: Is it correct, sir, that the auditors',  
4 note to the audited financial statements  
5 for 1996 in respect of Crown. Eagle Life  
6 Insurance Company stated that  
7 **continuation as a growing concern is**  
8 **dependent ultimately on the results of**  
9 **the negotiations with the Government of**  
10 **Jamaica?**
- 11 A: That is correct, sir. And that is why  
12 we sought to raise funds there at the  
13 Eagle Premium Growth Fund because we  
14 realized there was a problem.
- 15 Q: And it is upon the failure of those  
16 efforts that you approached the  
17 Government for assistance, is that  
18 right?
- 19 A: The failure of the Eagle Premium Growth  
20 Fund?
- 21 Q: Is it correct that you raised funds?
- 22 A: Please repeat. I think I am going too  
23 fast, please repeat it. I am sorry.
- 24 Q: That is all right. Is it correct that  
25 on the failure of your efforts to raise

1 additional funding it is you who sought  
2 the assistance of the Government of  
3 Jamaica?

4 A: My recollection is that even before we  
5 attempted to raise funds, that Eagle  
6 Premium Growth Fund, we sought  
7 assistance from the Government of  
8 Jamaica, even before that.

9 Q: Thank you. Now, I wanted to ask you  
10 some questions sir, about some of the  
11 transactions into which FINSAC entered,  
12 in particular in relation to the sale of  
13 the non-performing debt portfolio as  
14 well as the sale of some of the  
15 institutions. And you speak to some of  
16 this in your submission, and I wanted to  
17 ask you if you are aware of any better  
18 offer for the sale of any of the  
19 institutions at the time that they were  
20 sold?

21 A: I am not aware of it, I am not privy to  
22 that information.

23 Q: Now, sir, you gave some evidence earlier  
24 and also in your submission in respect  
25 of the comparative experience in the

1 interventions in the United States and I  
2 think in your submission you also spoke  
3 to the Swedish **model** of intervention.  
4 Would you agree with me that the  
5 appropriate method of intervention would  
6 have to be determined based on the  
7 extent of the insolvency issues facing  
8 the sector?

9 A: Can you repeat that question please.

10 Q: Would you agree with me that the type of  
11 intervention **would** have to depend on the  
12 extent of the insolvency issues facing  
13 the sector?

14 A: Not just that at all, it all depends on  
15 the future of the sector and how  
16 Government envisage it to be developed.

17 Q: And so you would...

18 A: If there is an intervention there has to  
19 be a new approach where the sector  
20 should go and what type of structure  
21 that is good for the country.

22 Q: And so you do agree that because a model  
23 works somewhere else it does not  
24 necessarily mean that it will work here?

25 A: I don't agree with you, because finance

1 is finance. To restructure companies  
2 are common and there is no reason why  
3 some of those techniques could not be  
4 applied with proper modifications.

5 Q: Now, sir, are you aware that as a part  
6 of the intervention efforts, FINSAC did  
7 indeed take preference shares in a  
8 number of the intervened institutions  
9 initially?

10 A: I am not aware. And I am not aware of  
11 any benefits gained from these shares.

12 Q: Well, sir, I am going to put it to you  
13 that they did take such preference  
14 shares in Life of Jamaica, Dyoll, Island  
15 Life and Citizens Bank, you are not  
16 aware, is that your answer?

17 A: That they benefit ted from these shares  
18 or when the companies were being sold  
19 out?

20 Q: I am not a witness sir, I am counsel.

21 A: What's that?

22 Q: I am not a witness, I am counsel. I ask  
23 the questions, I don't answer them.

24 A: Well, I read about preference shares,  
25 but the question is when the entities



1 but I am not sure whether it is one  
2 hundred percent bad. But you cannot  
3 generalize with all Eagle Group.

4 Q: I suggest to you that that conclusion  
5 that the Eagle Group was beyond  
6 rehabilitation was reached by  
7 independent experts Ernst & Young UK and  
8 McKenzie & Company?

9 A: Well, it depends on what you are looking  
10 for. If you remove Crown Eagle which  
11 required the funding, then I don't think  
12 that conclusion could be justified. So  
13 it depends on the terms of reference or  
14 the tasks which were given to these  
15 entities. It depends on what you are  
16 looking for.

17 Q: Now sir, I am going to go to pages 21 to  
18 22 of your submission. I am looking at a  
19 paragraph, and it is somewhere in the  
20 middle of that chapter, I am looking at  
21 a paragraph which begins "In Jamaica's  
22 case". For the benefit of those in this  
23 room it is at the bottom of page 21.

24 A: Yes, I see that.

25 Q: And the second sentence there, **"The sale**

1 of National Commercial Bank and the  
2 Union Bank {a combination of Eagle  
3 Commercial Bank, Jamaica Citizens Bank  
4 and Workers Bank} was with a down  
5 payment and loans for the balance of the  
6 purchase price at the nominal rate of  
7 six percent, substantially less than the  
8 rate at which Government borrowed  
9 money". And I am putting it to you, sir,  
10 that that sentence is incorrect.

11 A: What was the rate that was charged? I  
12 think that was the figure I read in the  
13 newspaper.

14 Q: In respect of the sale of Union Bank, is  
15 it not correct sir, that the payment was  
16 made almost entirely upfront?

17 A: That was the Promissory Note, I was  
18 talking about the Promissory Note.

19 Q: The payment was made almost entirely  
20 upfront, cash?

21 A: And how much was the Promissory Note,  
22 that's what I am answering you.

23 Q: That was not my question, sir. Do you  
24 agree that it was paid for almost  
25 entirely upfront?



1 given is untrue.

2 A: Well, can you find the rate for the  
3 benefit of the Commission?

4 Q: Well, sir, it is you who have given this  
5 evidence. If I can turn to page 23.  
6 COMM. BOGLE: Page twenty...

7 MR. GARCIA: Page 23, sir. Near the top of that page  
8 you say, "Loans amounting to US\$393

9 million were sold for US\$23 million with  
10 some participation from collections."

11 And there you are speaking of the sale  
12 to Beal Bank of Texas?

13 A: Yes.

14 Q: I put it to you sir, that the sale price  
15 that you have quoted there is incorrect.

16 A: I read that in the newspaper article.

17 Q: I see. Don't believe everything you  
18 read. I am reading something now and I  
19 am not believing it. This US\$23 million  
20 represented the first payment for the  
21 purchase of those debts.

22 A: Well, the balance is paid from  
23 collections where a percentage is given  
24 to the Government. That's was the  
25 arrangement they had made.

1 Q: So you are aware of the rest of the  
2 facts sir.

3 A: Oh yes.

4 Q: You chose to put a portion?  
5 A: I said with some participation from  
6 collections.

7 Q: I see. So that is what you were  
8 referring to there?

9 A: Of course. I stand corrected, sir.

10 Q: And let me ask the same question that I  
11 asked earlier in relation to the sale of  
12 the institutions. Are you aware of  
13 there having been any better offers  
14 available to the authorities at the  
15 time?

16 A: I am not privy to that.

17 Q: Now, sir, can we go to page 24 of your  
18 submission. I am looking at a paragraph  
19 that begins **"FINSAC not only failed to**  
20 **rehabilitate troubled financial**  
21 **institutions.**

22 A: Yes, I see that.

23 Q: Now, there you made the allegation that  
24 investors in Island Life lost nothing. I  
25 put it to you, sir, that is not correct

1                   either.

2           A:           I said I believe, sir. I wasn't sure of  
3                   the facts; you can correct it.

4           Q:           Maybe it would be helpful if you stuck  
5                   to the facts and left out the beliefs  
6                   that you are unable to speak to  
7                   yourself.

8           A:           Yes.

9           Q:           And in the case of the sale of National  
10                   Commercial Bank Jamaica Limited, you  
11                   agree that it was a case in which the  
12                   Government of Jamaica was selling its  
13                   shareholding in National Commercial Bank  
14                   Jamaica Limited which was a majority  
15                   shareholding at the time?

16          A:           That is so. But you missed the point.  
17                   The point is that the shareholders of  
18                   National Commercial Bank, they gained  
19                   considerably from the financial support  
20                   given to that bank and gave up nothing.

21          Q:           You agree with...

22          A:           The owners of other entities who lost  
23                   everything, that's the point.

24          Q:           Yes, Dr. Chen-Young, you do agree with  
25                   me though that the remaining

1                   shareholders of National Commercial Bank  
2                   Jamaica Limited would have been  
3                   significantly in the minority, yes?

4           A:           That is so, but I still believe it is a  
5                   lot of money.

6           Q:           Sir, I am sure that there will be an  
7                   opportunity for Mr. Small to re-examine  
8                   you.

9   MR. SMALL:        No, no, he is answering a question. He  
10                   cannot be interrupted in the midst of  
11                   his answer with the hope that when  
12                   re-examination comes I will re-examine.  
13                   It is completely unnecessary. The  
14                   witness is answering the question, he  
15                   should be given the opportunity to  
16                   answer.

17   MR. GARCIA:     I don't know, sir, if my question was  
18                   recalled, but my question was as to  
19                   whether or not the remaining  
20                   shareholders of National Commercial Bank  
21                   Jamaica Limited were substantially in  
22                   the minority. It seems to me sir, that  
23                   the answer to that question would be yes  
24                   or no. The witness is seeking to give a  
25                   speech and not just to answer the

1 question.

2 MR. SMALL: Mr. Garcia, questions cannot be answered  
3 yes or no, particularly in the nature of  
4 this Commission of Enquiry. The witness  
5 should be given an opportunity of  
6 answering the question, and interrupting  
7 him is not achieving any purpose other  
8 than wasting time.

9 COMM. BOGLE: Continue please.

10 MR. GARCZA: Thank you sir. You would agree with me  
11 that those minority shareholders, sir,  
12 would have not been in control of  
13 National Commercial Bank Jamaica  
14 Limited?

15 A: Obviously.

16 Q: Obviously. You would agree with me that  
17 that position would therefore be  
18 different from the position that  
19 obtained in the Eagle Group?

20 A: No, sir, totally different. Eagle  
21 shareholders lost everything, every  
22 cent. What they needed was support.

23 Q: That's not the question, you are  
24 answering a completely different  
25 question.

1           A:           No, no, it is the same question.

2           Q:           It is a different question. My

3                        question....

4           A:           You are comparing shareholders with the

5                        shareholders of National Commercial

6                        Bank, that's what you are doing.

7           Q:           What I am asking you is...

8           A:           The issue here...

9    COMM, BOGLE:       Just a minute. Can you ask that question

10                      again, Mr. Garcia.

11   MR. GARCIA:        Would you agree with me that - I will

12                      ask it another way, sir, if I may. The

13                      shares in National Commercial Bank

14                      Jamaica Limited were listed at the time

15                      on the Jamaica Stock Exchange, is that

16                      correct?

17           A:           Yes.

18           Q:           The shares in Eagle Commercial Bank

19                        Jamaica's Limited were not so listed, is

20                        that correct?

21           A:           Yes.

22           Q:           The shares in Eagle Commercial Bank

23                        Jamaica Limited were not so listed

24                        because they were closely held by a few

25                        persons, is that correct?



1 of Eagle Commercial Bank had been  
2 somewhat widespread. I don't remember  
3 the exact amount now. But it doesn't  
4 matter whether the shares are listed or  
5 not listed, that is not the issue. The  
6 fact is that in case of Eagle the  
7 shareholders lost everything.

8 Q: How many shareholders did Eagle  
9 Commercial Bank Jamaica Limited have  
10 prior to the intervention?

11 A: What is the question?

12 Q: Before you sold the company for a \$1,  
13 the Group for a \$1, how many  
14 shareholders did Eagle Commercial Bank  
15 Jamaica Limited have?

16 A: I don't remember. It would have been  
17 Crown Eagle Life Insurance Company, but  
18 the owners of Crown Eagle Life insurance  
19 Company were then a part of Eagle  
20 Premium Growth Fund, so it would have  
21 quite a fair amount of shareholders.

22 Q: Sir, I am asking you about legal  
23 registered shareholders?

24 A: I don't remember the exact number.

25 Q: You don't remember the number?



1 shareholding in Eagle, which we had  
2 discussed and then you have the other  
3 shareholders and you have a viable  
4 entity. That option wasn't executed  
5 even though we had substantial...

6 Q: Now sir, you would agree with me that if  
7 indeed the entities within the Eagle  
8 Group were massively insolvent at the  
9 time of the intervention that that would  
10 be...

11 A: I couldn't agree with you sir, that's  
12 the wrong term.

13 Q: Sorry I haven't finished the question,  
14 sir. If it is the case if it is found  
15 that the Eagle Financial entities were  
16 massively insolvent at the time of the  
17 intervention, would you agree with me  
18 that, that would reflect negatively on  
19 you as leader of the group?

20 A: If Eagle Financial entities were  
21 insolvent?

22 Q: That sounds like yes.

23 A: I don't need to answer that question, Mr  
24 Chairman.

25 Q: Of course sir, I have not asked you

1 about the various issues in relation to  
2 how the entities may have become  
3 insolvent and the management practices  
4 at the time, because of course there is  
5 the Judgment of Mr. Justice Anderson and  
6 I have provided copies to the  
7 Commission. I suspect they may have had  
8 copies before. And I am aware that, that  
9 Judgment is under appeal; that you filed  
10 an appeal in 2006, I think it is. Is  
11 that right?

12 A: You would have to ask the attorney, I  
13 don't know.

14 Q: Yes. And so that being the case sir, I  
15 don't have any further questions for  
16 you.

17 MR SMALL: Is it correct Mr Chairman, that you have  
18 been provided with a copy of Mr. Justice  
19 Anderson's Judgment?

20 COMM BOGLE: Yes.

21 MR SMALL: Did my friend at the same time provide  
22 you with Grounds of Appeal against the  
23 Judgment?

24 MR GARCIA: No, I did not.

25 MR SMALL: That's a great pity. And we will ensure

1 that you get copies of Grounds of  
2 Appeal.  
3 COMM BOGLE: Thank you.

4 MR SMALL: Because if the members are going to be  
5 paying attention to Mr. Justice  
6 Anderson's judgment and presumably that  
7 it is why Mr Garcia puts it before you,  
8 then you ought to have the Grounds of  
9 Appeal that were filed challenging it.  
10 COMM BOGLE: We look forward to receiving it.

11 MR. LEVY: You also ought to have copies of  
12 Mr. Justice Anderson's reservation.  
13 *(Commissioners confer)*

14 COMM BOGLE: Yes, thank you. Any other attorney  
15 wishes to cross-examine?  
16 MR. LEVY: Yes, sir.  
17 COMM BOGLE: And you are representing?  
18 MR. LEVY: People of Jamaica. The people of Jamaica  
19 have the right to ask questions, this  
20 Enquiry is for their benefit.  
21 COMM BOGLE: Mr. Levy...

22 MR. LEVY: And I also representing Debtor  
23 who suffered under FINSAC.  
24 COMM BOGLE: The thing is that Dr. Chen-Young has  
25 given that submission and the submission

1 deals and addresses the economy and the  
2 Bank of Jamaica; the role of the Bank of  
3 Jamaica and the Ministry of Finance and  
4 therefore, I think we are stretching it  
5 a bit, Mr. Levy. We have limited time  
6 and I understand your concerns but I  
7 think we would be stretching it a bit.

8 MR. LEVY: Mr. Chairman, with due respect, the  
9 submission includes the mismanagement of  
10 this country and the mismanagement of  
11 the government of this country by the  
12 then Minister of Finance and by FINSAC  
13 in closing down the operations. No one  
14 could expect an honest businessman to be  
15 able to borrow money at 20% and had to  
16 pay back at 90% and that's what we are  
17 dealing with. Mr. Chen-Young has given  
18 evidence to that effect.

19 MR HYLTON: Mr. Chairman, I formally object to Mr.  
20 Levy purporting to represent the people  
21 of Jamaica, he has no such brief. I will  
22 formally object to his purporting to  
23 appear to ask questions on that basis.

24 COMM BOGLE: And I am going to uphold the objection.  
25 And further, the matter that you have

1 brought up in terms of interest rates at  
2 cetera, that is not the doing of  
3 Mr. Chen-Young, Mr. Chen-Young had  
4 nothing to do with that and therefore,  
5 questioning Mr. Chen-Young as to why it  
6 was so, I don't think that, that is  
7 properly done here and therefore, I  
8 think I would have to deny you,  
9 Mr. Levy.

10 MR LEVY: Mr Chairman, with due respect, Mr.  
11 Chen-Young has specifically said in his  
12 submission that:

13 **"A high rate makes it possible for any**  
14 **financial entity to be successful in a**  
15 **country."**

16 And that's one of the primary reasons  
17 for the break down of the economy and  
18 for FINSAC.

19 COMM BOGLE: Mr Levy, I think you will understand by  
20 the ruling I have made on this. Yes, Mrs  
21 Phillips?

22 CROSS-EXAMINATION OF DR. CHEN-YOUNG BY  
23 MRS. MINOTT-PHILLIPS

24 MRS PHILLIPS: Good afternoon Dr. Chen-Young, my name  
25 is Sandra Minott-Phillips, and I

1 represent Jamaica Redevelopment Foundation  
2 Inc, which is one of the Beal Bank Group of  
3 Companies that you have referenced in your  
4 written submission. Are you aware that in  
5 addition to Beal Bank there were two local  
6 entities and one overseas entity interested  
7 in acquiring the bad debt portfolio from  
8 FINSAC?

10 A: No.

11 Q: So I can take it then that you would be  
12 unaware that the two local entities  
13 thought that the price being asked for  
14 the bad debt portfolio was too high?

15 A: I am not questioning the price, what  
16 I...

17 Q: I didn't ask if you were questioning the  
18 price, I just asked if you would then be  
19 unaware that the local entities thought  
20 the price being asked was too high?

21 A: I don't know.

22 Q: Okay. Can we agree that one of FINSAC's  
23 assets was the bad debt portfolio  
24 transferred to FINSAC from the legacy  
25 banks and financial institutions?

- 1           A:           Yes.
- 2           Q:           Now, Dr. Chen-Young, you wrote a book in  
3                        1998, that you have referenced in your  
4                        submission called: **With All Good**  
5                        **Intentions: November 1, 1998, written by**  
6                        you. You recall that?
- 7           A:           Yes.
- 8           Q:           I am going to read something and ask you  
9                        to confirm that these are your words.
- 10          A:           Sure.
- 11          Q:           **"As interest piles up the cost of FINSAC**  
12                        **will escalate exponentially. It could**  
13                        **double in about four years to the size**  
14                        **of the 1998/1999 National Budget. To**  
15                        **minimise this growing problem, FINSAC**  
16                        **has to set a short time-table to sell**  
17                        **its assets at whatever price the market**  
18                        **will pay and this must be done at much**  
19                        **faster pace than as so far being the**  
20                        **case."**
- 21                        You recognize those knows words as  
22                        yours?
- 23          A:           Yes, it depends on the price and the  
24                        terms of sale.
- 25          Q:           Do you recognize those words as yours?

1 A: No, because it all depends on what  
2 the...  
3 Q: Do you recognize the words that I read as  
4 being your own?  
5 A: Yes, that is what I said.  
6 Q: All right, just take it one step at a  
7 time. Now, look at chapter 3 of your  
8 submission.  
9 A: Can you tell me which page?  
10 Q: Well, it is 23 of my mine, page 23 of mine.  
11 23? Just a minute. Can you begin with the  
12 A: paragraph so I can follow you?  
13 No, I haven't reached the paragraph yet but  
14 Q: you have a bold heading: **In addition to the**  
15 **sale of financial institutions...** Yes.  
16 You see that section there?  
17 A: Yes.  
18 Q: Do you agree that this course that you  
19 A: recommended here that FINSAC should sell  
20 Q: its assets et cetera, at whatever the price  
21 the market will pay and do so as quickly as  
22 possible that, that is in fact what was done  
23 when the bad debt  
24  
25

1 portfolio was sold to the Beal Bank  
2 Group?

3 A: Could you repeat that question? I  
4 understand what you are saying but I  
5 just want to be very clear. I just want  
6 to be very clear. Go ahead, I understand  
7 what you are saying.

8 Q: Do you agree with me that when the bad  
9 debt portfolio was sold to a member of  
10 the Beal Group of Companies, that, that  
11 was exactly what you had advocated  
12 should be done, that FINSAC should in as  
13 short a time-table as possible et 14  
15 cetera; sell its assets at whatever  
16 price the market will pay?

17 A: It depends on the terms of sale.

18 Q: No, I didn't ask you that. That action,  
19 doesn't it reflect what you in 1998, in  
20 your publication **In All Good Intention**  
21 thought was the right thing to do?

22 A: It depends on the terms of sale.

23 Q: I didn't ask about the terms of sale. 1  
24 will soon get to that. Didn't you say  
25 the assets should be sold quickly at  
whatever price the market will pay? Your

1 words, **"whatever price the market will**  
2 **pay"**, isn't that what you said?

3 A: Well, as I said, things do change and it  
4 depends on the conditions and terms of  
5 sale.

6 Q: Whatever change it is, whether you are  
7 speaking in 1998 or whether you are  
8 speaking in 2011?

9 A: (No answer)

10 Q: So let us even start with your heading  
11 in the section that I drew your  
12 attention to.

13 **"In addition to sale of financial**  
14 **institutions, the disposal of bank loans**  
15 **to Beal Bank of Texas has proven to be**  
16 **extremely costly to taxpayers and to the**  
17 **country."**

18 Dr. Chen-Young, the reason you gave for  
19 what you said in 1998 was that the  
20 reason it needs to be sold quickly for  
21 whatever price the market would pay  
22 according to you, was to minimise the  
23 cost of FINSAC to Jamaican taxpayers,  
24 correct?

25 A: Again, I go back to the terms of sale.

1 Q: That is what you said.

2 **"As interest piles up the costs of**

3 **FINSAC will escalate exponentially. It**

4 **could double in about four years to the**

5 **size of 1998/1999 National Budget. To**

6 **minimise this growing problem FINSAC has**

7 **a short timetable to sell its assets at**

8 **whatever price the market will pay and**

9 **this must be done at a much faster pace,**

10 **pace.**

11 Your words.

12 A: It depends on the terms of sale and the

13 conditions.

14 Q: No, no. You say that: **"...whatever price**

15 **the market will pay"**. That is what you

16 said, okay. So Dr. Chen-Young, this

17 heading is materially different from the

18 view that you expressed in 1998 when you

19 thought that a quick sale at whatever

20 price the market would bear would be a

21 good thing, correct?

22 A: But you don't have to transfer all the

23 assets.

24 Q: I didn't ask you that.

25 A: As I said earlier...

1 Q: I didn't ask you how many, I asked you  
2 if the bad debt portfolio from legacy  
3 bank was an asset of FINSAC and you  
4 agreed with me. We were going along  
5 quite merrily.

6 A: I didn't know about legacy bank, I never  
7 heard about legacy bank.

8 Q: Okay, 'legacy bank' is a term I used to  
9 describe those institutions where the  
10 bad debts originated. So whether it was  
11 Eagle or you know, Century or wherever,  
12 legacy bank means, the term means a bank  
13 or a financial institution where it  
14 originated. Can we agree that we can use  
15 that term in that way? And you did  
16 answer the question when I asked you so  
17 I didn't know that you didn't understand  
18 the term.

19 A: Again, I said it all depends on the  
20 terms of sale, that is all.

21 Q: Dr. Chen-Young, you were not a party to  
22 of the agreement transferring FINSAC's  
23 bad debt portfolio to the company within  
24 the Beal Bank Group, correct?

25 A: No.

- 1 Q: So none of the figures in paragraph 1 on  
2 page 23 is a figure from your direct  
3 knowledge?
- 4 A: How does that paragraph begin?
- 5 Q: **"Loans amounting to US\$393 million were**  
6 **sold for US\$23 million...**
- 7 A: No, I was not a party to that. No.  
8 I have passed that question. I am  
9 saying, none of these figures here are  
10 figures from your direct knowledge.  
11 These are figures that you would have  
12 heard from someone else at best?
- 13 A: That is correct. Yes.
- 14 Q: You have not -- do you see a sentence  
15 starting: **"Prime Minister Golding**  
16 **announced in Parliament"?**
- 17 A: You are echoing.
- 18 Q: Do you see a sentence that starts:  
19 **"Prime Minister Golding announced in**  
20 **Parliament?"**
- 21 A: Yes.
- 22 Q: You have not said when it was that the  
23 Prime Minister allegedly said what you  
24 have attributed to him?
- 25 A: I would have to research it. But this

1 again was taken from public source.

2 Q: You have not said - my question is, in  
3 your submission isn't it correct that  
4 you have not said when it is that the  
5 Prime Minister allegedly said this?

6 A: It can be researched but...  
7 My question is, do you agree with me  
8 that you have not said when it is that  
9 he allegedly made this statement?

10 A: I go back, I had taken this from public  
11 source and I...

12 Q: Dr. Chen-Young, listen to my question.  
13 Do you agree with me that you, Dr. Paul  
14 Chen-Young have not said when it is the  
15 Prime Minister allegedly made this  
16 statement?

17 A: And I repeat myself that I had I read it  
18 in public sources and I have to check to  
19 see when this was said. I would not  
20 have...

21 Q: Do you agree with me that you have not  
22 said when it was said?

23 A: So should it be said?

24 Q: Do you agree that you have not said so?

25 A: I said, I do not recall the...

- 1 Q: Do you agree...
- 2 A: I said I do not recall the exact date  
3 but you would have to say whether it is  
4 so or not so.
- 5 Q: Okay Dr. Chen-Young, you will agree with  
6 me that the only annexure to your  
7 submission. is the prospectus for the  
8 Eagle Premium Growth Fund?
- 9 A: What is that question?
- 10 Q: Do you agree with me that the only  
11 appendix to your written submission is  
12 the prospectus for Eagle Premium Growth  
13 Fund?
- 14 A: Yes.
- 15 Q: And do you agree with me that there is  
16 no footnote or documentary reference to  
17 any statement allegedly of fact that you  
18 make in *your* submission?
- 19 A: Yes.
- 20 Q: And do you agree with me that certainly  
21 in relation to the Beal Bank Group of  
22 Texas, you have no direct knowledge of  
23 their business or their engagements?
- 24 A: That's correct because both...
- 25 Q: And you have made - do you agree with me

1                   that you have made statements in  
2                   relation to them?

3           A:           I did not hear the last part of the  
4                   question but I am saying I did not  
5                   footnote everything because...

6           Q:           You have footnoted nothing, Dr.  
7                   Chen-Young. You have footnoted nothing,  
8                   nothing except the Premium Growth Fund.  
9                   Now, a 'fire sale' would you  
10                  Dr. Chen-Young, would you...

11          A:           I haven't heard you.

12          Q:           Do you agree with me that a 'fire sale'  
13                   is a sale under compulsion for whatever  
14                   price you can get?

15          A:           That a 'fire sale' is what?

16          Q:           A sale under compulsion for whatever  
17                   price you can get.

18          A:           Well, it depends on your interpretation.

19          Q:           I am asking you if you accept that  
20                   that's what a 'fire sale' is?

21          A:           That is a legal technical definition, it  
22                   was not intended to be such.

23          Q:           What would you consider a 'fire sale' to  
24                   be, Dr. Chen-Young?

25          A:           It is a sale under pressure given, you

1 know, substantially so.

2 Q: Okay. And so, it would be the same  
3 thing as selling in a short time-table  
4 its assets at whatever price the market  
5 would pay, the course you advocated in  
6 1998? Yes, that is so. But in this case  
7 they were following that? Yes, I would  
8 agree with that.

9 A: Yes.

10 Q: So do you see a paragraph that starts:  
11 **"Instead of a 'fire sale' a more**  
12 **sensible approach would have been to**  
13 **enter into agreements?"**

14 A: Yes.

15 Q: But weren't you yourself advocating a  
16 'fire sale' Dr. Chen-Young 1998?

17 A: Again, it depends on the terms of sale.

18 Q: Were you advocating such a sale in 1998?

19 A: As I said, it depends on the terms of  
20 sale. You can put something up for sale,  
21 if you don't get it right, the term  
22 right; they could withdraw the sale, it  
23 doesn't mean you have to give it away.  
24 Dr. Chen-Young, my friend, Mr. Garcia  
25 had asked you and I think you answered

1                   that you agreed with him. I hope I am  
2                   correct.

3           A:           Please speak up louder so that I can  
4                   hear you.

5           Q:           I will try. That the US\$23 million  
6                   referenced in your submission was the  
7                   deposit on the sale of the bad debt  
8                   portfolio to the Beal Group?

9           A:           I haven't heard the question, I am  
10                   asking you to speak up clearer, I am  
11                   sorry. I do have a problem because  
12                   there is an echo.

13          Q:           Well, okay maybe my papers were on top  
14                   of the - let's see. Is this better now?

15          A:           I think that's a little better now.

16          Q:           Okay, it was my fault. My papers were on  
17                   top of the transmitting device. My  
18                   friend, Mr. Garcia asked you and I think  
19                   you had answered that US\$23 million  
20                   referenced in your submission was the  
21                   deposit paid by Beal Bank Company for  
22                   the bad debt portfolio from FINSAC.  
23                   Hadn't he asked you that and hadn't you  
24                   agreed?

25          A:           I am sorry, you have to repeat again. I

1 just cannot hear you. I am having a  
2 little problem hearing you.

3 Q: Okay, look at your...

4 A: Okay, now I am seeing you correctly.

5 Q: Look at your document under the heading  
6 that I took you to, do you see the line  
7 **"Loans amounting to US\$393 million were**  
8 **sold for US\$23 million with some**  
9 **participation from collections.**

10 A: Yes.

11 Q: Didn't you accept? My understanding was  
12 that you accepted that US\$23 million was  
13 the deposit paid or the up-front  
14 payment. Do you accept that?

15 A: Yes. Did I accept what? I remember  
16 being asked...

17 Q: Dr. Chen-Young, let me put it this way.  
18 When one is reading this paragraph one  
19 gets the impression that you are trying  
20 to convey to the reader that the bad  
21 debt portfolio was purchased by Beal  
22 Group for US\$23 million with some other  
23 minor conditions on the side. That's  
24 the impression one gets from reading  
25 this. Do you agree?

1 A: No, no.

2 Q: You don't agree with it?

3 A: It said, 'some participation'.

4 Q: Okay, about the participation, do you know?

5 What is the participation, do you know what

6 it is?

7 A: I read about it sometime ago...

8 Q: What is it?

9 A: ...and when I was writing this I did not know

10 the exact figure so I did not put in the exact

11 figure but that is easily determined.

12 Do you know what is the participation

13 Q: then? What is it?

14 It is a percentage of the amount

15 A: collected. The government would get a

16 percentage of the amount collected. Yes,

17 and is it a flat percentage, does it go up

18 Q: to a certain amount?

19 That is a simple thing.

20 A: And do you think those details are at all

21 Q: relevant?

22 Not for this purpose.

23 A: No? Aren't you speaking about the price paid

24 Q: for the bad debt portfolio?

25

1           A:           We are dealing with issues here, the  
2                           percentage is a very simple matter.

3           Q:           Didn't you just say that they weren't  
4                           obliged to give it away? Didn't you just  
5                           use the words 'giving away'? Are we  
6                           speaking about the cost of the bad debt  
7                           portfolio, Dr Chen-Young?

8           A:           My recollection is that...

9           Q:           Aren't we speaking about the bad debt  
10                          portfolio?

11   COMM BOGLE:       Mrs. Phillips, you are not allowing him  
12                           to answer.

13          A:           When I saw the percentages and when I  
14                           looked at the amount, the return on the  
15                           investment by Beal, they looked  
16                           outrageous, that's my recollection. I  
17                           don't have to go into that detail in a  
18                           submission.

19   MRS PHILLIPS:     You say it's outrageous and you can't  
20                           recall what the percentages are?

21          A:           Well, it's very simple, you can provide  
22                           the percentages. And what you should  
23                           answer is what percentages did Beal get  
24                           on the amount that was invested.

25          Q:           Mr Garcia is not the only person that

1 doesn't answer the question, I don't  
2 either. But it would surprise you...

3 A: It is embarrassing.

4 COMM BOGLE: Mr. Chen-Young?

5 MRS PHILLIPS: Dr. Chen-Young, would it surprise you to

6 learn that the percentage goes as high  
7 as fifty cents in every dollar?

8 A: You can give me the figure.

9 Q: Would it surprise you to learn that?

10 A: I am talking about the percentage.

11 Q: Would it surprise you to learn that the  
12 percentage goes as high as fifty cents  
13 in every dollar?

14 A: I am saying to you, depending on the  
15 amount that you invest, how much did you  
16 get on the amount that you invest. That  
17 is the test, not how much you get for  
18 every dollar. Any debt collector can get  
19 'x' cents out of every dollar, it's how  
20 much do you get for the privilege of  
21 getting that.

22 Q: I am suggesting you, Dr. Chen-Young...

23 A: And that's very simple.

24 Q: Dr. Chen-Young okay.

25 COMM BOGLE: Dr. Chen-Young?



1 I was writing so you can present the  
2 figures, it's very simple.

3 Q: Dr. Chen-Young, payments are going on as  
4 we speak because the debt is still being  
5 collected.

6 A: That is not the point, the point is the  
7 amount.

8 Q: It's because the price required...

9 COMM BOGLE: Mrs. Phillips, can we go back to the  
10 questions and answers rather than we  
11 having a conversation or argument?

12 MRS PHILLIPS: Commissioner, I am trying but this

13 witness does not want to answer a  
14 question that is asked of him. I asked  
15 him - and maybe I should do so - isn't  
16 it correct that you do not know the  
17 price that has been paid?

18 A: That is not the point, Mr. Chairman, the  
19 point is they paid \$23 million and there  
20 is a formula that where government gets  
21 a certain percent of the collection, I  
22 don't remember the numbers now. When I  
23 I was writing the submission I did not  
24 have the figure, it's simple.

25 Q: Let me ask this...



1 bad debt portfolio?

2 A: I don't need to...

3 COMM BOGLF: The answer is no, that is what he is  
4 saying.

5 MRS PHILLIPS: 6 That wasn't what he said you know,

7 COMM BOGLE: Commissioner.

8 MRS PHILLIPS: We have got to move on, you know.

9 COMM BOGLE: That wasn't what he said.

10 MRS PHILLIPS: We have a limited time.

11

12 A: Well, could you instruct the witness to  
13 answer the question that I have asked? No.

14 Q: Thank you. Finally. Now, would I also be  
15 correct to say that you have had no

16 dealings whatsoever with Beal Bank or any  
17 of the Beal Bank Group?

18 A:

19 Q: What is the question?

20 Would I also be correct in thinking that you  
21 have not had any dealings with Beal Bank or  
22 the Beal Bank Group?

23 A:

24 Q: That is correct. Yes, you are correct. So you  
25 are not in a position to speak of its  
26 expertise, are you, Dr. Chen-Young?

27 A:

28 Q: Expertise to collect debts?

29 A: Yes, expertise to collect debts.



1 not saying that they are correct, I am  
2 saying that in your view, the ninety two  
3 million US that you state here was a net  
4 gain for the debt collectors, that you  
5 were saying was, if I am to read you  
6 correctly, a big net gain?

7 A: Can you help me by telling how much Beal  
8 had made from the collection of debts so  
9 I can calculate it in relation to the  
10 amount invested, that would help me to  
11 answer the question.

12 Q: Can you help me by answering my question  
13 which I am using your figures to ask?

14 A: Answer my question, I told you I don't  
15 have the figures in front of me.

16 Q: Dr. Chen-Young because I am not the  
17 witness, you are.

18 COMM. BOGLE: Dr. Chen-Young, try and answer the  
19 question for me please so we can move  
20 along.

21 A: I don't have the numbers, Mr. Chairman  
22 and I have said so, so I am asking for  
23 the benefit of the Commission if she  
24 would disclose how much Beal Bank  
25 collected from the assets which were

1 purchased and then we could compare that  
2 with the amount which was invested, that  
3 is a legitimate question and that would  
4 help the Commission.

5 Q: Would you just answer the question that  
6 I am asking based on the figures that  
7 you have used, could we do that, could  
8 you just try and do that for me.

9 A: Which figures?

10 Q: Look back at your paragraph where you  
11 say a total of one hundred and twenty  
12 two million US has been recovered of  
13 which thirty million was paid to the  
14 Government giving a net gain of US  
15 ninety two million. Wasn't you putting  
16 that figure forward as a large net gain  
17 to the debt collectors?

18 A: I would say twenty three million, that  
19 is a very pretty good net gain.

20 Q: So that must be done by someone with  
21 some expertise, correct?

22 A: What is that? I would say that is a  
23 huge gain, yes, I would say that.

24 Q: So it hardly seems to be the achievement  
25 of an entity without any particular

1 expertise, wouldn't you agree? Now  
2 Dr. Chen-Young...

3 A: Yes.

4 Q: Let's look at the next line after that  
5 one about no particular expertise -- by  
6 the way where are you speaking from,  
7 which country, Dr. Chen-Young?

8 A: Which line and which paragraph.

9 Q: I am just asking you a question, which  
10 country are you in, Dr. Chen-Young?

11 A: When?

12 Q: Now; which country are you in now?

13 A: What does it matter to you?

14 Q: I think you were making statements about  
15 an entity in the United States of  
16 America, I just want to know which  
17 country you are in, it's a simply  
18 question, you are supposed to say  
19 when you are giving evidence you are  
20 supposed to give your address.

21 A: You are wasting time.

22 Q: When you are giving evidence you are  
23 obliged to give your address.

24 MR. SMALL: Not really obliged to.

25 A: I have given it to the Commission.

1 MR. SMALL: He is not obliged, you can ask him.

2 MRS. PHILLIPS: I have asked him and he is not  
3 answering.

4 COMM. BOGLE: I don't think that is germane at all.

5 MRS. PHILLIPS: Dr. Chen-Young, you have in your, what I  
6 know to be your characteristic way of  
7 banding about words and figures, thrown  
8 out another one here, numerous cases  
9 have been cited to show the  
10 disruptiveness of the ...

11 A: Give me the paragraph and the page.

12 Q: Right after the one about the Texans  
13 having no particular expertise to give  
14 to Jamaica. Right after that sentence.

15 A: And the paragraph begins with what?

16 Q: No, the sentence begins...

17 A: My thing is old.

18 Q: No, no, you told us that you had the  
19 same thing we had when he started out  
20 asking you your questions. Numerous  
21 cases...

22 A: What does the paragraph begin with, what  
23 sentence?

24 Q: Recently formed Association of FINSAC'D  
25 Entrepreneurs.

1           A:           Yes, okay sure.

2           Q:           Half way down that paragraph.

3           A:           Yes.

4           Q:           Numerous cases have been cited to show

5                       the disruptiveness of the debt

6                       collection effort?

7           A:           Yes.

8           Q:           Cited where? I am asking Dr. Chen-Young

9                       because it is not in his statement,

10                      numerous cases have been cited where?

11          A:           What is the question?

12          Q:           You say numerous cases...

13          A:           I can't hear the question, what is it.

14          Q:           Your statement is...

15          A:           I am not seeing your picture.

16          Q:           Well, I am seeing two of you, numerous

17                      cases have been cited to show....

18          A:           I need to see your beautiful picture.

19          Q:           Oh you are so kind.

20          A:           That is better.

21          Q:           You are so kind Dr. Chen-Young. Let's

22                      see if we can concentrate on the

23                      material here now. Numerous cases have

24                      been cited to show the disruptiveness of

25                      the debt collection effort.

1           A:           I see that. What is the question?

2           Q:           Cited where?

3           A:           Is that a rhetorical question?

4           Q:           No, it is not, cited where, before whom,

5                        where?

6           A:           Mr. Chairman, do I have to answer that

7                        question when so many people have

8                        testified before this Commission?

9   COMM. BOGLE:        Yes, please answer it Dr. Chen-Young.

10          A:           I am referring to those witnesses who

11                        have come before this Commission.

12   MRS. PHILLIPS:     Good, thank you for that, I appreciate

13                        the clarification. And when you say

14                        numerous cases, about how many

15                        approximately do you mean?

16          A:           I don't know but you can multiply, you

17                        can multiply.

18          Q:           Give me an idea, you used the phrase,

19                        when you used it, how many did you have

20                        in mind? Fifty or more, One hundred or

21                        more, what did you have in mind?

22          A:           Forget the figure, the question is, are

23                        there many thousands of cases, and it is

24                        for you to deny, it is not for me to say

25                        how many.

1 Q: I will soon tell you how many thousand  
2 of cases?

3 A: The numbers are not important.

4 Q: Dr. Chen-Young, I am trying to  
5 understand your statement here.

6 A: Well, give us the number, I am  
7 listening; from what I have read, I am  
8 hearing that there are numerous,  
9 numerous cases of suffering, show me the  
10 figures.

11 Q: That is not what you are saying here,  
12 you are saying numerous cases have been  
13 cited to this Commission, that is what  
14 you have just said is what you meant, I  
15 am asking what is the number that you  
16 have in your head when you wrote this in  
17 terms of numerous cases?

18 A: I don't need to have a number, because  
19 it's common knowledge, people testified  
20 et cetera.

21 Q: More than twenty, more than thirty?

22 A: I don't see the relevance to this  
23 question at all.

24 COMM. BOGLE: He said he doesn't know the number  
25 Mrs. Phillips.

1 MRS. PHILLIPS: Well, Mr. Chairman, I ask you to ask him  
2 what is it he had in mind when he used  
3 the phrase numerous cases have been  
4 cited, is it something he dashes down on  
5 a piece of paper?

6 COMM. BOGLE: He said he doesn't know the number.

7 MRS. PHILLIPS: Could you ask him what he had in mind?

8 A: I don't have any specific number, it is  
9 for you to deny that there are numerous  
10 persons who have suffered, you have the  
11 numbers, let the Commission know.

12 Q: I think you are confused, it is not for  
13 me to deny.

14 A: It would be helpful for you to tell the  
15 Commission what the number is.

16 Q: Perhaps if you were in Jamaica and  
17 attending you would know what has been  
18 told to the Commission?

19 A: That's just symbolic, that is all.

20 Q: Dr. Chen-Young, isn't it a fact that  
21 your submission is dated November 2009?

22 A: It was originally drafted 2009,  
23 originally.

24 Q: Could you just answer the question that  
25 I just asked, is it true that your

1 submission is dated November 2009?

2 A: It was originally then because the  
3 hearing should have been in early 2010.  
4 That is correct, yes.

5 Q: Would it surprise you to learn that no  
6 debtors had come and given evidence  
7 before the Commission in 2009?

8 A: I don't have to wait on the witness to  
9 come in.

10 Q: You are giving evidence of a statement  
11 of fact and you don't to have wait until  
12 the fact happens before you give the  
13 evidence of it? That is absolutely  
14 novel.

15 A: The Association of FINSAC'D  
16 Entrepreneurs have been making noise and  
17 have been bringing their suffering to  
18 the public long before the Commission  
19 started its hearing, so there is a  
20 basis, that is a mischievous comment,  
21 very mischievous.

22 Q: Okay, I am sorry for insisting that  
23 facts should actually happen before they  
24 are attested to, forgive me for that.

25 A: You are missing the fact that there is

1 an Association of FINSAC'D Entrepreneurs  
2 who have been complaining about the  
3 suffering and the problems which their  
4 members have and all of that, that was  
5 before the Commission hearing, so what.

6 Q: I am coming to that, be patient. Are  
7 you aware that the amount of accounts,  
8 the amount of borrowers whose debts were  
9 acquired by JRF, not the amount of  
10 accounts because some borrowers had more  
11 than one account, are you aware that the  
12 amount of borrowers of the debts  
13 acquired by JRF were in excess of  
14 17,400, are you aware?

15 A: That is alarming. It is revealing.

16 Q: Isn't that one of the figures you wanted  
17 me to give the Commission, they already  
18 have it but we appreciate your concern.

19 A: Yes.

20 Q: Now...

21 A: So I am right then, it is numerous.

22 Q: No, you are not, because of that 17,400,  
23 only eight have called the name of JRF  
24 before this Commission.

25 MR. LEVY: And some have committed suicide.



1                   though I mistakenly said that, you would  
2                   use only those -- we refer to those  
3                   before the hearing, there is enough  
4                   evidence before that and so I stand  
5                   corrected on that part of the issue, but  
6                   I am correct in saying that the numbers  
7                   are numerous, you cannot deny that, you  
8                   have just cited the figure.

9           Q:                   Thank you, you have been so helpful.

10   COMM. BOGLE:           Thank you.

11   MR. DEBTOR:           Mr. Chairman, I have received a  
12                   retainer. I now represent  
13                   Company Limited and DEBTOR  
14                   both of whom were sued by Jamaican  
15                   Redevelopment Foundation and i would  
16                   like to appear for them.

17   COMM. BOGLE:           Jamaican Redevelopment Foundation is not  
18                   on the stand.

19   MR. DEBTOR:           Is not on what?

20   COMM. BOGLE:           They are not giving evidence.

21   MR. DEBTOR:           No, Mr. Chairman but evidence has been  
22                   given and Mrs. Phillips just finished  
23                   misrepresenting them, are you going to  
24                   deny me who was sued by Jamaican  
25                   Redevelopment Foundation the right to

1 ask Mr. Chen-Young questions?

2 COMM. BOGLE: Mr. Levy, I still stand by my earlier  
3 ruling.

4 MR. DEBTOR: So you are going to deny me the right to  
5 represent me, somebody who has been sued  
6 by Jamaican Redevelopment Foundation, a  
7 person who has been FINSAC'D?

8 COMM. BOGLE: I stand by my earlier ruling. Mr. Small  
9 would you like to re-examine?

10 MR. SMALL: No, there are no questions that I want  
11 to ask Dr. Chen-Young.

12 COMM. BOGLE: At this time Dr. Chen-Young, thank you  
13 very much for attending and for  
14 assisting in our getting additional  
15 information at this enquiry, thank you  
16 very much.

17 DR. CHEN-YOUNG: Thank you all, sir.

18 COMM. BOGLE: Thank you all, this enquiry today is now  
19 adjourned until Tuesday morning at 9:30.  
20 Thank you very much.

21 ADJOURNMENT AT 6:50 P.M.

22

23

24

25