

### WITNESS STATEMENT OF DEBTOR 7

1. My name is Debtor 7 and I reside at [REDACTED] in the parish of St. Andrew. I have been in the real estate business for over 40 years and I am currently a realtor.
2. I earn a living mainly from (a) commission from sales of properties as a broker.
3. I am the principal of [REDACTED] companies which were severely impacted and collapsed as a result of what was happening in the financial sector in the 1990s. These are :

[REDACTED]

4. In the 1970s, with the encouragement of prime minister Michael Manley, I sold [REDACTED] houses in England and together with my wife [REDACTED] [REDACTED] who studied here and loved Jamaica, I returned home.

5. [REDACTED]

6. In 1979 we started a real estate brokerage company, [REDACTED] Limited. We had offices in Kingston, [REDACTED], [REDACTED], [REDACTED], [REDACTED] and Ocho Rios. We employed 60 agents and staff.
7. Further, we started [REDACTED] which was involved in real estate development. This entity employed 30 persons.
8. We also established [REDACTED] from which we were engaged in eye care. This business employed four people.
9. Later we started [REDACTED], a project whereby we leased several acres of land in Morant Bay with its main object being to cultivate bananas for export. [REDACTED] employed 120 persons.
10. The brokerage business was very successful and it was left in the care of a capable general manager and an in-house accountant, both of whom were supervised by auditing firm, [REDACTED], while I concentrated on land development.

11. I started with 10 lots in [REDACTED] and having made a success at that project we purchased an adjoining lot of 30 acres. All told, we had 58 lots. At this time we borrowed money from **Horizon Merchant Bank** to finance the development.
12. The principal amount of the loan was [REDACTED] and we got it in two parts - [REDACTED]. I am unable to locate the loan agreement at this time but these loans were secured against the parent title to the belvedere lot and were endorsed on the title registered at [REDACTED]. A copy of that title is **attached** hereto and marked "**Debtor 7 1**". The first two mortgages reflect the actual loan amounts. The title reflects an additional mortgage because another mortgage was registered to secure unpaid interest.
13. We also had a loan from Citizens bank for about [REDACTED]. That was taken to raise the development of lands in [REDACTED] St. Ann.
14. We subdivided the land and as we sold the individual lots we made lump sum payments on account of the mortgage debts. Payments were made to facilitate the release of individual titles to purchasers. The titles would be released upon payment of these lump sums to the Bank. This was the arrangement we had with Horizon and we proceeded as such even after FINSAC took control of the bank/ building society. These payments were made through our attorneys. I am **attaching** the following copy letters showing the several lump sum payments;

[REDACTED] Letters from [REDACTED]  
[REDACTED]

October 14, 1996  
October 24, 1996  
October 25, 1996  
November 14, 1996  
November 19, 1996  
December 9, 1996 (two letters)  
December 10, 1996  
January 2, 1997  
January 10, 1997  
January 23, 1997  
February 7, 1997  
March 25, 1997  
April 11, 1997  
June 12, 1997  
June 26, 1997

September 23, 1997  
September 30, 1997 (two letters)  
1997  
December 12, 1997  
February 16, 1998  
February 24, 1998 (three letters)  
March 16, 1998  
June 4, 1998  
July 9, 1998  
July 29, 1998

**"Exhibits – Debtor 7 – 2 – 25"**

- Letters from my attorneys to FINSAC dated :

October 13, 1998  
December 14, 1998  
May 11, 2000

**"Exhibits Debtor 7 – 26 – 28".**

13. Not all the payments have been accounted for in these letters. I cannot find all of them. But between 1996 and 1998 I had paid in excess of [REDACTED]M on account of the mortgage debt to Horizon. As you will note from the letter dated May 11, 2000 from [REDACTED] to FINSAC Limited, (Exhibit "Debtor 7 28), lump sum payments were being made on behalf of New World Development corporation Limited even after they wrote to me in 1999 demanding settlement of principal and interest in the amount of [REDACTED] Limited. "DEBTOR 7 29". I was being called upon to pay off the entire debt. I couldn't.
14. By the time FINSAC took control of the Horizon group, most of the purchasers of lots in the subdivision had received their titles. We continued our sales as we developed the project. By this time interest rates were spiraling out of control and this resulted in a downturn in our business. We were unable to pay our bills including salaries as the bulk of our earnings had to be used to try to service our debts. The enormously high interest rates made our debts virtually unserviceable.
15. The lots were not now being sold to the extent that they were being sold before because our staff and agents left the company. Our bills piled up. The brokerage business failed and I stopped the development in Discovery Bay to put all my effort and resources into advancing the Belvedere and Chancery Hall developments.



16. As we (meaning myself, [REDACTED] limited and [REDACTED] continued selling some of the Belvedere and Chancery Hall lots, we continued servicing our debts and were not in arrears at the time when our debts were taken over by FINSAC. However, after this our business spiraled downwards as interest rates rose and compounded way beyond our ability to keep up with the payments as we were accustomed to doing.
17. We completed the Chancery Hall Development smoothly and we were not in arrears with respect to the debt for this project. We even gave FINSAC one and a half acres of land in the Chancery development as collateral for the debt which we had incurred to carry out the [REDACTED] development. This debt was also secured by way of [REDACTED]. I intend to deal with [REDACTED] in greater detail later .
18. By this time it became clear to me and others that with interest rates continuing to sky rocket, we would never be able to repay our debts. As vice president of the [REDACTED] (the president) made representations to the Minister of Finance making offers for settlement on behalf of all the debtors. All our offers and suggestions were either rejected or flatly ignored. In my view, this was a real pity as because of the rising interest rates billions which would have otherwise stayed in Jamaica were repatriated overseas.
19. Soon after FINSAC's takeover and with the enormously high interest rates, my ability to advance the projects was severely compromised, earnings therefore declined and I was faced with unpaid government taxes, statutory deductions and purchasers wanting their titles or refunds.
20. Still , we struggled to make lump sum payments whenever we could . Some of these payments even came from the sale of properties which FINSAC had sent us to sell through our brokerage.
21. By letter dated June 20, 2000, (**EXHIBIT "DEBTOR 7 30"**) we wrote to FINSAC requiring it to provide us with information from its records as to the total payments we had made to Horizon Merchant. Based data we had received, at the time of the takeover by FINSAC Horizon Merchant Bank had only accounted for payments of just over seven million dollars on account of the debt. We had in fact paid in the region of sixteen million dollars.
22. Between 2001 and 2003 we made tireless efforts to negotiate with FINSAC terms which would allow us to settle our indebtedness while continuing to operate . FINSAC's posture was characterized by either an outright failure

to reply or in some instances very terse rejection of our proposals, without explanation or invitation to have further discussion. See :

- Letter dated March 26, 2001 from FINSAC to Debtor 7 ("Debtor 7 31")
- letter dated March 27, 2001 from Debtor 7 to FINSAC limited – "Debtor 7 32"
- letter dated April 5, 2001 from Debtor 7 to FINSAC limited – "Debtor 7 33"
- letter dated May 3, 2001 fro FINSAC Limited to Debtor 7 - "Debtor 7 34"

23. When Jamaica Redevelopment Foundation (JRF) took over from FINSAC, we entered into an arrangement whereby the previous system of making lump sum payments of the net proceeds from lot sales as lots were sold was changed. We were now required to make monthly payments. This would now apply to all our loans. This was good for us because we were now able to meet some of our other expenses from the proceeds of sales rather than to have to pay it all out on account of the loans. This arrangement worked well and we remained in good stead with JRF.

24. I can even recall Mr. Robert Best, JRF's account executive assigned to me that based on the new arrangement we had overpaid and stating that he would be willing to return the amount overpaid to me. I told him to retain the amount overpaid and credit it to our account.

25. After most of the lots in [REDACTED] were sold we did not have very much income coming in. In a meeting with Mr. Robert Best, he suggested that I should globalize all the [REDACTED] debts. (This would **not** include debts incurred for [REDACTED]). I refused at first because at the time the Citizens bank was relatively small and I thought maybe I should move to pay that one off. But in a subsequent meeting I was told that even though my wife had left Jamaica the debts could still follow her and it would be very embarrassing if JRF should go after her in the country where she was now living.

26. I conveyed this to her attorney here in Jamaica and she and I agreed (reluctantly) to the globalization of the debts. As a result, JRF globalized all debts relating to [REDACTED] ( ie. Loans secured to develop [REDACTED] ) In keeping with this agreement, in 2004 [REDACTED] and I executed an **Agreement to Restructure Existing Debt**. A copy of that document is exhibited herewith and marked "Debtor 7 35".



27. At the time the debt on [REDACTED] was about [REDACTED] and the debt on [REDACTED] was about [REDACTED].
28. At that time, my wife and I also signed over [REDACTED] to JRF to set off out debt in relation to [REDACTED].
29. After all the lots in [REDACTED] were sold and those funds applied to offset [REDACTED] debts, I could not afford to continue to repay the loans as I was accustomed to doing.
30. I tried to enter into a joint venture agreement with a 3<sup>rd</sup> party to develop and build houses on the property (12 acres) in [REDACTED]. The first prospective joint partners pulled out of the negotiations because he was afraid of the prospect of dealing with JRF.
31. Much later we got another joint partner. Negotiations proceeded very well. JRF was included in these negotiations and a draft contract was prepared. Again, when faced with the enormity of the terms of my indebtedness to JRF, this joint partner also pulled out.
32. At this point, words are totally impossible to describe the state I was in, with three young children going to school in foreign lands, court cases against me by persons wanting their titles or their money back, taxes and death threats.. I can easily empathize with my colleagues who have committed suicides., (I was told that there were persons in a similar position as mine with FINSAC and JRF who have committed suicide or died of stress related ailments.
33. I am a [REDACTED] with landing status to live in other countries. So I wondered why I was punishing myself. But I was determined to stay and resolve my problems, even if I were to leave after.
34. By this time there were about 12 persons who had fully paid for their lots in [REDACTED] and did not receive their titles. In keeping with **item 12 of the Agreement to Restructure Existing Debt** which I mentioned and exhibited before, I made more than one payment of [REDACTED] to JRF. I mistakenly made more than one payment because at the time I thought that I was required to pay [REDACTED] the release of each title. One buyer told me that she went to JRF and paid [REDACTED] to have her title released. Another purchaser told me that she went in and offered to pay the sum to have her title released but [REDACTED] would not accept the payment.
35. I made some monthly payments under the restructured agreement. However, as the payments were to be in United States dollars, with the continuing devaluation of the Jamaican dollar, I simply could not keep up.

36. By letter dated July 13, 2006, ("Debtor 7 36") I wrote to [REDACTED] at the **Jamaica Redevelopment Foundation (JRF)** seeking a [REDACTED]. To the best of my recollection, I did not receive a response to that letter .
37. When our subsequent proposals to [REDACTED] were turned down, I wrote to **JRF's** chief executive office, Mrs. Janet Farrow in terms of a letter dated **August 22, 2006 – ("Debtor 7, 37")**. By that letter I was seeking [REDACTED] reduction of the loan balance . I had also written a further letter proposing to pay a certain amount.
38. Mrs. Farrow responded by letter dated **August 28, 2006 ("Debtor 7 38")** requiring that I provide a letter of undertaking within **seven to ten days**.
39. In response, I wrote to her by letter dated **August 29, 2006 ("Debtor 7 39")** requesting that the exact amount to be paid.
40. My attorney subsequently wrote to **JRF (See letter dated 11<sup>th</sup> September, 2006 – "Debtor 7 40")** advising that I would not be able to provide the requisite undertaking in the time stipulated because the title which I intended to use as security in securing the undertaking was encumbered with a caveat lodged by one of the purchasers. I would have to be able to satisfy her claim under my agreement with her before the title would be released.
41. I was not able to secure financing to provide the undertaking. By letter dated **September 25, 2006, ("Debtor 7 41")**, **JRF** informed me that my debt now stood at [REDACTED] . I was required to settle the amount within **ten days**.
42. In any event, despite my payments pursuant to the agreement,, **JRF** would not released the titles. In fact they have sold some of the lots listed in **Item 12**. Further, **JRF** has completely disregarded **item 12(b) and (c)** of the Agreement in that they would not release the titles so that I could subdivide and develop the lots. They proceeded to advertise the properties for auction. **See advertisements – "Debtor 7 41"**
43. Thereafter, my several pleas for generous accommodation from **JRF** were either expressly rejected or fell on deaf ears. **See:**
- Letter dated June 5, 2007 from Debtor 7 to [REDACTED] (**JRF**) – **"Debtor 7 42"**
  - Letter dated June 27, 2007 from **JRF** to Debtor 7 – **"Debtor 7 43"**

- Letter dated July 2, 2007 from Debtor 7 [REDACTED] (JRF) – “Debtor 7 44”
- Letter dated May 1, 2008 from Debtor 7 to [REDACTED] (JRF) – Debtor 7 45 “

44. Four lots were sold by JRF between 2007 - 2009 . These would normally be sold by us for between [REDACTED]. I have never been shown any statement or given any details as to how the proceeds were applied towards my indebtedness.
45. Several purchasers sued us to complete the sales to them and furnish them with their titles.
46. In our attempts to settle the suits brought against us and to address the concerns of persons who purchased lots from us we have made refund payments of [REDACTED] for one of the lots sold by JRF . We are in the process of with another person by purchasing a lot for that person for [REDACTED]. We have to be settling with these persons at present market value. Our purchasers are not at fault and we are very conscious of their sufferings.
47. However, there is a very big problem and I believe that JRF is dealing with it in a very hostile and draconian manner, especially in light of the huge concessions which I gather have been granted to other debtors.
48. In light of my very frank and cooperative stance with the JRF. I have approached that body with a problem I have been having with two of the lots which, through no fault or omission on our part, have no titles. Both appeared on the subdivision plan as approved lots but there were no titles for them. We would not know this because as the titles were splintered they would be sent directly to the bank – our mortgagees. This discovery was made after we sold them and as the purchasers waited patiently for their titles.
49. When we applied for the subdivision the process went through and was approved by lawyers, our surveyor and about 26 government agencies , right up to final approval.
50. The [REDACTED] adjoined and encroached on other properties. The lots we sold were on average about 12,,000 square feet. [REDACTED] each encroached on two lots belonging to 3<sup>rd</sup> parties by about 4000 square feet per lot. In other words both lot 6 and 31 took up about two thirds of two adjoining lots.



51. The purchaser for lot 6 could not get a title so we made a refund costing us [REDACTED]. The purchaser of lot 31 went ahead and built a lovely house (valued at about [REDACTED] on his lot.
52. We obtained title for another portion of land and settled with one of the person on whose lot the said two lots encroached.
53. The owner of the lot (31) who built his house has had me in court for failing to produce his title.
54. I, along with my surveyors have taken and am taking active steps to have the title rectified so that I can furnish the claimant who has me in court with his title. We have made significant progress .
55. I brought this problem to the attention of Mr. [REDACTED], (JRF's sales consultant) and enquired of him whether JRF would be prepared to release this title to us for the purpose of completing the correction and providing the claimant with his title. Mr. [REDACTED] calmly asked me to furnish him with the full information and diagrams. I diligently put the data together and took it to him. To my utmost disappointment, when I left the information with Mr. [REDACTED] he sent me two letters dated **March 25, 2009 – "Debtor 7 46"** stating that JRF would not release or entertain any discussions with me unless the **FULL** debt has been paid. As of then, I was told that my indebtedness was in the region of [REDACTED] I am not in a position to pay this sum. Suffice it to say that I have no idea as to how the sum has been arrived at. JRF has never provided me with any account relative to the lots which were sold by FINSAC /JRF. I have never received a statement showing how the funds which were being sent to Horizon from the sale of lots were applied and how my debt was thus impacted. I have no idea as to how our indebtedness has ballooned to that sum, especially in circumstances where our properties were sold and are still being sold.
56. I went and had a meeting with Mr. [REDACTED] He has insisted that I should settle the debt in full. It must be noted that in the meantime, JRF has continued to sell lots in the subdivision.
57. The owner of [REDACTED] has successfully sued me and brought contempt proceedings against me for failing to produce his title. In these circumstances, I will never be able to produce his title. I must now await my fate in light of the order that I be committed to prison [REDACTED].

58. On December 23, 2010 I was arrested by the bailiff and taken to Trench Town police station . I was told that I was to be taken to St. Catherine District prison, I became ill and had to be admitted to hospital. I was released from hospital on Christmas day and ordered to remain in bed.

59. On account of [REDACTED] JRF has taken/sold five properties in [REDACTED] – four lots with a value of about [REDACTED]s with a value of about [REDACTED]. These have all been transferred into JRF's name . The four lots have been sold by JRF . They have advertised for auction 12 acres in [REDACTED]. (Today's market value would be about \$J[REDACTED] )

[REDACTED]

60. In 1993, I, along with three other persons leased 400 acres of land [REDACTED] from the government for banana production. We borrowed [REDACTED] from **Horizon Merchant Bank** to start up the project which we named **Morant Farms**.

[REDACTED] Property at [REDACTED] (one and a half acres owned by myself and my wife were used to secure the loan along with our property at [REDACTED])

62. We (the partners in **Morant Farms**) planted about 160 acres and started exporting after about a year.

63. We employed about 120 persons- farm manager, foremen, field workers. The undertaking was off to a good start.

64. Very soon we were faced with enormous interest payments and were finding it extremely burdensome to service the debt. We simply could not keep up.

65. I gave the bank title to property at [REDACTED] registered in the name of [REDACTED] to off set the loan.

66. The other partners put up property which have also been taken over by FINSAC or its affiliates.

67. Given the ever increasing interest payments we simply could not sustain the project. We just had to abandon it owing millions in debt, including salaries and taxes.

68. Political activists took control of the land and squatters have now taken it over. Having gone there some time after, my life was threatened at gun point.

I have ceased going to the property. So while still paying the yearly lease, there has been no farming activity on the land for several years now.

69. In July 2007, JRF wrote to [REDACTED] indicating that the property at [REDACTED] with a net yield of [REDACTED] (" [REDACTED] 47"). Based on that letter, an amount in excess of \$ [REDACTED] remained outstanding.

70. At the time of the sale, the property at [REDACTED] was valued at no less than [REDACTED]

71. Again I have never received any details as to how the proceeds of sale were applied towards or affected my indebtedness. I was only informed that I was liable to for the **entire debt** as the agreement was "joint and several".

72. The property at Chancery Hall was also sold. I think it was sold for about [REDACTED] in 2008. I did not receive this information from JRF or any of its affiliates.

73. My then wife and I lost a commercial building [REDACTED] valued at [REDACTED], a property in Chancery Hall that was earmarked for multi family development. Its present value would now be in the region of [REDACTED].

## SUMMARY

74. I and my companies have already paid the banks in excess of \$ [REDACTED] from three loans of just over [REDACTED] from Horizon and \$ [REDACTED] from Citizens Bank.

75. JRF is still contending that I owe \$ [REDACTED]. (This has been conveyed to me verbally). I do not know how the proceeds of the properties sold by them have been applied. I do not know how my current indebtedness has been computed or arrived at.

76. From 90 agents and staff in [REDACTED] and [REDACTED], I am down to **one agent and two employees**.

77. My sojourn with the financial institutions, FINSAC and its affiliates from the 1990s to date has been very demoralizing and devastation and I am left with prospect of facing imprisonment because I have been and may be found to be in disobedience of court orders with which I simply cannot comply as my compliance remains contingent upon the release of the titles by JRF. The ever present fear of being imprisoned has taken and is taking a toll on my health.



78. I would like to know why I have not / cannot be afforded the generous debt forgiveness which I gather has been extended to other debtors.

**I CERTIFY THAT THE FACTS IN THIS STATEMENT ARE TRUE TO THE  
BEST OF MY KNOWLEDGE, RECKONING AND BELIEF**

**DATED THE                      DAY OF                      2011.**

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**DEBTOR 7**

LIST OF EXHIBITS (DEBTOR 7)

EXHIBIT

Debtor 7 1 - copy title ([REDACTED])

Debtor 7 2 -25(a) - Letters from [REDACTED] to  
Horizon Merchant Bank dated:

October 14, 1996  
October 24, 1996  
October 25, 1996  
November 14, 1996  
November 19, 1996  
December 9, 1996 (two letters)  
December 10, 1996  
January 2, 1997  
January 10, 1997  
January 23, 1997  
February 7, 1997  
March 25, 1997  
April 11, 1997  
June 12, 1997  
June 26, 1997  
September 23, 1997  
September 30, 1997 (two letters)  
Letter (1997)  
December 12, 1997  
February 16, 1998  
February 24, 1998 (two letters)  
March 16, 1998  
June 4, 1998  
July 9, 1998  
July 29, 1998

Debtor 7 26 -28 letters from [REDACTED] attorneys to FINSAC dated:

October 13, 1998  
December 14, 1998  
May 11, 2000

Debtor 7 29 - Letter dated July 28, 1999 from FINSAC to [REDACTED]  
[REDACTED]

Debtor 7 30 - letter I dated June 20, 2000, from Debtor 7  
to FINSAC

Lasceels Poyser 31 - Letter dated March 26, 2001 from FINSAC to  
Debtor 7 .

Debtor 7 32" - letter dated March 27, 2001 from Debtor 7  
to FINSAC limited

Debtor 7 33 - letter dated April 5, 2001 from Debtor 7 to  
FINSAC limited

Debtor 7 34 - Letter dated May 3, 2001 fro FINSAC Limited to  
Debtor 7 .

Debtor 7 35 - Agreement to Restructure Existing Debt.

Debtor 7 36 - letter dated July 13, 2006 from Debtor 7  
to (Mr. Joe Gibson) Jamaica Redevelopment  
Foundation (JRF)

Debtor 7 37 - letter dated august 22, 2006 from [REDACTED]  
[REDACTED] to JRF

Debtor 7 38 - letter dated August 28, 2006 from JRF (Janet  
Farrow) to Debtor 7

Debtor 7 39 - Letter dated August 29, 2006 from Debtor 7  
to JRF

Debtor 7 40 - letter dated 11<sup>th</sup> September, 2006 from Gayle Nelson  
& Co. to JRF

Debtor 7 41 - Two advertisements for Sale by private Treaty /  
public auction.

Debtor 7 42 - Letter dated June 5, 20007 from Debtor 7 to  
Joe Gibson (JRF)

Debtor 7 43 - Letter dated June 27, 2007 from JRF to Lascelles



**Poyser**

**Debtor 7 44 - Letter dated July 2, 2007 from Debtor 7 to  
Naudia Sinclair (JRF) – “Debtor 7 44”**

**Debtor 7 45 - Letter dated May 1, 2008 from Debtor 7 to  
Joe Gibson (JRF)**

**Debtor 7 46 - letters (2) dated March 25, 2009 from JRF to  
Lascelles Poyser.**

**Debtor 7 47 - letter dated July 6 2007 from , JRF to**

