

VERBATIM NOTES
OF
COMMISSION OF ENQUIRY INTO CIRCUMSTANCES
THAT LED TO THE COLLAPSE OF THE FINANCIAL INSTITUTIONS
IN THE 1990s

HELD AT
THE JAMAICA PEGASUS HOTEL
81 KNUTSFORD BOULEVARD, KINGSTON 5

ON
WEDNESDAY, 9TH **DECEMBER, 2009**

PRESENT WERE:

COMMISSIONER

The Hon. Mr. Justice Boyd Carey (Ret'd)

MEMBERS

Mr. Charles Ross
Mr. Worrick Bogle

COUNSEL FOR THE COMMISSION

Hon. R.N.A. Henriques OJ, QC, LLM

SECRETARY TO THE COMMISSION

Mr. Fernando DePeralto

MARSHALLING THE EVIDENCE

Mrs. Kelley Wong-Henry - Attorney-at-law

REPRESENTING JAMAICA REDEVELOPMENT FOUNDATION

Mrs. Sandra Minott-Phillips - Attorney-at-law

REPRESENTING DEBTOR

Melissa Cunningham - Attorney-at-law

REPRESENTING DEBTOR

Mr. Anthony Levy - Attorney-at-law

REPRESENTING MR. ERROL CAMPBELL

Mr. Lackston Robinson - Attorney-at-law
Mrs. Mitchell Shand-Forbes - Attorney-at-law

REPRESENTING MR. PATRICK HYLTON

Mr. Gavin Golfe - Attorney-at-law

REPRESENTING ASSOCIATION OF FINSAC'D ENTREPRENEURS

Mr. David Wong Ken - Attorney-at-law

GIVING EVIDENCE :

Mr. Errol Campbell - General Manager -- FINSAC

1

2 DECEMBER 9, 2009:

3

4 CHAIRMAN: Good morning ladies and gentlemen. This

5 Commission of Enquiry is now in session.

6 Could you please swear him.

7

MR. CAMPBELL SWORN

8

CHAIRMAN: May I just ask counsel to **announce**

9

themselves please so that the reporter

10

can note it in the record.

11

I N T R O D U C T I O N.

12

(See front page)

13

CHAIRMAN: Everything is now in order.

14

EXAMINATION BY MR. A. LEVY

15

MR. LEVY: Mr. Campbell, good morning.

16

A

Morning to you Mr. Levy.

17

Q

I was not here at the beginning of

18

yesterday's session, so could you

19

confirm the date of your employment at

20

FINSAC, Refin?

21

A

July 1999, I don't remember the exact

22

date.

23

Q

And the capacity?

24

A

At present I am the General Manager.

25

Q

At that time you were?

1 A Manager for Administration in the Loans
2 Department.

3 Q And you are a chartered banker under...

4 A Member of the Chartered Institute of
5 Bankers, yes.

6 Q Thank you. I would like to continue
7 where we left off yesterday afternoon
8 Mr. Campbell. Question of when you took
9 over accounts from what you referred to
10 as failed institutions, what was the
11 procedure and when I say you, I am
12 speaking about FINSAC, Refin, Recon,
13 what was the procedure in taking over
14 the accounts?

15 A I was not primarily involved in that
16 action Mr. Levy, I can only tell you the
17 aspect that I dealt with. The aspect
18 that I dealt with was primarily the
19 situation where a spread sheet is
20 provided with a list of the loans and my
21 job was to allocate them to the
22 different loans officers within FINSAC.

23 Q And what was the source of this spread
24 sheet?

25 A Something prepared by the institutions

1 from which the loans were acquired.

2 Q In the case of -- and I am not talking
3 about NCB now -- the failed
4 institutions, did FINSAC also take over
5 their accounting systems and their
6 accounting data?

7 A I am not aware that was done, no.

8 Q You are not aware, you don't know or you
9 are not aware, I want to be very
10 specific with this.

11 A I don't know, I don't believe it was
12 done.

13 Q So in your job as an administrator it
14 had nothing to do with the actual taking
15 over of the accounting system so that
16 one could look back to the date of the
17 loan and determine whether in fact the
18 loan was outstanding, you just took over
19 a schedule, is that correct?

20 A Schedule and files and the files would
21 have statements in some cases.

22 Q In some cases?

23 A Yes.

24 Q How then if you were to file a suit
25 against a customer based on a schedule

1 would you prove the account to date?

2 A The security files and sometimes the
3 credit files would have some related
4 loan information, like a promissory
5 note, there would be some commitment
6 letter or a mortgage document that would
7 prove that a debt exist.

8 Q That just proves that a loan was made,
9 how would you prove that the loan was
10 actually paid out ..

11 A Or not paid out.

12 Q Or not paid out

13 A We would look at the file, we research
14 the file over time to see that there has
15 been correspondence between the former
16 institution that had it and FINSAC.

17 Q How would you establish the debits and
18 credits, the payments and receipts to
19 that account?

20 A In cases where we had a statement on the
21 file we were able to readily do that, in
22 other cases that information is not
23 always available.

24 Q In many instances information is not
25 available to prove the account, payments

1 and receipts?

2 A In some instances.

3 Q Mr. Campbell...

4 CHAIRMAN: One moment please, do I understand you
5 to be saying that it never was the case
6 that customers, let me call it
7 customers, and FINSAC came face to face,
8 FINSAC never got in touch or contacted
9 anybody, any of the victims, any of the
10 customers?

11 A FINSAC made contact with the customers,
12 yes, the debtors, yes, so discussions
13 are held, letters were initially sent
14 out to advise the debtors that FINSAC
15 has now acquired their loans and they
16 are to meet with FINSAC to make
17 arrangement to settle. So in most cases
18 based on the balances that were provided
19 we worked from there; in a few instances
20 where there were concerns, queries and
21 those are probably the ones that we
22 would need to do an indepth research to
23 get back to the point from which the
24 loan was granted, to account for all the
25 transactions up to the point where we

1 are now.

2 CHAIRMAN: I see.

3 Q Did FINSAC have anyone go through the
4 files, individual files, to verify the
5 debt amounts allegedly taken over from
6 the banks were correct, from your
7 information on the file or did you
8 simply rely on a spread sheet?

9 A I am not sure how that was done, as I
10 said I was not one of the officers who
11 dealt with the accounts, I am really not
12 sure.

13 Q But you are able to state that FINSAC
14 did not take over the electronic
15 accounting systems of the failed
16 institutions?

17 A The system from Century National Bank
18 was taken over, that is only one I am
19 aware of; as it relates to the others I
20 don't know.

21 Q You have that in your office now?

22 A Yes, but it is not something that can be
23 accessed, the system no longer works.

24 Q So in fact you couldn't prove an account
25 that there was an indebtedness from

1 Century National Bank loans?

2 A Like I said earlier, we got a balance
3 and we relied on that and in cases where
4 there were concerns from the customers,
5 the matter was discussed and there have
6 actually been instances where if we were
7 not able to prove an account and the
8 customer is willing to pay something we
9 could possibly compromise in that debt.

10 Q What if if customer at some stage had
11 paid off the loans, how would you have
12 evidence of that if it was not properly
13 in the schedule?

14 A I don't have all of those fine details
15 to give you.

16 Q Pardon me?

17 A I do not have any of those fine details.

18 Q Do you have any?

19 A I was not one of the officers who dealt
20 with the accounts, I am not sure if
21 that...

22 Q Does FINSAC have any, you are now the
23 General Manager?

24 A I do not know.

25 CHAIRMAN: Is there any way this information can be

1 had?

2 A I suppose that would mean researching
3 all the files but the files are no
4 longer with FINSAC.

5 Q Can they be retrieved from where they
6 are?

7 A I am really not sure, the files have
8 been transferred to Jamaica
9 Redevelopment Foundation who bought the
10 loans.

11 CHAIRMAN: The files were just holus-bolus passed
12 over to JRF when the transfer or the
13 sale took place?

14 A The files were transferred to Jamaica
15 Redevelopment Foundation when the loans
16 were sold, yes.

17 CHAIRMAN: And you retained nothing so to speak?

18 A We didn't retain a copy of the file.
19 CHAIRMAN: What you retained?

20 A The information on the balances, the
21 principal balances that were
22 transferred.

23 CHAIRMAN: I see.

24 Q Now Mr. Campbell, you said yesterday,
25 you admitted yesterday that you had been

1 called to the Board of Refin Trust
2 Limited on May 10, 2002, is that
3 correct?

4 A I didn't give a date, but yes, I was
5 called to the Board, I said in 2002, I
6 don't remember saying May 10.

7 Q I would like to show you a copy of the
8 returns filed by the company which shows
9 this.

10 A I am not disputing that I am a Board
11 member of Refin Trust.

12 Q The date as well.

13 A Okay.

14 (Document shown to witness)

15 Q So can you now confirm that as of May
16 10, 2002 you were made a Director of
17 Refin Trust Limited?

18 A Yes Mr. Levy as shown by this document
19 that was filed at the Companies Office
20 of Jamaica.

21 Q And at that time your occupation was
22 Operations Manager?

23 A That's right.

24 CHAIRMAN: Are you tendering it? I don't think
25 it's necessary, because he has accepted

1 the fact.

2 MR. LEVY: I will do so, I will hand it to the
3 attorney for the Commission and ask her
4 to date it and name it and whatever
5 else.

6 CHAIRMAN: Admitted in evidence as Exhibit EC 13.
7 Has a copy been shown to Mr. Robinson?

8 Q Mr. Campbell, to your knowledge, did
9 FINSAC sell loans to Refin, to JRF which
10 may have been repaid prior to the sale?

11 A I am not in a position to answer that
12 question Mr. Levy, I do not know.

13 Q I did not hear your answer, sir.

14 A I am not in a position to answer that
15 question. To my knowledge I am not
16 aware that any was done, I really don't
17 know.

18 Q I see. FINSAC has been -- between FINSAC
19 Refin and Recon, how many pieces of real
20 estates have been sold under the powers
21 of sale under the mortgage?

22 A I am not entirely sure what that number
23 is Mr. Levy, but I provided the
24 Commission a list of some properties
25 that were sold and the powers of sale.

1 Q I did not want some, I wanted all.

2 A This is information that has been
3 collated, so I mean, I won't say I am
4 one hundred percent certain of that
5 number but that is the best number that
6 I have at this time.

7 CHAIRMAN: Is that EC 8? The one you are looking
8 at, Mr. Campbell, is the one you are
9 referring to, EC 8?.

10 A Not EC 8, Mr. Chairman, EC 5.
11 CHAIRMAN: Have you got EC 5, Mr. Levy?

12 Q I have not it. Could I ask the question
13 then. You said some properties, it is
14 not complete?

15 A I am not in a position to say whether
16 it's complete, from the information that
17 has been collated from the sales, this
18 is the information that I have.

19 Q Could the Secretary assist me with a
20 copy of that for the moment, I will
21 return it. Mr. Campbell you have a
22 series of listings here, you say current
23 market value, is that current market
24 value to date or what?

25 CHAIRMAN: What you are looking at?

1 Q EC 5, and you have a heading for the
2 various loans?

3 A Yes, I do.

4 Q You have a heading 'Current Market
5 Value', and a dollar figure for the
6 market vlaue, is it market value as of
7 now or when was it current market value?

8 A At a point just prior to the sale of
9 property, it would have been the value
10 that was relied on when the property
11 went to auction.

12 Q When the property went to auction, was a
13 current market appraisal from a licensed
14 appraiser obtained prior to putting it
15 up for sale?

16 A Yes, sir.

17 Q Oh it was. And we are looking at this
18 list, can you say who it was obtained
19 from?

20 A Unfortunately that information is not
21 included in this spread sheet, it's part
22 of what I was asked to provide
23 yesterday.

24 Q And this list is comprehensive for
25 Refin, Recon and FINSAC or is this only

1 FINSAC?

2 A FINSAC didn't really own any loan, so
3 FINSAC wouldn't be part of it, it's
4 Refin, Recon and FIS.

5 Q Not FIS?

6 A And FIS.

7 Q So this is comprehensive for the group?

8 A Comprehensive for the group with the
9 caveat that I am not sure if all those
10 properties sold are on this, I am not in
11 a position to verify that.

12 Q Let me take you to a specific situation,
13 Thermo Plastics Jamaica Limited sold
14 under powers of sale under mortgage by
15 Refin Trust Limited, would you help to
16 identify which of the listings that is
17 on that exhibit?

18 A My understanding in relation to Thermo
19 Plastics was that a sale was done via a
20 receiver.

21 Q Okay, we will come back to this.

22 Mr. Campbell I would like to show you a
23 letter and I would like to have it put
24 in evidence as well.

25 (Letter shown to Mr. Campbell)

1 CHAIRMAN: Sorry, thank you.

2 Q Mr. Campbell, have you had a chance to
3 read that letter?

4 A If you give me a little more time I will
5 finish reading it.

6 CHAIRMAN: He would like time to read it.

7 Q Go ahead.

8 (Witness reads letter)

9 A Yes, sir.

10 Q Mr. Campbell this is a letter written by
11 Valerie Alexander, attorney employed to
12 FINSAC, to Richard Downer re sale of
13 property by Refin Trust Limited and I
14 bring to your attention the second
15 paragraph which I will read.

16 **"As your attorneys will advise**
17 **you, you are the agent of the**
18 **company for which you are the**
19 **Receiver/Manager, Ref in Trust**
20 **Limited, Refin, is the Vendor of**
21 **the property and the first in**
22 **line to face the issues of**
23 **accounting, accountability and**
24 **liabilities of any kind in**
25 **respect of this sale, regardless**

1 of the reasons bringing about
2 the circumstance of this sale.
3 As the vendor under a power of
4 sale Refin has inescapable
5 obligations to the proprietor
6 which are quite different from
7 that have of a Receiver, one of
8 which is to maximize the yield
9 from the property. As
10 mortgagee, Refin ought not only
11 to have control of the sale
12 proceeds but must also be
13 concerned with all deductions
14 from the sale proceeds. Again
15 it's legal obligations in this
16 context are not the same as
17 yours and the question of net
18 proceeds realizable, as opposed
19 to actualized, must be
20 contemplated."

21 You understand what she is
22 saying?

23 **A** For the most part, yes.

24 **Q** Pardon me?

25 **A** Yes.

1 done and this is a matter before the
2 court.

3 Q We are before the Commission now and we
4 want the truth, we don't want shifting,
5 we want the truth.

6 A Mr. Chairman, as this matter is one
7 before the court....

8 CHAIRMAN: It doesn't matter, this enquiry can hear
9 the evidence.

10 Q This document which was handed to you is
11 headed '**Transfer under the Registration**
12 **of Titles Act**', Refin Trust Limited
13 described in the document as the
14 transferor and TPL Limited with offices
15 at 11 Oxford Road, the same place as
16 NIBJ, as the transferee, emphasizes in
17 the first recital:

18 **"Whereas the transferor Refin**
19 **Trust Limited, is registered as**
20 **a proprietor of a mortgage**
21 **number 994521, registered on the**
22 **28th day of November 1997 from**
23 **Thermo-Plastics Jamaica Limited**
24 **in the land described in Item 4**
25 **of the Schedule hereto**

1 2 (hereinafter called "the said land")
3 4 free from all encumbrances other
5 6 than the restrictive covenants and
7 8 easements (if any) endorsed on the
9 Certificate of Title therefore and
10 has agreed to sell the land to
11 transferee for the price set forth in
12 Item 3 of the schedule".

13 And then it goes on.

14 "In consideration of the payment by
15 the transferee to the transferor of
16 the sale price, (receipt of which sum
17 the Transferor hereby acknowledges)
18 the transferor which is Refin Trust
19 Limited, hereby transfers all the
20 estate and interest which the
21 transferor is able to transfer in the
22 said land to the transferee in fee
23 simple".

24 Next page it shows Refin as
25 transferor, TPL Limited as a
transferee, sales price of

1 \$9,419,944.00, and the property
2 being sold parcels of land,
3 part at Twickenham Park in the
4 parish of Saint Catherine being
5 registered at Volume 1178 Folio
6 870 and this transfer here is
7 dated after the date you became
8 a Director of Refin Trust, the
9 17th day of July 2002. Are you
10 able to say, having read that,
11 that this Thermo Plastics
12 property was sold by Refin under
13 powers of sale contained in the
14 mortgage as stated in the
15 document to a company called TPL
16 Limited?

17 A Yes, sir.

18 Q Are you familiar with that sale?

19 A No, I am not.

20 Q Do you know whether Refin got a
21 valuation of the property prior to
22 exercising its power of sale?

23 A I really don't know, sir, I need to just
24 check.

25 Continued....

1

2 Q: But Mr. Campbell, it's not on your list
3 so we have to question you on the
4 integrity of this list.

5 A: I mentioned earlier that the information
6 that I was able to find from the files I
7 was able to compile that list from it,
8 it is possible that there are other
9 properties sold that are not included
10 there.

11 A: I would like to tender this in evidence
12 Mr. Commissioner.

13 CHAIRMAN: That's the Transfer?

14 MR. LEVY: The letter first and then the Transfer.

15 CHAIRMAN: The letter will be admitted as EC14 and
16 the Transfer as EC15, yes, these are
17 both admitted in evidence.

18 MR. LEVY: They look similar but they are different
19 documents. Mr. Campbell, have you had a
20 chance to look at this document? It
21 looks similar to the previous one, the
22 Transferor is Refin Trust Limited, it's
23 dated the 17th of July, 2002. The
24 Transferee is Omni Industries Limited.
25 The first recital says: The Transferor

1 is registered as the proprietor of a mortgage
2 number 994521 registered on the 28th day of
3 November 1997 from Thermo Plastics Jamaica
4 Limited, et cetera and has agreed to sell the
5 land to the Transferee, that's Omni
6 Industries Limited for the price set forth
7 in the Schedule. And then it goes on: In
8 consideration of the payment by the
9 Transferor of the sale price (receipt of
10 which sum the Transferor hereby
11 acknowledges) the Transferor hereby
12 transfers all the estate and interest which
13 the Transferor is able to transfer in the
14 said land to the Transferee in fee simple.
15 The second page in the Schedule, the sale
16 price is shown as \$35,324,804.00 and it
17 concerns lands at Twickenham Park,
18 registered Volume 1191 Folio 165. Can you
19 identify the signators who signed it on
20 behalf of Refin Trust Limited?

21 The names are printed there, yes,
22 Patrick Hylton and Julie Thompson.

23 A: And who was Julie Thompson?

24

25 CHAIRMAN:

1 A: She was the Secretary.

2 Q: She was a Director too?

3 A: She was the Secretary of Refin Trust. Was

4 Q: she an attorney-at-law?

5 A: Yes, she was.

6 Q: And she was employed to FINSAC?

7 A: Yes, she was.

8 Q: And who is Elaine Williams, a witness? She

9 A: is a witness, yes.

10 Q: Pardon me?

11 A: She is an attorney as well, she was

12 employed to FINSAC.

13 Q: Also employed to FINSAC?

14 A: Yes.

15 Q: So FINSAC had a number of people advising

16 them on these matters. Could this be

17 marked sir?

18 CHAIRMAN: This is admitted in evidence as Exhibit

19 EC16.

20 MR. LEVY: Mr. Campbell, what I have handed to you is

21 a photocopy of Volume 1191 Folio 165,

22 Certificate of Title.

23 A: Yes.

24 Q: This is for one parcel of the land owned by

25 Thermo Plastics Jamaica Limited at

1 Twickenham Park. I take you to the third
2 page, Mr. Campbell. On the top right hand
3 entry, transfer number 1202251, registered
4 on the 29th of August, 2002 to Omni
5 Industries Limited, 14A Retirement
6 Crescent, consideration money -
7 \$35,324,804.00. Is that correct?
8

9 A: That is what is printed here on this
10 document, yes.

11 Q: May I just explain that the reason the 'X's
12 appear on each page of this document is that
13 the last entry shows that the original
14 title was cancelled because of the
15 condition of the title (inaudible) but it
16 does trace the ownership the mortgages and
17 the history of the property here. If you
18 look at transfer number 1202251 and compare
19 it with the transfer which was previously
20 submitted to you which you will find. Would
21 you tell us the number of that transfer.
22 On the top right hand corner it says
23 1202251.

24 A:

25

- 1 Q: So we are talking about the same
2 transfer from Refin Trust Limited to
3 Omni Industries Limited?
- 4 A: Yes.
- 5 Q: Mr. Campbell, have you had a chance to
6 look?
- 7 A: Yes.
- 8 Q: I don't want to rush you, it's a
9 photocopy of the Certificate of Title
10 registered at Volume 1178 Folio 870 on
11 parcels of land at Twickenham Park, St.
12 Catherine, originally owned by Thermo
13 Plastics Jamaica Limited. That is the
14 first entry on the first page.
- 15 A: Yes.
- 16 Q: I take you to the last entry on the
17 third page, transfer number 1202250,
18 registered on the 29th of August, 2002
19 to TPL Limited at Ground Floor, 11
20 Oxford Road, Kingston 5 -- consideration
21 money, \$9,419,944.00. Is that correct
22 Mr. Campbell?
- 23 A: Yes, sir, that's the information that is
24 printed here.
- 25 Q: Does that transfer number 1202250

1 corresponds with the first transfer?

2 A: Yes, it does.

3 Q: So this further evidence is that both
4 properties were transferred by Refin
5 Trust Limited to Omni Industries Limited
6 and to 'SPL Limited?

7 A: Yes.

8 Q: On the powers of sale in the mortgage.
9 How could it be that there is an error
10 in this document that you have submitted
11 with the list of properties sold, ECS;
12 this is not one error, this is two
13 errors. How could we look at this
14 document and think that there is any
15 integrity in it and it's not selective
16 production?

17 A: There is no reason I would want to
18 deliberately omit any information from
19 it, Mr. Levy. As I suggested earlier
20 the files I looked at I was only able to
21 find that information that I used to
22 compile that -- spread sheet.

23 Q: Now Mr. Campbell, at the time of the
24 signing of the transfer and the
25 registration of the transfer, both of

1 them, you were Director of Refin?

2 A: Yes, I was.

3 Q: Is it not reasonable for us to assume
4 that you would have had personal
5 knowledge of this because a sale like
6 this could not happen unless it went to
7 the Board?

8 A: I do not have any personal knowledge of
9 that information Mr. Levy. What I need
10 to advise you of it is that, a lot of
11 the approvals as it relates to loans
12 were actually dealt with by FINSAC,
13 FINSAC and/or Financial Institution
14 Services, so this particular matter
15 never went directly to the Board of
16 Refin Trust Limited.

17 Q: I am going to ask...

18 CHAIRMAN: We are not hearing up here.

19 Q: I am suggesting that the approvals as it
20 relates to sale of loans and properties
21 were dealt with primarily by either the
22 FINSAC Board or the Financial
23 Institution Services Board, so this
24 particular matter never went to a Refin
25 Trust Board.

1 Q: Of which you were a member?

2 A: Right.

3 Q: And you know nothing about it. I have
4 seen you around the Supreme Court many
5 times, Mr. Campbell, following a lawsuit
6 and you say you know nothing about it?

7 A: I never suggested that I knew nothing
8 about it Mr...

9 CHAIRMAN: One moment, please. Mr. Campbell,
10 perhaps I should just remind you what we
11 are enquiring into here. We are
12 required insofar as FINSAC is concerned
13 *interalia: To review the operations of*
14 *FINSAC in relation to the delinquent*
15 *borrowers and to determine whether*
16 *debtors were treated fairly and equally.*
17 *(4) To review the probity and the*
18 *propriety in FINSAC's management, sale*
19 *and/or disposal of assets relating to*
20 *delinquent borrowers. So all of this*
21 *comes well within the ambit of our*
22 *responsibility.*

23 A: Sure.

24 CHAIRMAN: So it's a matter which has to be
25 addressed and answers will have to be

1 provided and since you are here
2 representing FINSAC we look to you.
3 Yes, Mr. Levy?
4 MR. LEVY: Thank you, sir. Mr. Campbell, are you
5 still a member of the Refin Board?
6 A: Yes, I am.
7 Q: Are you aware there are litigation about
8 this?
9 A: Yes, I am.
10 Q: And yet you know nothing about the
11 procedure that took time at the time of
12 sale, valuation, no valuation?
13 A: I didn't research those details, Mr.
14 Levy.
15 Q: You did not research those details. Why
16 not Mr. Campbell, you are the General
17 Manager of this company, a Director of
18 this company and you are being called
19 here to answer questions relating to
20 this issue, you knew that because you
21 saw me here yesterday.
22 A: I haven't had the time since I left here
23 yesterday to research that file.
24 Q: But it's a file that you are familiar
25 with Mr. Campbell.

1 CHAIRMAN: Just one moment. Mr. Campbell, you are
2 not unaware of the Terms of Reference of
3 this Commission, are you?

4 A: The Terms of Reference was submitted to
5 us.

6 CHAIRMAN: Right. So that you must be aware what
7 you had to address, would you not?

8 A: To an extent, yes.

9 CHAIRMAN: Now, in this particular case to which
10 Mr. Levy is referring, this is a matter
11 that is occupying the courts attention?

12 A: Yes, it is.

13 CHAIRMAN: So it's a matter of which you should or
14 ought to be very aware. What would your
15 comment be?

16 A: I don't have all the information on it
17 Mr. Chairman, and if I am going to be
18 asked specific questions like that then
19 I would really prefer to take the
20 opportunity to review the files so that
21 I would be in a better position to
22 respond to them.

23 CHAIRMAN: Yes. We have a problem. This is the
24 matter that you say, and you accept, is
25 before the Court, this particular

1 matter?

2 A: Yes, it is.

3 CHAIRMAN: So you ought then to have a most
4 intimate knowledge about it, would you
5 not?

6 A: I wouldn't say I have an intimate
7 knowledge of it, Mr. Chairman.

8 CHAIRMAN: What, no knowledge, little knowledge, I
9 don't follow. When Mr. Levy said you
10 have been around the Court I don't know
11 if you have accepted that you are going
12 to court during the hearing.

13 A: I have been to Court on this matter.

14 CHAIRMAN: This particular matter?

15 A: On occasions, yes.

16 CHAIRMAN: Which would suggest that you, at the
17 very least, have an interest in it?

18 A: We do have an interest, yes.

19 CHAIRMAN: Why do you go to Court, as a passerby,
20 why do you go to court?

21 A: I go as a representative for Refin Trust
22 in the matter.

23 CHAIRMAN: Indeed, but you don't go there in the
24 sense that you are ignoramus, you are a
25 person who have knowledge, you are not a

1 passerby or a disinterested party, you are
2 very concerned about the matter, would you
3 not?

4 A: Yes, we are interested in the matter. Yes,
5 CHAIRMAN: because you are Director, you are not the
6 Janitor, you are a Director, you have
7 responsibility. You are a Director of the
8 company so you have more than a passing
9 interest in this matter. Now you see, I must
10 confess speaking for myself, I didn't think
11 I would be occupying myself with whether to
12 believe somebody or disbelieve somebody,
13 these are historic facts and you know - If
14 you go to Court, one must assume logically
15 that you go there to represent the company,
16 you don't go to represent the company in
17 ignorance, would you? You would be very
18 familiar about what the matter is all about.
19 What you suggest to that?

20 I would prefer, Mr. Chairman, if I am being
21 asked particular questions on this side that
22 A: I take the opportunity to further review the
23 file before I answer
24
25

1 the questions.

2 CHAIRMAN: I see. These that you referred to Mr.

3 Levy, the extract from the title, are you

4 tendering these?

5 MR. LEVY: Yes.

6 CHAIRMAN: Would you refer them so that we know what --

7 the last one you had was FC17 which referred

8 to the - - so Mr. Levy 17 would be the extract

9 with the 'X' on it, Thermo Plastics, that's

10 the cancelled Certificate of Title, 1st of

11 July, that one?

12 The Transfer Tax Certificate.

13 MR. LEVY: That would be admitted as EC17, would

14 CHAIRMAN: that be right?

15 Yes, please sir. Mr. Campbell...

16 MR. LEVY: Sorry, before you go back to

17 CHAIRMAN: Mr. Campbell, in the interest of accuracy,

18 would you identify the document by its

19 Volume/Folio so the record can record that.

20 Seventeen would that be Volume 1191 Folio

21 165?

22 Sorry, I am having a problem.

23 MR. LEVY: It's at the top left. You can't hear. Let

24 CHAIRMAN: me shout. Seventeen would that be

25

1 Volume 1191 Folio 165?

2 MR. LEVY: It's at the top left. Volume 1191 Folio 165,
3 it's a copy of the property for the larger
4 Thermo Plastic ..

5 CHAIRMAN: You need to use the microphone, I am
6 afraid.

7 MR. LEVY: Volume 1191 Folio 165, this is a copy of
8 the property for the larger Thermo
9 Plastics factory at Twickenham Park,
10 they are both at Twickenham Park, it was
11 transferred to Omni Industries Limited,
12 they were all sold otherwise but...

13 CHAIRMAN: You see, we are trying to get them in
14 evidence, that is EC17. 1191, 165, that
15 is 17?

16 MR. LEVY: Yes, sir.

17 CHAIRMAN: Now EC18 is Volume 1178 Folio 870?

18 MR. LEVY: Correct, My Lord.

19 CHAIRMAN: So that's 18?

20 MR. LEVY: Yes, sir.

21 CHAIRMAN: Where are we now?

22 MR. LEVY: I would now like to go to the Transfer
23 Tax Certificate, number 011203003.

24 CHAIRMAN: We don't seem to have a 3, we have a 7.
25 MR. LEVY: 3007?

1 CHAIRMAN: Yes. Sounded like three. Anyway,
2 Certificate number 011203007, that's the
3 one?
4 MR. LEVY: Yes.
5 CHAIRMAN: Mr. Campbell has that?
6 A: Yes, I do, Mr. Chairman.
7 MR. LEVY: Yes, Mr. Campbell. If you look at this
8 you will see that this is the
9 certificate issued...
10 CHAIRMAN: You said Transfer Tax Certificate.
11 MR. LEVY: Issue by the Commissioner, Taxpayer,
12 Audit and Assessment Department in
13 respect of transfer tax paid on a
14 property being sold, Thermo Plastic
15 Jamaica Limited to National Investment
16 Bank of Jamaica Limited representing,
17 the transfer tax was \$10,875,000
18 representing 7.5% of the consideration
19 of \$145M and this is in respect of land
20 at 1191 Folio 166, is that correct?
21 A: Looks like 165.
22 MR. LEVY: 165. Yes, attached to one of the copies
23 that I sent you was a transfer?
24 A: Sure.
25 Q: Can you tell us which Volume and Folio

1 is in that transfer, it would be in?
2 A: Volume 1191 Folio 165.
3 Q: Is that the same as shown on the
4 Transfer Fax Certificate?
5 A: Yes, it is.
6 Q: The consideration shown in the transfer
7 fee is?
8 A: 35 million.
9 Q: \$35,324,804?
10 A: Yes.
11 Q: Do you see an anomaly between the
12 Transfer Tax Certificate and the
13 Transfer in terms of the consideration?
14 A: I see that there are two different
15 figures.
16 Q: Two different figures?
17 A: Yes.
18 Q: Do you know why they are two different
19 figures?
20 A: I could only guess, Mr. Levy.
21 Q: Let's have that, that's better than
22 nothing.
23 A: The tax department has a different value
24 from what the property is being sold at.
25 Q: The tax department has assessed the

1 value of property at a \$145M and Refin
2 signed a transfer transferring the
3 property for how much was it?

4 A: The sale price in this transfer...

5 Q: 35,324,000. Help me Mr. Campbell, how
6 could this possibly happen that your
7 company of which you were a Director
8 transferred a property for such a vast
9 difference of an under value?

10 A: Not in a position to answer that, sir.

11

12

13 Continued...

14

15

16

17

18

19

20

21

22

23

24

25

I

2 MR. CAMPBELL: Not in a position to answer that, sir.

3 CHAIRMAN: Somebody has to answer it, so.

4 A: As I suggested earlier maybe I really
5 need to just review the file.

6 CHAIRMAN: This is the money paid, so there was no
7 objection to it was, there?

8 A: No.

9 MR. LEVY: Mr. Chairman, I want to point out to my
10 friend that a certificate refers to a
11 transfer from the National Investment
12 Bank, the agreement is to, the transfer
13 is to Omni Industries Limited. When a
14 purchaser signs a contract to purchase,
15 the contract is to National Investment
16 Bank and or nominee and this instance
17 the National Investment Bank nominated
18 Omni Pias Limited who took the title to
19 the property under the transfer given
20 by Refin under the powers of sale,
21 alleged powers of sale and a mortgage.

22 MR. ROBINSON: We don't know if that is so, we don't
23 know if that is so. Mr. Commissioner he
24 needs to get his facts right.

25 Q: Mr. Campbell knows?

1 CHAIRMAN: Please don't let us get into these
2 little kerfuffles. Yes, Mr. Levy.

3 MR. LEVY: Mr. Campbell, unfortunately I did not
4 bring with me to this place a similar
5 situation of the other transfers so I
6 cannot put it to you, but I will bring
7 it back to you after you research it
8 fully on your next return. Who was the
9 chairman of the board of Refin at the
10 time in 2002?

11 A: I really do not recall. I believe it
12 would have been Patrick Hylton but I am
13 not sure I need to check?

14 Q: Who was your boss at that time?

15 A: In 2002, it would have been Audrey
16 Robinson. She was the General Manager
17 for Divestment.

18 Q: And who was her boss?

19 A: Patrick Hylton.

20 Q: Are you aware that in some instances
21 Directors are personally liable for the
22 actions of the company they are
23 Directors of?

24 A: Yes.

25 Q: And there could be a personal liability

1 somewhere along the line here for you?

2 A: I probably need to be guided on that.

3 Q: Can I therefore suggest that you

4 research this properly Mr. Campbell?

5 A: I intend to Mr. Levy, thanks.

6 Q: Mr. Campbell are you aware of whether or

7 not this sale met with Cabinet approval

8 as you said some sales did?

9 A: I do not recall I need to check the file

10 on that, sir.

11 Q: I am going to ask that you make notes of

12 what you are going to check and come

13 back to us with?

14 A: Sure.

15 Q: Come back to the Commission with?

16 CHAIRMAN: Mr. Levy, one moment please.

17 COMM. BOGLE: Mr. Levy can you enlighten us on this, the

18 transfer tax receipt. The receipt date is the

19 30th of November 2001 and there is another

20 date on the same document at the bottom dated

21 the 3rd day of December 2001. Now the

22 transfer that is attached to it gives a date

23 -- date of this transfer the 17th day of July

24 2002, can you explain to us the

1 difference in these?

2 Q: Yes, sir, because it was presented to
3 the Tax Transformation for assessment,
4 the contract. If the Commissioner
5 sees a value, he thinks its an
6 undervalue he goes and values the
7 property. Some months later as it
8 happened in this case, six months or so
9 later the transfer of Omni. The
10 National Investment Bank obviously told
11 Refin do the transfer to Omni. We have
12 assigned the benefit or nominated Omni
13 to take this transfer. That's the
14 normal procedure in condensing matters.
15 The contractual party can nominate
16 somebody. He deserves that right and
17 this was what was done here.

18 COMM. BOGLE: Okay, fine.

19 Q: In fact we would love to have some
20 people from National Investment Bank to
21 ask about this transaction but I will
22 write to the Commission. Mr. Campbell
23 you said you don't know?

24 CHAIRMAN: Just one moment, please. Mr. Levy.

25 MR. LEVY: Yes, sir.

1 CHAIRMAN: Would you look at EC17, please.

2 MR. LEVY: You have no other name?

3 CHAIRMAN: The document is the Certificate of
4 Title, Folio 1191165, relating to
5 Twickenham Park. If you look at the
6 last page you had referred us to the
7 transfer. The right hand corner is a
8 transfer?

9 MR. LEVY: Yes, after the property...

10 CHAIRMAN: I am just focusing your mind to get
11 going. If you look below that entry you
12 see a mortgage endorsed. The mortgage
13 is on precisely the same day.

14 MR. LEVY: On the right side?

15 CHAIRMAN: On the right side below the transfer.
16 And there is a figure there.

17 MR. LEVY: Yes, it appears that Omni being the
18 registered proprietor then was able to
19 borrow US\$3,263,000.

20 CHAIRMAN: That in Jamaican term would be?

21 MR. LEVY: Astronomical.

22 CHAIRMAN: J\$146,745,000.

23 MR. LEVY: I don't know what the rate of exchange
24 was at that time, sir. It was
25 astronomical.

1 CHAIRMAN: We did. So its sold for 35M and the
2 same day it's transferred you get a
3 mortgage. This is wonderful for
4 somebody.

5 MR. LEVY: But in addition if you look at the
6 side the last stamp on it says and
7 J\$10M.

8 CHAIRMAN: Yes.

9 MR. LEVY: Not only was the US\$ part but J\$10M as
10 well.

11 CHAIRMAN: I suppose Mr. Robinson will explain all
12 this to us. Yes, Mr. Levy at the
13 appropriate time.

14 MR. LEVY: Proceed?

15 CHAIRMAN: Please.

16 MR. LEVY: Mr. Campbell?

17 A: Yes, sir.

18 Q: You say you were not able to say whether
19 Refin got valuations for these
20 properties or why they are not listed on
21 that list?

22 W

23 ill you when you do your investigation come
24 back to this Commission and tell the public
and tell the Commissioners. If you got a

valuation of the properties, when you

1 got the valuation of the properties, How
2 much the properties were valued at the
3 time of sale?

4 A: Sure Mr. Levy I will check on them,

5 Q: Because it appears that the properties
6 were sold at a gross undervalue to
7 connected parties and by connected
8 parties I mean, the National Investment
9 Bank of Jamaica and it's a wholly
10 subsidiary owned by the Government just
11 as is FINSAC. It had come directly
12 because you are aware of that, aren't
13 you?

14 CHAIRMAN: Has he answered?

15 MR. LEVY: No.

16 A: I didn't hear the question.

17 Q: Are you aware that the National
18 Investment Bank of Jamaica Limited is a
19 wholly owned subsidiary of the
20 Government of Jamaica as is Refin and
21 Finsac?

22 A: Yes, I am.

23 Q: Would you say they are connected
24 companies?

25 CHAIRMAN: It doesn't matter what he says. But

1 A: Yes, I am.

2 Q: Were you aware that Dennis Lloyd Boothe
3 was a director of Refin at that time?

4 A: Yes, I am.

5 Q: And a director of FINSAC at that time?

6 A: Yes, I am?

7 Q: And that he was a representative of NIBJ
8 and on the board of Wilpak Limited?

9 A: I wasn't aware of that.

10 Q: You were not personally aware were you
11 not? Were you aware that Mr. Patrick
12 Hylton was a director of Refin and
13 managing director of FINSAC?

14 A: Yes, I am.

15 Q: That Rex James was the managing director
16 of NIBJ?

17 A: Yes, I am.

18 Q: And a director of TPL Limited?

19 A: I wasn't aware of that.

20 Q: That Valerie Alexander was a director of
21 Refin and attorney-at-law employed in
22 the Legal Department of FINSAC and acted
23 as a legal advisor of Refin?

24 A: Yes, I am.

25 Q: That Audrey Robinson was a director of

1 Refin and general manager, Asset manager
2 of FINSAC?

3 A: Yes, I am.

4 Q: So in addition to ownership of stock,
5 shares, there was some cross
6 fertilization of the directors of all
7 these two companies, FINSAC Group and
8 NIBJ?

9 A: If you mean that they were some common
10 directors, yes I agree.

11 Q: Which would result in an incestuous
12 relationship?

13 A: I wouldn't want to comment on that, sir.

14 Q: Enough said. Mr. Campbell are you
15 aware of whether or not the company of
16 which you are a director, Refin made a
17 demand, are you familiar with Section 106
18 of the Registration of Titles Act?

19 A: No, sir.

20 Q: I gave you a copy of it yesterday
21 afternoon and suggested you read it and
22 take some legal advise on it, that's not
23 a problem?

24 A: I have read it, I haven't had the chance
25 to get legal advice.

1 Q: Sorry, before you depart from this
2 Transfer Tax Certificate is that thing
3 tendered in evidence.

4 MR. LEVY: I thought it had been, sir.

5 CHAIRMAN: No, it hadn't yet. So that would be 19.
6 So that's Transfer Tax Certificate
7 dated, 3rd December, 2001, admitted in
8 evidence as EC19. Yes, sir.

9 MR. LEVY: Yes, Mr. Campbell, you say you haven't
10 had a chance to have your attorney
11 advise you on this?

12 A: That's right.

13 Q: Too bad you didn't take advantage of the
14 the opportunity yesterday when I gave it
15 to you because he was there at the time.
16 Maybe you didn't think that I was
17 serious?

18 CHAIRMAN: Sufficient is evil.

19 MR. LEVY: Would you care to read Section 105 of
20 the Act to the Commissioner?

21 A: **Section 105. 'A mortgage and charge under**
22 **this Act shall, shall when registered as**
23 **hereinbefore provided, have effect as a**
24 **security, but shall not operate as a**
25 **transfer of the land**

1 A: Yes.

2 Q: Carry on.

3 A: **The mortgagee or annuitant, or his**
4 **transferees may give to the mortgagor or**
5 **grantor or his transferees notice in**
6 **writing to pay the money owing on such**
7 **mortgage or charge, or to perform and**
8 **observe the aforesaid covenants (as the**
9 **case may be) by giving such notice to**
10 **him or them, or by leaving the same on**
11 **some conspicuous place on the mortgaged**
12 **or charged land, or by sending the same**
13 **through the post office by a registered**
14 **letter directed to the then proprietor**
15 **of the land at his address appearing in**
16 **the Register Book.**

17 Q: Fine. So the last part says that you
18 must give a notice of the default and it
19 says how you may do that.

20 A: Right.

21 Q: My question to you is, did Refin Trust
22 give such a notice under the
23 Registration of Titles Act in respect of
24 these mortgaged properties notice prior
25 to the sale?

1 which we referred to higher up and the
2 section of the mortgage that is germane to
3 what is before us today, the questions I am
4 asking you is on page, paragraph G?
5 Are you embarking on another aspect? What
6 CHAIRMAN: this does Mr. Commissioner is it upbridges
7 MR. LEVY: the time for the notice. I don't want Mr.
8 Campbell or the Comission to think that I
9 am trying to pull a fast one the time for the
10 notices are bridged in here as is allowed in
11 the Act. Paragraph F it has a number three
12
13
14 at the top of the page. It's the third
15 page. **'Upon any default after any**
16 **demand of payment of the moneys hereby**
17 **secured or any part thereof...**
18 A: Mr. Levy I am not with you yet.
19 Q: Page three.
20 A: What page?
21 Q: Paragraph G in the middle. Now this is
22 the mortgage under which property which
23 was selling under the power of sale in
24 this mortgage under the Act. **'Upon any**
25 **default after any demand for payment of**

1 the moneys hereby secured or any part
2 thereof or upon any other default in or
3 non-compliance with any of the covenants
4 conditions or obligations on the part of the
5 Mortgagor herein contained or hereunder
6 implied and after such default shall have
7 continued for three days', the Act says
8 thirty. I just want to bring this before the
9 Commission. I am not trying to pull a fast
10 one. This is what the situation legally is.
11 Then **'The bank should be at liberty to give**
12 **the Mortgagor a notice in writing'** -- you
13 notice they are talking about a second notice
14 -- **'to repay the moneys hereby secured and**
15 **if such default shall continue for three days**
16 **after the service of such notice the**
17 **statutory powers of sale and of appointing**
18 **a receiver and all ancillary powers**
19 **conferred upon the Mortgagee by the**
20 **Registration of Titles Act may be exercised**
21 **by the Bank.'** Now notice, under the terms of
22 the mortgage there has to be two notices not
23 thirty days,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 three days. We will like to know whether any
2 of those notices were given, when they were
3 given and we would like to see copies of
4 those notices. The Commission will take
5 this into evidence as well.

6 This will be EC20. Admitted into
7 CHAIRMAN: evidence and marked EC20. Perhaps
8 Mr. Levy this will be a convenient time for
9 our break.

10 Yes, sir.

11 MR. LEVY: All right we will take a fifteen minutes

12 CHAIRMAN: break.

13

14 **Break at 11:00 a.m.**

15 **Resumption at 11:20 a.m.**

16 CHAIRMAN: Thank you, let us resume, please.

17 Mr. Campbell, you are still under oath.

18 A: Yes, sir.

19 CHAIRMAN: Mr. Levy.

20 MR. LEVY: Mr. Campbell?

21 A: Yes, sir.

22 Q: Mr. Campbell, you are aware that there
23 is litigation in connection with
24 Thermo-Plastics brought against Refin
25 Trust Limited.

1 A: Yes, I am aware of it, Mr. Levy.

2 Q: Has your Boards set aside a substantial
3 resource to deal with the judgment?

4 A: I don't think I need to answer that
5 question here, sir.

6 Q: You don't need to answer any question
7 unless the Commissioners instruct you so
8 to do and you would have quite an answer
9 if you do?

10 CHAIRMAN: Do you want an answer?

11 MR. LEVY: Yes, I would like to have an answer. I
12 want to know whether or not I am dealing
13 with a company who will be able to pay
14 the damages, Mr. Campbell?

15 CHAIRMAN: Yes, please. I see no reason why the
16 question can't be answered. It's for
17 you to determine the answer?

18 A: The board has taken legal advise on the
19 matter and they do not perceive that
20 there should be any need for any
21 allowance at this time.

22 Q: I am going to ask you to speak into the
23 microphone...

24 A: T will try, sir.

25 Q: And who are your attorneys in this

1 matter?
2 A: DunnCox.
3 Q: Weren't they at one time director of
4 State proceedings?
5 A: Yes.
6 Q: And who at DunnCox is deal with it, is Miss
7 Cindy Lightbourne?
8 A: No, Cindy Lightbourne is not the
9 attorney dealing with the matter. But
10 Q: she had been the senior attorney dealing
11 with it sometime before? Yes.
12 A: Would you care to tell the Commission what
13 Q: the nature of the proceedings are before the
14 Court by Thermo-Plastics against Refin
15 Trust Limited and TPL? I will respectfully
16 ask that I get the opportunity to review the
17 A: file to answer that question, sir.
18 Can I help you by giving you a
19 refresher?
20 Q: Maybe.
21 It says damages for breach of Refin's
22 A: duties as mortgagee for the
23 Q: unauthorized, improper and irregular
24
25

1 exercise of the power of sale of the Thermo's
2 properties and against the Refire Trust and
3 TPL for mesne profits for the use and
4 occupation of the property owned by the
5 Thermo which was improperly and illegally
6 transferred by Refin to TPL which is a
7 connected company. Thermo further claims
~ against

9 Refin and TPL for an order setting aside
10 the transfer of Thermo property that is
11 the Plaspak branch. Does that help to
12 refresh your memory as to the claim?

13 A: Yes, sir.

14 Q: Is that a summary of it?

15 A: Yes, sir.

16 Q: Okay. Some of the allegations are in
17 the claim I already raised with you and
18 you say you do not know. To save time I
19 am going to ask you to write them down
20 but you can extract them from the
21 minutes. In relation to the failure by
22 Refire to carry out its duties, its lawfully
23 required duties under the Registration of
24 Titles and Mortgage Thermo is claiming that
Refin failed in

1 its duties as Mortgagee when it
2 exercised the power of sale by private
3 treaty over the properties owned by Thermo
4 Plastics by-

5 (1) Failing to properly or at all
6 advertise the properties for sale.

7 (2) Failing to take reasonable
8 precaution to obtain the true market
9 value.

10 (3) Failing to obtain current valuation
11 reports.

12 (4) Failing to act with the prudence of an
13 owner of properties in exposing the
14 properties to prospective purchasers to
15 obtain the greatest advantage; that is a
16 common law requirement. Wilfully and
17 recklessly dealing with the properties of
18 Thermo-Plastics in such a manner that the
19 interest of the claimant was sacrificed; you
20 sacrificed the property, that's part of the
21 claim. Selling the properties with reckless
22 disregard of Thermo-Plastics interest.
23 Selling the Thermo's properties at prices
24 which were substantially below the market
25 valuation

1 to connected and/or associated companies
2 with common directors and officers in an
3 incestuous relationship tainted with
4 collusion and conflicts of interest. That is
5 the substance of the claim. Corruption -- you
6 are going to be asked some specific questions
7 on that when you return Mr. Campbell and have
8 yourself advised. Mr. Campbell as was
9 already indicated and taken in the evidence
10 from you, the two Thermo-Plastic properties
11 were sold to NIBJ for a total of
12 \$44,774,748.00, this was a great gross
13 undervalue and they were sold to a connected
14 company NIBJ which is owned wholly by the
15 Government of Jamaica. Now it goes to the
16 Stamp Commissioner whose valuations are
17 usually
18 conservative because he has to defend them,
19 assessed the value of both properties for
20 transfer tax at \$183,000,000.00, that's \$140
21 something million difference from his
22 assessment, now that's market value. I
23 suggest you take further legal advise from
24 your

1 attorneys because where the sale of the
2 property was unlawful because there was no
3 notice given as required by the Act then the
4 entire transaction is unlawful. So that
5 question of assessing damages is based on
6 the other misleads of the claim. Your
7 damages are going to be required to repay
8 today's value to put the plaintiffs back in
9 the position they were in before not an
10 appreciated value, they don't want any
11 money. Give them back whatever it cost to
12 put them back. I suggest that you strongly
13 recommend to your Board of Directors to take
14 new legal advice and set up a proper
15 foundation before you continue to defend
16 this claim.

17 That's free of charge?

18 CHAIRMAN:

19 MR. LEVY: Now, Mr. Campbell, you continue to resist
20 the claim in the court. I take

21 it you say you have got legal advise
22 which recommends this?

23 A: Yes, sir.

24 Q: Then I suggest you have the insurance of
25 your attorneys checked to make sure that

1 they are adquately insured to take care
2 of the claim. Thank you, Mr.
3 Commissioner?
4 CHAIRMAN: Thank you.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 (CONT'D) 11:30 A.M.
2 Wednesday, December 9, 2009.
3 (EXAMINED BY MR. WONG KEN)

4 MR. WONG KEN: Mr. Campbell, how are you --
5 technologically challenged.

6 CHAIRMAN: You should come up to the front bench.

7 MR. WONG KEN: Fine. Thanks, Mr. Chairman.
8 Mr. Campbell, how are you, sir?

9 A Fine.

10 Q Mr. Campbell, how long have you been a
11 banker?

12 A I worked in the bank for 18 years prior
13 to joining FINSAC.

14 Q And you worked all that time with NCB?

15 A Yes, I did.

16 Q And prior to your joining FINSAC in
17 July 1990, had you been a manager of an
18 NCB Branch?

19 A Yes, I was.

20 Q Which one?

21 A Port Maria, in St. Mary.

22 Q And when did you become a manager?

23 A Maybe in 1993.

24 Q In 1993, had you been aware that the
25 banks' customers were having

1 difficulties servicing their debts?

2 A Some of the customers in my particular
3 branch yes, if that is what you mean.

4 Q And given the networking that I am sure
5 happens in NCB as with other banks would
6 you have been also aware that the
7 customers of other NCB branches were
8 having difficulty meeting their
9 financial obligation servicing their
10 debts?

11 A I really never focused on that but I am
12 not sure.

13 CHAIRMAN: What had happened, you don't have
14 manager's meetings and you get together
15 and say you know, what happening in Port
16 Maria? You know what going on in Lucea,
17 no?
18 A The question specifically spoke to 1993
19 and that time I was just apparently been
20 in that position so there would have not
21 been any managers meeting that I would
22 have attended.

23 CHAIRMAN: Very well.

24 MR. WONG KEN: Well, during the time that you were
25 manager I take that you were -- let me

1 clarify. Was the Port Maria Branch, was
2 the only branch to which you were a
3 manager prior to your joining FINSAC in
4 1999?

5 A Yes, it was.

6 Q So you served them from 1993 all the way
7 through to 1999, as Manager of Port
8 Maria?

9 Q Yes.

10 Q And during that period of time, 1993 to
11 1999, did you become aware that your
12 customers were having difficulty meeting
13 their financial obligations to the bank?

14 A Some of them, yes.

15 Q And would you have ascribed or did you
16 ascribe that the difficulty arose from
17 the high interest rates that prevailed
18 in the time?

19 A That was part of it.

20 Q And during that time did your
21 interaction with other NCB bankers or
22 managers rather, did that interaction
23 inform you that other branches were
24 observing similar things or experiencing
25 similar things happening to their

1 customers?

2 A Yes.

3 Q Yes.

4 Q You have been following these
5 proceedings, Mr. Campbell?

6 A Not all of them.

7 Q Are you aware that Dr. Omar Davies, has
8 identified -- for himself, he has
9 identified that the financial meltdown
10 that occurred, what is it now, about
11 '97/98? That that meltdown was largely
12 as a consequence of corrupt practices
13 that was carried on by the banks?

14 A I saw a report on that, yes.

15 Q Do you subscribe to that theory?

16 A Some of what happened the resulted from
17 the mismanagement, yes.

18 Q Mismanagement or corruption?

19 A I don't want to ascribe corruption, Mr.
20 Wong Ken.

21 Q I take it then that you were not one of
22 the corrupt bankers that Dr. Davies,
23 spoke of.

24 A (No answer).

25 Q Did you engage in corrupt practices?

- 1 default, is that correct?
- 2 A I am not sure, I am not sure.
- 3 Q Well, what would have been the purpose
4 of evergreening a loan?
- 5 A I wasn't involved in the practice, I am
6 really not so sure what it is.
- 7 Q That practice was not conducted by you
8 at the Port Maria Branch?
- 9 A No, sir.
- 10 Q Do you know whether or not any other
11 NCB bank managers engaged in that
12 practice?
- 13 A I am not aware of that.
- 14 Q Do you know of any other banker, any
15 other banking institutions that are
16 engaged in that practice?
- 17 A No, I am not aware.
- 18 Q Would you have thought that evergreening
19 was ethical practice?
- 20 A I never looked at it in that light.
- 21 Q You never thought about it?
- 22 CHAIRMAN: Just one moment, please.
- 23 A NCB was a failed institution, was it
24 not?
- 25 Q Yes, it was.

1 CHAIRMAN: Yes. Why was it a failed institutions?
2 Why was it intervened?

3 A Like a lot of the other institutions
4 NCB...

5 CHAIRMAN: No, talk about NCB, don't talk about the
6 rest.

7 A NCB I understand, had a lot of bad debts
8 on its books that were not being
9 serviced and in addition to that there a
10 lot of non-core assets for the
11 properties that were not generating
12 income to meet its operations.

13 CHAIRMAN: The non-core things were what people say
14 is not the bank's business? That's what
15 we regard as mismanagement would it not?
16 As a matter of fact, that's what was
17 described as mismanagement.

18 A Perhaps, perhaps.

19 CHAIRMAN: No, no. We are not in the perhaps
20 business man, that is Anancy story.
21 Wasn't it described as -- the banks that
22 failed were clues of mismanagement?

23 A Yes.

24 Q And mismanagement related to the facts
25 among other things that, "Boy, engaging

1 in non-core business?"

2 A Yes, that is right.

3 CHAIRMAN: Let's get on then.

4 MR. WONG KEN: Mr. Chairman is a little ahead of me Mr.

5 Campbell, so I want to back up a little

6 bit. You have identified that during the

7 period 1993, when you became the bank

8 manager in Port Maria and approximately

9 '97/98 you realised that your customers

10 were having trouble servicing their

11 debts and that that trouble arose partly

12 from the high interest rates, you agree?

13 A (No answer).

14 Q That's your evidence?

15 A Yes.

16 Q You are aware that there has been an

17 assertion that the financial meltdown

18 was partly due to mismanagement, your

19 words, by bankers, right?

20 A Right.

21 Q Now by 1997, did your branch have non-

22 performing loans?

23 A Yes, we did.

24 Q You did have a large number of non-

25 performing loans?

1 au fait with things and looking to go
2 into the corporate section would be
3 aware of these things. What do you think
4 Mr. Campbell? And you have ambitions to
5 rise. So wouldn't you keep abreast of
6 things financial, things that affect the
7 bank, things that affect the customer
8 as a manager? Or you just in a parochial
9 situation? What's going on in Port
10 Maria? What's going on down in Annotto
11 Bay? Is the fishermen making money? You
12 must be beyond that.

13 A Yes sir, but I didn't get in involved in
14 the matter of Treasury Bills, purchase
15 of Treasury Bills.

16 CHAIRMAN: I could said so. I don't think you would
17 go out their buying Treasury Bills down
18 in Port Maria, that is not your
19 business, that would be part of what you
20 call the corporate section of your bank.

21 A Yes sir, that is correct.

22 Q Nonetheless, as a manager, a senior
23 position in the bank you would at least
24 take more than passing interest in it in
25 that aspect? Or your horizons or

1 ambitions are not that high?

2 A I never got into the matter of
3 purchasing of Treasury Bills, Mr.
4 Chairman.

5 CHAIRMAN: Anyway, very well.

6 MR. WONG KEN: Mr. Campbell, I am not here having you
7 on trial but you are a unique person.
8 You are not only here representing
9 FINSAC, but you are unique because you
10 were a banker during the period that is
11 relevant to this Commission and I am
12 trying to elicit from you information.
13 So when I ask you the questions is not
14 that I am trying to pursuit you.
15 Were you aware how NCB came to sell its
16 interest rates?

17 A No, I am not.

18 Q How as a manager then would you become
19 knowledgeable as to what interest rates
20 to charge your customers?

21 A From time to time from Head Office a
22 circular is sent out advising that the
23 base rate for lending has been revised
24 and this is the new figure and a
25 suggestion is made of normal rates to be

1 charge to the clients which is a range
2 of percentage above base or whatever it
3 is as the case may be.

4 Q And when these circulars came weren't
5 you at any time concerned about your
6 customers ability to continue to paying
7 these rates? I mean you would have known
8 as a banker somewhat your customers
9 businesses?

10 A Yes, I was.

11 Q And so, were you then concerned about
12 their ability to continue paying these
13 rates?

14 A Certainly, yes.

15 Q And as a manager in the NCB chain had
16 you expressed this concern?

17 A No, I can't recall doing that.

18 Q Had you ever formed the opinion that
19 there would come a time when the
20 customers would be able unable to
21 service the debts and the bank would be
22 in trouble?

23 A I never really looked that far, Mr.
24 Wong Ken.

25 Q I am wondering given you are sort of

1 indifference to what goes on in the
2 banking system at the time how is it you
3 became an employee of FINSAC, what
4 qualified you?

5 CHAIRMAN: Well, is not he selects himself you
6 know, some very wise people says that he
7 is the man.

8 MR. WONG KEN: Somebody made that decision to employ
9 him.

10 CHAIRMAN: But he don't know why.

11 MR. WONG KEN: Had you made an application for the job?

12 A Yes, I did.

13 Q When did you make that application? Was
14 it in 1999,1998 or 1997?

15 A In 1999.

16 Q So this would have been after NCB had
17 been taken over by FINSAC?

18 A It would have been after, yes.

19 Q And I am still curious about your
20 selection because it's not as if you had
21 intimate knowledge of the debt
22 portfolio, I mean you were in the bad
23 waters of Port Maria. What special
24 qualification did you have in your
25 opinion that allowed you to make these

1 applications and succeeding getting the
2 job?
3 AUDIENCE: Being stupid.

4 CHAIRMAN: Please! No, we won't have this please.

5 A I was a trained Banker and at the time
6 FINSAC was employing former banker to
7 assist with the portfolio that was being
8 acquired from the various institutions.

9 Q Just so that I am really clear on this.
10 You had no knowledge at all though of
11 any corrupt practices that had been
12 carried on by NCB as a corporate body?
13 A I wasn't aware of any.

14 Q And you had no knowledge of any
15 mismanagement that had been carried on
16 in NCB as a corporate body?

17 A I didn't have any specific knowledge of
18 that.

19 Q When you joined FINSAC in July of 1999,
20 you became aware I take it, that the
21 posture of the government and of FINSAC
22 was that the meltdown was as a
23 consequence of mismanagement and
24 corruption by the bankers?
25 A Eventually that came to my

1 knowledge, yes.

2 Q Did you challenge that say assertion?

3 A No, I didn't have anything to do with

4 that.

5 Q So like how you practiced -- well, let

6 me not go there.

7 CHAIRMAN: No, don't go there.

8 MR. WONG KEN: When you started to work at FINSAC was

9 it FINSAC that employed you or was it

10 Financial Services that employed you?

11 Who employed you, who was your employer?

12 A FINSAC.

13 Q FINSAC was your employer?

14 A Yes.

15 Q And who was your immediate supervisor?

16 A Audrey Robinson.

17 Q And what was Audrey Robinson's position

18 in FINSAC?

19 A She was General Manager for Asset

20 Management and Divestment.

21 Q Asset Management and Divestment. What

22 was the mandate that Audrey Robinson

23 told you? What was your mandate as

24 Audrey Robinson might have told you?

25 A My job primarily involved the

1 administration the accounts in the sense
2 that I allocated the list of loans that were
3 received from the various entities to the
4 officers of FINSAC that managed them and
5 signed of on bills to be paid from valuations
6 and legal work and that sort of thing.

7
8 Q So you were directly involved with the
9 debtors of the former banks?

10 A No.

11 Q No. explain to me. You talked about
12 loans, whose loans?

13 A It is the debtors loan but I didn't
14 interface with them, I got a schedule
15 from an institution with a list of one
16 thousand names, I allocated them to
17 various FINSAC officers who would then
18 interface directly with. the debtors. So
19 I didn't interface with them at all.

20 Q Agree that you didn't interface with the
21 individuals who owed the money but your
22 portfolio responsibility dealt with
23 those debtors, true?

24 A I am not so sure that I understand what
25 you mean by that.

1 Q It is those debts you were managing and
2 administrating over, wasn't it?
3 CHAIRMAN: The debts?

4 MR. WONG KEN: Yes, the debts.

5 CHAIRMAN: He wasn't into people, he was into
6 figures.
7 MR. WONG KEN: Dr. Davies, has given evidence that
8 FINSAC was created to maximise the
9 collection of debt. Was that your
10 understanding thereafter FINSAC mandate?
11 Yes.

12 Q So when we talk about managing the debts
13 what exactly are we talking about? Is it
14 managing the maximization of collection
15 or I am talking about something else?
16 A Saving the debtors businesses? What
17 exactly we are talking about when you
18 talking about managing that portfolio?
19 A The officers interface with the debtors
20 with a view to continue the operations
21 where he it can be continued or to
22 collect the funds that were due; the
23 debts that it had been bought from
24 FINSAC from the various institutions.
25 Q But your experience as a the banking

1 portfolio had already informed that your
2 customers would have had difficulty
3 continuing meeting their obligation?

4 A Yes.

5 Q Yes. So you would have had some notion
6 by the time you get to FINSAC in 1999,
7 that these bad debts so-called, the
8 ability of the debtors to continue
9 servicing those debts would have been
10 questionable?

11 A There would have been some difficulty,
12 yes.

13 Q Your earlier evidence is that FINSAC
14 continue to charge interest on local
15 dollars at 30% and on US currency at 15%
16 since the date of the intervention?

17 A That's right. But you have to understand
18 that it is a reduction on the rates that
19 were being charged in the financial
20 sector.

21 Q What was the rationale that was used to
22 come to that determination of continuing
23 to charge interest?

24 A I am really not sure, I wasn't involved
25 with the decision-making process there.

1 Q But your job was to manage that
2 portfolio?
3 A Using that term, that was not my term.
4 Q No, I thought it was you who said that.
5 A No sir, I didn't. I told you that I
6 allocated the loans to the officers and
7 that's why I told I didn't interface
8 with the debtors at all.
9 Q What did Audrey Robinson told you your
10 job was?
11 CHAIRMAN: To allocate. Allocate from one to
12 twelve. He says John Brown, "you deal
13 with that". Is that what I understand
14 you to be saying?
15 A Yes, the debts were managed by the
16 officers, not myself.
17 MR. WONG KEN: And those officers would report to you?
18 A No, they didn't.
19 Q How, who did the officer report to?
20 A We had a senior officer in the
21 department that they reported to and she
22 in turn reported to Audrey Robinson.
23 Q And who did you report to?
24 A Audrey Robinson.
25 Q So then you reported directly to Audrey

1 Robinson?

2 A Yes, sir.

3 Q But the officers reported to somebody

4 else who then reported to Audrey

5 Robinson?

6 A That's correct.

7 Q And you and that other person -- who was

8 that person?

9 A Diana Davis.

10 Q Diana Davis. You and Diana Davis never

11 interacted?

12 A Certainly.

13 Q Had you ever thought to question the

14 rationale upon which FINSAC made the

15 decision to continue charging interest?

16 A No, I never.

17 CHAIRMAN: He just sit and give orders. "Come" and

18 he cometh, "go" and he goeth. He was not

19 making decisions. The only decision he

20 made is to get some figures, 1 to 40.

21 He says, "one to ten will be dealt with

22 by so and so", by Mister, whatever is

23 name.

24 MR. WONG KEN: Thanks, Mr. Chairman.

25 CHAIRMAN: I am grateful for small mercies.

1 MR. WONG KEN: Where would the directive come from that
2 interest on these loans be continued?

3 A It would be pursuant to discussions at
4 FINSAC board meetings.

5 Q You indicated earlier on that FINSAC
6 paid depositors interest on their money
7 calculated up to the date of the
8 intervention. Did I understand that
9 correctly?

10 A That's right.

11 Q So on the one hand, FINSAC is paying out
12 interest calculated to the date of
13 intervention but on the other hand, it's
14 trying to collect money that you
15 recognised is likely not to be collected
16 all the way along without stop, correct?
17 Correct.

18 Q I put it to you that your understanding
19 of the debtors inability or likely
20 inability to pay this continuing
21 interest was commonly felt in FINSAC,
22 isn't that true?

23 A Yes.

24 Q Okay. So then I put it to you that the
25 purpose of charging this interest was so

1 as to eat out whatever equity might have
2 been left in any of the collateral that
3 FINSAC held to secure this amount of
4 indebtedness, isn't that true?

5 Q Can't agree with that, Mr. Wong Ken.

6 Q You can't agree with that but you don't
7 know anything else. Tell me why you
8 can't agree with that? You must have
9 specific knowledge now that leads you to
10 that conclusion that you cannot agree
11 with it.

12 A I am aware that there have been
13 occasions where compromises have been
14 agreed and in those instances a portion
15 of that interest has been accrued was
16 compromised, was written-off and a
17 reduced balance was paid by the client,
18 by the debtor.

19 Q Those compromises Mr. Campbell, I put it
20 to you, were made whenever there was
21 Cabinet's intervention in the
22 settlements, isn't that true?

23 A No, that is not true.

24 Q Didn't you tell this Commission earlier
25 that Cabinet made the decisions as to

1 when loans would have been written-off?

2 A No, I did not.

3 Q What did you say about Cabinet's
4 intervention, remind me.

5 A Cabinet's intervention was in relation
6 to save some of the assets not
7 in relation to write-off, the write-offs
8 are referred to the Board, FINSAC board.

9 Q So you disagree that there was a
10 concerted plan, a policy to continue
11 this high interest rate policy for the
12 purpose of eating out the equity that
13 was left in the collaterals?

14 A I disagree with that, yes.

15 Q You will agree with me that it did have
16 that affect?

17 A Really not sure about that.

18 Q You know, you have such selective
19 knowledge. Remind me again, why is it
20 that you disagree with me? What was the
21 specific knowledge now that you have
22 that leads you to disagree with my
23 assertion?

24 A Like I said earlier there have been
25 times when you have compromises and so a

1 portion of that interest is written-off.

2 Q Would you then consider that the
3 compromises were the exception rather
4 than the rule?

5 A The bottom line is we wanted to collect
6 and those debtors would who come forward
7 whether voluntarily or as a result of
8 contact made by the debtors would
9 possibly arrange such facilities.

10 Q But you said that as far back as 1993,
11 you began to see the problems that the
12 debtors would have. So what reasonable
13 basis could there then be of continuing
14 to charge this interest after
15 intervention? What reasonable
16 expectation could there have been Mr.
17 Campbell, that the debtors would have
18 been able to pay?

19 A I am sure that there are some of the
20 debtors who could have paid, Mr. Wong
21 Ken. And the fact that FINSAC was using
22 taxpayers money to finance the FINSAC
23 operations it felt it was necessary to
24 continue to charge interest. If at the
25 end of the day the decision is made to

1 compromise a portion of it then so be
2 it. But you did not want to stop
3 accruing interest altogether.

4 Q But that was fine as it related to what
5 FINSAC had to pay out to depositors
6 though?

7 A (No answer).

8 Q True?

9 A A decision was made in that regard.

10 Q I am not sure if it was you but somebody
11 giving evidence had indicated that
12 Century National paid out one hundred
13 percent of deposits plus interest
14 accrued to the date of the intervention.

15 Q I mentioned that, yes.

16 Q How insolvent then could Century have
17 been?

18 A I really don't have all of those details
19 Mr. Wong Ken but...

20 Q You gave...

21 A It was a decision made that all of the
22 depositors would have been refunded so
23 if there was an insolvent company then
24 the shortfall would be covered by the
25 government.

1 Q When you became the General Manager, I
2 think it is, of the organisation did you
3 think it your business to look into the
4 records of FINSAC to try to determine
5 what some of this rationale was?

6 A No, I didn't.

7 Q When you became aware that this
8 Commission had been constituted and that
9 you would be called to give evidence,
10 did you feel it important to undertake
11 an investigation into that rationale?
12 I looked at some of the files Mr. Wong
13 Ken, but...

14 Q Did you think it important, Mr.
15 Campbell?

16 A I looked at some of the files so...

17 Q Did you think it important, Mr.
18 Campbell?

19 A Yes.

20 Q So why didn't you?

21 Q I have a number of files Mr. Wong Ken, I
22 cannot possibly be expected to recall
23 all the information from all the files
24 and it is not like I would be aware
25 beforehand that I will be questioned on

1 this particular matter so I could
2 research the files and/or take the files
3 here to refresh myself. So I cannot be
4 expected to be walking with all this
5 information in my head.

6 Q Mr. Campbell, your evidence to the
7 Commission, is that there were some 23
8 thousand files representing individual
9 debtors that were sold off to Jamaica
10 Redevelopment Foundation?

11 A Right.

12 Q

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2 Q Can you recall what the number of files
3 was when FINSAC took over the debt
4 portfolio from the banks?

5 A It would probably have been just a
6 little bit more than that because a few
7 of the debtors repaid their debts before
8 the debts were sold to Jamaica
9 Redevelopment Foundation, I am not aware
10 of what that figure is.

11 Q You have mentioned a schedule, I think
12 somebody said 500 page schedule that was
13 annexed to the Sale Agreement between
14 FINSAC and JRF?

15 A That is correct.

16 Q You also mentioned that what you did was
17 you simply adopted the schedule provided
18 by the individual banks, correct?

19 A Correct.

20 Q I gather from that and I just want
21 clarity, I gather from that that there
22 was no effort at all made to reconcile
23 those accounts individually to make sure
24 that what the banks had listed were in
25 fact correct?

1 each officer is dealing with, and it
2 would take some time to get to all of
3 them.

4 Q And that is in fact exactly the point I
5 want to get to. Dr. Davies had
6 indicated that there was a serious under
7 estimate of the extent of the problem,
8 in other words, what I gather from him
9 that there was a serious under estimate
10 of the number of bad debts and how
11 pervasive they were among institutions?

12 A Right.

13 Q Isn't it true that in that context
14 FINSAC was severely understaffed?

15 A That may have been the case, I really
16 couldn't speak to that.

17 Q And was it because FINSAC was under
18 staffed and likely under resourced that
19 there was such a neglect in going
20 through the accounts to make sure that
21 they were accurate?

22 A I really couldn't speak to that, I
23 really do not believe so.

24 Q Your evidence awhile ago it would have
25 taken a long time to have gone through

1 all the accounts?

2 A All of them, yes.

3 Q So wasn't it a decision made not to?

4 A No decision was made to that effect.

5 Q Similarly there was no decision made to
6 try and verify the accounts other than
7 when you were challenged?

8 A Yes.

9 Q Okay.

10 CHAIRMAN: You know, I don't want to repeat
11 ourselves, as I understood the evidence
12 from Mr. Campbell, they got this
13 schedule and therefore they had to
14 accept that as a figure that was what
15 was owed, so he said it already, I don't
16 think it's necessary to go over it
17 again, whether it's because of short
18 staffed or whatever reason, that is the
19 fact. They didn't verify the debts
20 that the institutions gave to them on
21 their schedule, would that be correct?

22 A That is correct.

23 Q When you joined FINSAC in 1999 you were
24 the Manager of Administration?

25 A In the Loans Department, yes.

- 1 Q From 1999 until your appointment as
2 General Manager in 2008, what other
3 positions have you held in FINSAC?
- 4 A Following the sale of the loans to
5 Jamaica Redevelopment Foundation, my
6 role changed slightly to Operations
7 Manager about 2002, shortly after the
8 sales of the loans and that was the
9 position until January '08 when I was
10 appointed the General Manager.
- 11 Q So since 1999 until 2002 your position
12 never changed?
- 13 A No, sir.
- 14 Q Did your responsibilities changed?
- 15 A No.
- 16 Q Did you have any direct input in the
17 negotiations with Jamaica Redevelopment
18 Foundation?
- 19 A Absolutely not.
- 20 Q Did you have input in collating the
21 accounts that were sold to JRF?
- 22 A No.
- 23 CHAIRMAN: Mr. Wong Ken, I have to ask, you are
24 appearing for whom?
- 25 MR. WONG KEN: The Association of FINSAC'd

1 Q I am not sure where we were
2 Mr. Campbell?

3 CHAIRMAN: You tell him where you were.

4 A The last question was whether I had any
5 direct involvement in preparing the loan
6 list for sale.

7 Q And the answer is?

8 A No.

9 Q So the list that was appended to the
10 agreement between JRF and FINSAC, where
11 did that list come from, who compiled
12 it?

13 A I really do not know Mr. Wong Ken, I
14 know it was compiled within the Loans
15 Department, but as to exactly who did it
16 I am really not sure.

17 Q The difficulty I am having Mr. Campbell
18 is this that you say that your job was
19 to administer that loan portfolio?

20 CHAIRMAN: No, no, I didn't hear that?

21 A And I never said that either.

22 Q What was your job then?

23 CHAIRMAN: He was the man to allocate, forty belong
24 to Miss Brown around the corner, that is
25 what he was doing, he is just doing

1 whatever, so he was not a Director.

2 Q We are not at that moment yet, and that

3 is why I had asked him the question

4 about his various posts, that might have

5 well inspired your intervention

6 Mr. Chairman, but he became -- I

7 understand Mr. Campbell in 2008 you

8 became a director, is that right?

9 A Director?

10 Q In 2002 you became a Director?

11 A To Refin.

12 Q Not to FINSAC?

13 A No, I am not a Director of FINSAC.

14 Q You have never been a Director of

15 FINSAC?

16 A I have never been.

17 Q Are you aware whether FINSAC...

18 CHAIRMAN: Sorry, he is a Director of Refin, is

19 that correct?

20 A Yes, that is correct.

21 Q Are you aware Mr. Campbell...

22 CHAIRMAN: He was a subsidiary but...

23 Q One hundred percent subsidiary he said.

24 CHAIRMAN: Refin, and Recon were both subsidiaries.

25 Q Mr. Campbell, are you aware of whether

1 FINSAC had ever loaned money to anyone?

2 A I really do not recall, I can't say

3 whether we have ever done that.

4 CHAIRMAN: FINSAC sold loans to JRF, that is what

5 he said.

6 Q I am asking him specifically whether

7 FINSAC had loaned money to any of the

8 debtors?

9 A I really do not recall, I would need to

10 check it.

11 Q So, you will check and get back to us on

12 that point and if FINSAC had in fact

13 loaned money to any of the debtors, to

14 whom and in what amount and when?

15 A Sure.

16 CHAIRMAN: Excuse me, as matter of interest, the

17 word subsidiary was used in respect of

18 Refin and Recon, but were they

19 subsidiaries?

20 A Yes, Chairman.

21 CHAIRMAN: They seem to be sister companies.

22 A As I mentioned yesterday, Recon Trust is

23 the entity that was used to acquire the

24 loans from National Commercial Bank and

25 Refin acquired the loans from the other

1 entities.

2 CHAIRMAN: How that makes -- that makes them
3 subsidiaries?

4 A Each one would be a subsidiary of
5 FINSAC, so yes Refin and Recon are
6 sister companies but they are each a
7 subsidiary of FINSAC.

8 CHAIRMAN: But FINSAC doesn't own them?

9 A Yes.

10 CHAIRMAN: They have shares in them and so on?

11 A Yes.

12 CHAIRMAN: When I look at the Memorandum I didn't
13 see that, I leave that for the moment
14 but maybe you can have a look yourself.

15 Q Mr. Campbell, the Agreement for Sale to
16 Jamaica Redevelopment Foundation called
17 for an initial payment of US\$22 Million?

18 A That's correct.

19 Q And there was an arrangement where
20 FINSAC would share in a percentage of
21 debts collected thereafter?

22 A That is correct.

23 Q Can you tell us what those percentages
24 were and when would they kick in?

25 A I am speaking from memory that FINSAC

1 would get 15% of the first fifty million
2 US collected net of direct cost; for the
3 next fifty US million net of direct cost
4 it would be twenty five; for the next
5 fifty million US net of direct cost
6 would be thirty-five percent; for the
7 next fifty million US net of direct cost
8 would be forty-five percent and anything
9 thereafter fifty percent

10 Q And where on that scale is FINSAC now?

11 A Well just about to move into the
12 forty-five percent category.

13 Q So FINSAC has a real financial interest
14 in how well JRF performs?

15 A Yes.

16 Q And when FINSAC sold the debts it sold
17 the debts based on the principal amount
18 of the loans, is that correct?

19 A That is correct.

20 Q So you made your calculation of the
21 value of the debts on the principal of
22 the debt, right, and that principal
23 would have been capitalized as at
24 where -- let me see if I can explain it,
25 interest is running on the debt, when

1 FINSAC intervened, was interest
2 capitalized and the value of the debt
3 established?

4 A No, a separate interest account was
5 opened for each account, whatever
6 principal balance we got that was the
7 principal balance that remained with
8 FINSAC.

9 Q And when FINSAC shares in the percentage
10 of collection, does it contemplate
11 sharing in the collection regardless of
12 whether it is principal collected or
13 interest collected or it didn't matter?

14 A Didn't matter, the total collected.

15 Q Have you been able as FINSAC to
16 determine what the value of the loan
17 would have been have had interest been
18 calculated?

19 A No, that calculation was not done.

20 Q But at the same time 30% was charged on
21 the Jamaican money and 15% on US?

22 A On principal balances.

23 Q Mr. Chairman, I wonder if it would be
24 convenient to break now. I may well be
25 finished with Mr. Campbell but I would

1 love the opportunity just to review my
2 notes over lunch.

3 CHAIRMAN: Ten minutes early would not affect us I
4 suppose.

5 MR. WONG KEN: 6 Thank you for your indulgence

7 CHAIRMAN: Mr. Chairman.

8 Is it that Mr. Levy wasn't finished and want
9 MR. LEVY: to have another bite at the cherry. From what
10 Mr. Campbell said now I would like to ask him
11 CHAIRMAN: some questions.

12 MR. LEVY: Now?

13 CHAIRMAN: Yes.

14 MR. LEVY: Yes, Mr. Levy.

15 Yes, Mr. Campbell, it slipped past me to ask
16 you in the first session, you said NIBJ paid
17 \$53M for \$180 million worth of debts sold by
18 A FINSAC.

19 Q Yes.

20 Using round figure, that was a substantial
21 discount, the discounts given to the
22 building societies who took over debts were
23 very small relatively speaking, what is the
24 explanation for this substantial discount
25 given to a government owned entity by a
government

1 owned entity for which you already
2 established there was common directors
3 and collusion, the possibility of
4 collusion, incestuous relationship.
5 CHAIRMAN: Question or speech.
6 Q The question is, what is the reason for
7 this obvious disparity in the discount
8 given by FINSAC to NIBJ where you sold
9 them \$180 million of loans for \$53
10 million?
11 CHAIRMAN: There is a document EC 9, have you got
12 that?
13 Q Having made the statement...
14 CHAIRMAN: I am asking, have you got EC 9 before
15 you, Mr. Campbell?
16 A T recall what the information is,
17 Mr. Chairman.
18 CHAIRMAN: He said he recalls.
19 Q What is the reason for this substantial
20 discount between these two government
21 companies?
22 CHAIRMAN: You accept this is a substantial
23 discount, do you not?
24 A Based on the balance presented, yes. I
25 really was not involved in the matter of

1 that sale Mr. Levy. The point I was
2 making, however, in terms of those
3 transfers or sales to the building
4 societies, is that as you would
5 appreciate, a building society would
6 have one hundred percent or more
7 collateral for its debt, so that no
8 doubt would have been considered in
9 arriving at a sale price; I am not sure
10 what was the state of those loans that
11 were sold to NIBJ, so I really couldn't
12 speak to the exact reason as to why
13 there would have been a substantial
14 discount for that sale.

15 Q You can research and come back and
16 advise the Commission as to what was the
17 reason because I am sure there are
18 minutes of meetings that would take
19 place before a decision like that was
20 taken to give such a discount?

21 A I am not sure that particular discussion
22 would be necessarily captured in the
23 minutes but I will look.

24 CHAIRMAN: A decision has to be taken by somebody.

25 A The question wasn't about the decision

1 Mr. Chairman, the question was what are
2 the reasons, so I am just saying maybe
3 that particular information may not be
4 included in the minutes so the minutes
5 could say a decision had been taken to
6 sell these loans for this price.

7 CHAIRMAN: Would it be wrong to assume that there
8 would be some recommendation to the
9 Board and that recommendation would
10 certainly be in writing, would it not?

11 A Would be in writing.

12 CHAIRMAN: I would hope so.

13 A So I will check.

14 CHAIRMAN: So Mr. Campbell will check and return to
15 us; you are finished Mr. Levy.

16 MR. LEVY: I have something else. Mr. Campbell,
17 usually boards act on recommendations of
18 their officers, board papers with the
19 recommendations are submitted to the
20 Board based on which the Board makes
21 decision after maybe asking questions of
22 the officers who made the
23 recommendations. Would you also....

24 CHAIRMAN: Mr. Campbell, so far as my memory goes,
25 told us that a piece of paper was tucked

1 forgotten, when a loan is assigned or a
2 promissory note is assigned by the bank
3 to FINSAC, did you receive or did FINSAC
4 receive separate or were separate
5 notices of the assignment sent to each
6 individual debtor saying your loan, as
7 evidenced in promissory note so and so
8 has been assigned to so and so, did the
9 banks do any of that, the failed banks?
10 A I really do not know that Mr. Levy.
11 Q Can you ascertain that for us?
12 A Those files have since been transferred
13 to Jamaica Redevelopment Foundation.
14 Q Can you get that information from
15 Jamaica Redevelopment Foundation?
16 A I will check if it is available or if I
17 can have access to it.
18 Q But not all files were transferred, you
19 still have some loans in your own
20 portfolio?
21 A The loans we have in our portfolio are
22 some Government related loans, like
23 Sugar Company, for instance, all the
24 other loans were transferred to Jamaica
25 Redevelopment Foundation.

1 Q We are interested in notices of
2 assignment, and what was the procedure.
3 Mr. Chairman, I am finished with
4 Mr. Campbell for now, but I crave your
5 indulgence just to address you on a few
6 issues. I believe the intention of this
7 committee and the mandate of this
8 committee is to get the truth.

9 CHAIRMAN: The whole truth.

10 Q The whole truth and nothing but the truth.
11 We see a lot of shifting and shaking and
12 moving sands, I think, sir, and I am going
13 to strongly recommend to you that
14 information can be obtained firstly from
15 the two senior officers at National
16 Commercial Bank at that time, Dunbar
17 McFarlane and Jeffrey Cobham. They will be
18 able to tell you, and I have correspondence
19 to support it, of the political
20 interference and the pushing and pressure
21 by Recon Trust as to how they acted.

22 I hope you are not giving evidence right now.
23 CHAIRMAN: Pardon me, I didn't hear?

24

25 MR. LEVY:

1 CHAIRMAN: I trust you are not giving evidence at the
2 moment.

3 MR. LEVY: No.

4 CHAIRMAN: All you can do is tell us who you think we
5 should call. We are aware of
6 Mr. Cobham, I think Mr. Cobham is in
7 Cayman. Mr. Levy, all the people we
8 are bringing we have issued them with
9 the terms of reference, and say would
10 you be good enough to speak to these
11 things? There are those who ignore us,
12 there are some who we cannot find in the
13 sense that we do not know what are their
14 permanent residences or location and
15 there are others who tell us oh well,
16 what I have written, I have written.
17 Q We could subpoena them?

18 CHAIRMAN: Subpoena those whom we can locate.

19 MR. LEVY: I will be happy to assist you in re-
20 locating them.

21 CHAIRMAN: Well we would be happy if you could give
22 us some addresses, the Secretary would
23 be happy to receive them from you.

24 MR. LEVY: Yes, sir. I would like to recommend Mr.
25 Rex James and Mr. David Coore who could

1 give good information to this enquiry.

2 CHAIRMAN: We have Mr. Rex James down.

3 MR. LEVY: And also Mr. Richard Downer, former
4 senior partner of Pricewaterhouse,
5 former Receiver/Manager of Thermo
6 Plastics Jamaica Limited who received a
7 lot of instructions from FINSAC which
8 affected his performance as
9 Receiver/Manager.

10 CHAIRMAN: You could be good enough to provide his
11 name, and address to the Secretary, we
12 will invite him to be here.

13 MR. LEVY: I will do so.

14 CHAIRMAN: So you will write then.

15 MR. LEVY: I will most certainly get the
16 information and give it to the
17 Secretary.

18 A Mr. Chairman with your permission, there
19 is just one preliminary matter I would
20 like to say for the record. I am here to
21 assist the Commission as best as I am
22 able from the records that are
23 available. It is in fact perhaps a
24 little difficult for me to come here and
25 to be fielding questions on matters that

1 will of necessity take some time for me to
2 research. It's not like as it
3 relates to the eighty questions that were
4 posed yesterday, I got some time to do some
5 research on some of them and was able to find
6 information in the limited time available.
7 I want the Commission to understand clearly
8 that we have no need or desire to hide any
9 information, all that is available that we
10 can make available to the Commission we are
11 prepared to do so and I just want that to be
12 understood clearly.

13 Mr. Campbell, I put it to you this way, we
14 CHAIRMAN: all have our difficulties. We
15 thought that all we had to do was to write
16 people who were involved, say here are our
17 terms of reference, speak to it No, that is
18 not the posture of people, the posture is,
19 we will come, and you are free to ask us
20 anything. No commission can operate on that
21 modus operandi. What we do in order to get
22 this enquiry on the way, I keep
23 repeating, we had to go and sit down and
24
25

1 2 device questions as to issues and then invite
3 4 people to respond and when we do we get
5 6 responses like I am not aware, I can't
7 8 recall, and then somebody comes to the
9 enquiry and says, well, you know, because you
10 sent us the thing I had a chance to, you just
11 can't win. Tell
you what we do, we will take the
luncheon adjournment and come back at 2
o'clock.

L U N C H E O N A D J O U R **N M** E N T

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 ON RESUMPTION AT 2:00 P.M.

2 CHAIRMAN: We will now resume the hearing.

3 Mr. Campbell you are still under oath.

4 A: Thank you.

5 CHAIRMAN: Mr. Wong Ken. Sorry. Was Mr. Levy,
6 Mr. Levy had completed his?

7 MR. WONG KEN: I believe he had, Chairman, and having
8 reviewed my own notes I have nothing
9 further of this witness.

10 CHAIRMAN: That's very nice. Mr. Robinson you wish
11 to re-examine?

12 MR ROBINSON: No, Mr. Chairman, not at this stage, I
13 will await the review of the documents
14 at FINSAC as I had indicated at the
15 commencement of hearing I would not, I
16 didn't have a chance to look at the
17 document and to have discussions with
18 Mr. Campbell, so I would rather await
19 his return.

20 CHAIRMAN: Well, Mr. Campbell promised to do some
21 things.

22 MR ROBINSON: We will go through the document.

23 CHAIRMAN: And I think he promised to let the
24 Secretary have them this side of
25 Christmas.

1 MR ROBINSON: We will do that.

2 CHAIRMAN: Mr. Campbell.

3 A: Yes, Mr. Chairman.

4 CHAIRMAN: Perhaps you would be good enough to make
5 a note. Is it possible for you to
6 produce the list showing suits brought
7 by or against FINSAC, FIS, Recon, Refin
8 and the results.

9 A: Sir, I missed a part of what you said
10 Mr. Chairman.

11 CHAIRMAN: Would you be good enough to produce a
12 list showing suits brought by or against
13 FINSAC, FIS, Recon, Refin and the
14 results of those, of that litigation.
15 And could you be good enough to provide
16 information regarding FIS, Recon, Refin,
17 which is similar to that provided on
18 behalf of FINSAC which you provided on
19 behalf of FINSAC.

20 A: I am not sure what information you need
21 Mr. Chairman.

22 CHAIRMAN: Whatever you said about FINSAC dealing
23 with FIS, Recon and Refin.

24 A: I am really not sure what you mean.

25 CHAIRMAN: Same information you have provided with

1 regard to...

2 A: We have already provided copies of

3 Minutes from both FIS and FINSAC.

4 CHAIRMAN: I think this has to do with the loans

5 and properties sold and the like.

6 A: The properties sold from Refin, Recon

7 and FIS are included in the list that

8 has already been provided.

9 CHAIRMAN: Expect that the list doesn't

10 differentiate or anything.

11 A: Oh, so you want me to...

12 CHAIRMAN: Could you refine it, if you don't mind.

13 A: Okay.

14 CHAIRMAN: The third requirement. Would you be

15 able to provide a list of loans for

16 which no information was received from

17 the bank?

18 A: I do not expect that I will be in a

19 position to provide that information,

20 Mr. Chairman. As mentioned earlier

21 whatever loans existed, whatever files

22 accompanied them, that matter has

23 already been transferred to Jamaica

24 Re-development Foundation.

25 CHAIRMAN: And you retained nothing at all?

1 Everything as far as you are concerned you
2 have a wiped slate, clean slate, no record
3 of what you gave to transfer to JRF, no
4 list?

5 A: Just the balances.

6 CHAIRMAN: JRF don't sign off and say tick, tick,
7 no?

8 A: Just the balances.

9 MRS. PHILLIPS: Mr. Chairman can I?

10 CHAIRMAN: Please.

11 MRS. PHILLIPS: It might be helpful if we could get
12 copies of the Order, the court orders
13 listing the assets of the Blaise and
14 Century Financial Institutions Service
15 Limited, it may also be helpful.

16 CHAIRMAN: Mr. Campbell can provide that, sorry,
17 are these things Mr. Campbell can
18 provide?

19 A: Yes, certainly the orders would have
20 been obtained through the Attorney...

21 CHAIRMAN: No, I am just asking because he is
22 writing it down.

23 MRS. PHILLIPS: Oh, yes, sir. It is Financial
24 Institution Services Limited.

25 CHAIRMAN: Mr. Campbell, you are listening?

1 A: Yes, Mr. Chairman.

2 CHAIRMAN: Go ahead, Mrs. Phillips.

3 A: Yes, the agreements, and I am not sure
4 perhaps you have them already, I don't
5 know, but the agreements between the
6 intervened institutions and FINSAC,
7 Workers Bank and Refin and Recon.

8 CHAIRMAN: Anything else?

9 MRS. PHILLIPS: I don't know if it is possible but
10 probably the number of debtors or the
11 number of debts that were received into
12 FINSAC, we have gotten the value of the
13 debts but we have not gotten the number
14 of the debts. The statutory instruments
15 by which the shares of Workers Bank were
16 vested in the Ministry of Finance in
17 1998.

18 CHAIRMAN: FINSAC would have that?

19 A: Yes, because the General Manager of
20 FINSAC would have been appointed as the
21 agent of Ministry of Finance.

22 CHAIRMAN: You got all that Mr. Campbell?

23 A: Yes, Mr. Chairman.

24 CHAIRMAN: Then would you use your good offices to
25 obtain these documentation please?

1 A: Yes, sir.

2 CHAIRMAN: Well, it does appear as if we have come
3 to a premature end to these happy
4 events. Sorry, Mr. Levy, have you
5 completed your endeavours?

6 MR. LEVY: I have completed my examination for the
7 time being of Mr. Campbell but I would
8 like to make a statement, something I
9 have observed in this last two days
10 meeting.

11 CHAIRMAN: Sorry, you are finished with
12 Mr. Campbell?

13 MR. LEVY: Yes, sir.

14 CHAIRMAN: Mr. Campbell you may withdraw.

15 A: Thank you.

16 CHAIRMAN: We look forward to seeing you in the not
17 distant future. Yes, Mr. Levy.

18 MR. LEVY: There were legal advisors to Minister
19 and the Government of Jamaica and to
20 FINSAC, the Director of State
21 proceedings and former Solicitor General
22 and present Solicitor General, they have
23 given advise on many of these issues, T
24 have observed. I assumed they will be
25 called in respect of some of the things

1 that have happened in the past but I observed
2 that former Solicitor General is appearing
3 as a party here and I find this to be a great
4 conflict of interest, appearing for a party,
5 Mr. Michael Hylton.
6 Yes.
7 CHAIRMAN: I just make the observation that I find this
8 MR. LEVY: a great conflict of interest because he
9 ought to be called as a witness also.
10 Mr. Hylton isn't here at the moment. I
11 will be happy to repeat this in his
12 CHAIRMAN: presence.
13 MR. LEVY: I hope you will be able to - yes, if you did
14 that then perhaps one can make some comment,
15 CHAIRMAN: I don't propose to make any comment now. It's
16 noted of course on the records. Regrettably,
17 we will have to adjourn these proceedings
18 until tomorrow afternoon when we resume at
19 2 o'clock, we hope to have in the chair former
20 Financial Secretary,
21 Mrs. Tyndale. So good afternoon ladies and
22 gentlemen, go safely home. We now
23
24
25

1
2
3
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

25

stand adjourned.

ADJOURNMENT TAKEN AT 2:12 P.M. 4