

VERBATIM NOTES
OF
COMMISSION OF ENQUIRY INTO CIRCUMSTANCES
THAT LED TO THE COLLAPSE OF THE FINANCIAL INSTITUTIONS
IN THE 199xs

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

ON
TUESDAY, FEBRUARY 15, 2x11

PRESENT WERE:

COMMISSIONERS

Mr. Charles Ross
Mr. Worrick Bogle

COUNSEL FOR THE COMMISSION

Hon. Justice Henderson Downer (Retired)

SECRETARY TO THE COMMISSION

Mr. Fernando DePeralto

REPRESENTING JAMAICAN REDEVELOPMENT FOUNDATION

Mrs. Sandra Minott-Phillips - Attorney-at-Law
Mr. Gavin Goffe - Attorney -at-Law

REPRESENTING MR. PATRICK HYLTON

Mr. Dave Garcia - Attorney-at-Law

REPRESENTING MRS. DEBTOR 16

Mr. Alexander Williams

GIVING EVIDENCE

Mrs. Debtor 16

1 Tuesday, February 15, 2x11
2 COMM. BOGLE: Good afternoon ladies and gentlemen.

3 This Enquiry is now in session, this
4 afternoon, the 15th of February.
5 Last time we were here Debtor 16, I 6
7 think Mrs. Phillips was cross-examining
8 the witness and therefore could we call
9 Debtor 16.
10 (Mrs. Debtor 16 called and sworn)

11x COMM. BOGLE: Mrs. Phillips?
12 MRS. PHILLIPS: Do you want the attorneys announced
13 here?
14 COMM. BOGLE: Yes, right, the names of the attorneys.
15 MR. WILLIAMS: If it pleases you, Commissioner, 1
16 remain on the record for Debtor 16
Xxxx. Alexander Williams.

17 MRS. PHILLIPS: Sandra Minott-Phillips and to be joined
18 shortly by Mr. Gavin Gaffe, instructed
19 by Myers Flecher and Gordon for Jamaican
20 Redevelopment Foundation Inc.

21 COMM. BOGLE: Thank you very much. And so you may
22 proceed, Mrs. Phillips.

23 MRS. PHILLIPS: Thank you. Commissioners after the last
24 occasion Mr. Williams had been asked by
25 the Commission on last occasion to make

1 some documents available to the
2 Commission and he had sought my
3 assistance in making those documents
4 available. I sent a letter dated
5 November 29, 2x1x with those documents
6 attached that I was able to provide
7 copies of to Mr. Williams and I would
8 like to take the witness through those
9 documents.

1x COMM. BOGLE: Sure.

11 (Document passed to witness)

12 MRS. PHILLIPS: Do you recall what exhibits we had
13 reached, Commissioners?

14 COMM. BOGLE: We had reached VD8.

15 MRS. PHILLIPS: Debtor 16, would you just turn over
16 the two pages that are the letter at the
17 front and then you see a document headed
18 'Guarantee' right behind that.

19 A: Yes, I do.

2x Q: If you could just flip through to the
21 end of that document you will see page
22 8; flip through to page 8 for me.

23 A: Yes, I do.

24 Q: You know who John Doe and Jane Doe
25 are?

1 A: No, I don't.

2 Q: Do you know who Jane Doe 1 is?

3 A: Yes, I do.

4 Q: Who is Jane Doe 1?

5 A: Jane Doe 1 is my daughter.

6 Q: And are you aware that the xxxxx

7 issued a guarantee for the debts of

8 Jane Doe and Jane Doe 1 owed

9 to National Commercial Bank?

1x A: In what year, may I ask?

11 Q: November, 1993.

12 A: Yes.

13 Q: You agree with me that this is a copy of

14 the guarantee?

15 A: I wouldn't remember what is written on

16 it now. I would't remember.

17 MRS. PHILLIPS: I said the xxxxx?

18 COMM. BOGLE: Yes, you did.

19 MRS. PHILLIPS: I am sorry, that was a mistake.

2x Maybe I should repeat the question in

21 fairness.

22 COMM. BOGLE: Yes.

23 MRS. PHILLIPS: Do you agree with me that there was a

24 guarantee signed by the xxxx for the

25 debts of xxxxxx and xxxxx

1 xxxxxx?

2 A: Could you repeat for me please.

3 Q: Certainly. I am sure it was my error,

4 Debtor 16, so let me try again. Do

5 you agree with me that there was a

6 guarantee issued by Mr. John Doe 2

7 and Mrs. Jane Doe 2 for the debts owed

8 by xxxxxxx and Jane Doe 1 to

9 the National Commercial Bank in November

1x of 1993?

11 A: I don't know about that. I don't know

12 John Doe 2 or the other name that

13 you called, Jane Doe 2.

14 Q: You know xxxxxxxx?

15 A: Yes, I know her.

16 Q: And xxxxxxxx was connected with

17 your daughter Jane Doe 1?

18 A: Yes, she was her friend.

19 Q: And you know nothing of the xxxxxs

2x issuing a guarantee to National

21 Commercial Bank for the debts of xxxxxxx

22 xxxxx and Jane Doe 1 in November

23 of 1993?

24 A: No, ma'am I don't know.

25 Q: I still would like to have this document

1 admitted into evidence as?

2 I think it would be 8.

3 MRS. PHILLIPS: My friend is telling me he thinks we
4 have 8 already.

5 COMM. BOGLE: The verbatim notes indicate - I am just
6 checking. We had up VD-7 and this
7 therefore should be VD-8.

8 MRS. PHILLIPS: Commissioner, can you mark that VD8.

9 COMM. BOGLE: Yes. That guarantee, Commissioners, as
1x you will note is for a xxx Million Dollars.
11 So Debtor 16, assuming this
12 guarantee to be what it says on its
13 face, before xxxxxx borrowed
14 money from NCB in March of 1995, she
15 actually had borrowed money from NCB
16 prior to that date hadn't she?

17 A: I don't know of that.

18 MRS. PHILLIPS: I am asking the Commissioners to note
19 the date on the guarantee is 1993 that
2x covers the debts of xxxxxxxx up to
21 a Million Dollars.

22 COMM. BOGLE: You did say that this guarantee is for
23 xxxx Million Dollars?

24 MRS. PHILLIPS: I thought I saw on the front page xxxx
25 Million; at the bottom of paragraph two

1 **'shall not exceed the sum of One Million**
2 **Dollars.'**

3 I see it. I just want to confirm that
4 that is what you said.

5 MRS. PHILLIPS: That is what I said.

6 COMM. BOGLE: That is what I see.

7 MRS. PHILLIPS: That's the guarantee, not necessarily
8 the debt.

9 COMM. BOGLE: Just to confirm that because I did see
1x the xxxx Million.

11 MRS. PHILLIPS: Debtor 16, right behind that

12 document you see another guarantee?

13 A: Are you talking to me, please?

14 Q: Yes, Debtor 16m, I am. Right behind
15 that document I just showed you, the 8
16 pages, you can turn over that page now,
17 go to the next one then stop there. Do
18 you see a document marked 'Guarantee'?

19 A: Yes, I do.

2x Q: Let's look at this document for a moment
21 if you don't mind. Do you see at the

22 top where it says **In consideration of your giving time credit**
23 **and/or Banking facilities and accomodation**
24 **to xxxx and xxxxx?**

1 A: Yes, I have seen that.

2 Q: We the undersigned hereby guarantee to
3 you the payment of and undertake on
4 demand in writing made on the
5 undersigned by you or your Directors to
6 pay to you all sums of money which may
7 now be or hereafter may from time to
8 time become due and owing to you.
9 Do you see those words there?

1x A: This is at number two, please?

11 Q: No, it is at number one.

12 A: The writing is very fine.

13 Q: Yes, it is very fine.

14 Q: If you look at the top of the document
15 you see **"TO: NATIONAL COMMERCIAL BANK"**?

16 A: I am reading what you just tell me. At
17 the top I see **National Commercial Bank**
18 **Jamaica Limited.**

19 Q: Right. So this is a guarantee to
2x National Commercial Bank Jamaica
21 Limited. You see in paragraph 2 some
22 words are typed in and you see xxxx
23 Million Dollars?

24 A: Yes I see that.

25 Q: Do you see your initials there on that

1 page?

2 A: It doesn't look like mine to me.

3 Q: What, you are not sure?

4 A: I know about the xxxxx Million Dollars.

5 Q: So is it your initials?

6 A: For what year, '93? Was it '93?

7 Q: '93, 13th of December 1993?

8 A: Yes.

9 Q: Thank you. And you see your initials on
1x the next page as well?

11 A: Yes.

12 Q: *You see your* initials on page 3 also?

13 A: Yes.

14 Q: And do you see your signature on page 4?

15 A: Where Xxxx Xxxx is?

16 Q: No, that would be you are husband's
17 signature.

18 A: Yes. Mine is there too.

19 Q: Yours is there too?

2x A: Yes.

21 Q: Right underneath it?

22 A: Yes.

23 Q: And it's further down on the page also?

24 A: I don't see that.

25 Q: At the end of the page?

1 A: I don't see any more. I see xxxxx
2 and Debtor 16.
3 Q: Look at me Debtor 16. You see your
4 husband's signature here?
5 A: Way at the top?
6 Q: Yes.
7 A: Yes.
8 Q: You see your signature there?
9 A: Yes.
10 Q: Follow me now. Go down to here. You see
11 two signitures here?
12 A: Yes.
13 Q: Is one of them yours?
14 A: Yes.
15 Q: The second one is yours?
16 A: Yes.
17 Q: Turn the page for me. You see two
18 signatures at the foot of that page?
19 A: xxxxx is there.
20 Q: You see your signature, Debtor 16?
21 A: Yes.
22 Q: Now turn the page for me.
23 Sorry can I have that numbered?
24 COMM. BOGLE: VD-9. And VD-9, does that include the
25 last page?

1 MRS. PHILLIPS: Both of them included the addendum.

2 There is an adendum to the previous one
3 as well.

4 COMM. BOGLE: Okay.

5 MRS. PHILLIPS: Guarantee by the xxxxx to NCB
6 dated December, 1993.

7 Now turn the page for me Debtor 16,
8 to the next document. Do you see a
9 document like this with 'received' on
1x the left hand side?

11 A: Yes.

12 Q: You recognize the signature of your
13 daughter on that document?

14 A: Yes.

15 Q: And would it be the first signiture
16 under the date the 25th of February
17 1994?

18 A: Don't read that?

19 Q: Your daughter's name is Jane Doe?

2x A: Yes, she is.

21 Q: Would her signature be the one that
22 appears underneath the date?

23 A: Yes.

24 Q: The first signature appearing under the
25 date?

1 A: Yes. The two signatures that are there
2 is hers.

3 Q: Sorry. Let us pause here for a moment.
4 Do you see where it is written out
5 xxxxxx?

6 A: Yes.

7 Q: There is a signature over that?

8 A: Yes.

9 Q: Is that your daughter's signature.

1x A: Yes, it is.

11 Q: You see under that there are the words
12 xxxxx and there is a signature
13 above that?

14 A: Yes.

15 Q: You said you don't know xxxxxx?

16 A: I know xxxxxx. I don't know
17 her mother and her father.

18 Q: But you know her.

19 A: I know her.

2x Q: Are you familiar with her signature?

21 A: No.

22 Q: Do you agree with me that your
23 daughter's signature appears just one
24 place on this document?

25 A: On the one that I am looking on?

1 Q: Yes, the one you are looking at.

2 A: The one that says dated 25th day of
3 February, 1994.

4 Q: Yes, headed - **To: National Commercial**
5 **Bank** and starts with the words "**In**
6 **consideration of your granting or**
7 **continuig to grant loans or other**
8 **banking facilities...**"

9 A: Yes.

10 Q: You agree with *me* that your daughter's
11 signature appears at one place on that
12 page?

13 A: I don't understand this.

14 COMM. BOGLE: She might not understand it because she
15 previously accepted her daughter's
16 signature.

17 MRS. PHILLIPS: It is just that she had said it appeared
18 twice.

19 COMM. BOGLE: Perhaps she is confused. On more than
20 one occasion she did indicate that the
21 signature there is her daughter's.

22 MRS. PHILLIPS: My we then number that VD-1x.

23 Now, Debtor 16, right behind that
24 you see another guarantee, do you
25 remember the last occasion the

1 Commission asking you whether or not
2 there was more than one debt the subject
3 of a guarantee to National Commercial
4 Bank?

5 A: Yes, they did.

6 Q: Look at this next document for me,
7 Debtor 16. Do you see here a
8 guarantee to National Commercial Bank
9 Jamaica Limited for the debts of
1x X Corporation Limited?

11 A: Yes.

12 Q: You knew about that company?

13 A: That's what her company was named.

14 Q: There was nothing in your letter to the
15 Commission dated June 28, 2x1x about
16 X Corporation Limited?

17 A: I can't remember anything like that.
18 can't remember. I don't think I have
19 ever written to the Commission about
2x X Corporation.

21 Q: Okay. I don't think so either.

22 A: Yes, I don't think so.

23 Q: Now, this guarantee if you turn to page
24 8 for me.

25 A: Yes I am there now.

1 Q: Do you see your signature on that page
2 in the middle column?

3 A: Yes.

4 Q: Is that your signature?

5 A: It does not look like mine. Can I ask
6 you a question please?

7 Q: No, your lawyer will clear up anything
8 that you don't understood?

9 A: What year was that?

10 Q: Oh, you want to know what year?

11 A: Yes.

12 Q: Look on the previous page, January 26,
13 1995. Look on the page.

14 A: Page what, page six?

15 Q: Page 7.

16 A: There is no page 7.

17 Q: Page 7 is missing from yours?

18 COMM. BOGLE: It's missing from ours as well.
19 MRS. PHILLIPS: It wasn't missing from the copy that I
20 sent to the Commission. Mr. DePeralto's
21 signature is on mine.

22 COMM. BOGLE: We haven't got that, none of the copies
23 we have.

24 MRS. PHILLIPS: Those were the copies that Mr. Williams
25 sent out yesterday. I assume the copies

1 Jamaica limited. Do you agree with me?

2 A: No, I don't.

3 MRS. PHILLIPS: I am asking for this guarantee to be
4 marked VD-- is it 11?

5 COMM. BOGLE: 11.

6 MRS. PHILLIPS: This is a guarantee dated January 26,
7 1995 issued by Debtor 16, limited
8 to 65x,xxx to cover the debts of
9 x Corporation Limited owed to
10 National Commercial Bank Jamaica
11 Limited.

12 MR. WILLIAMS: If I may make this comment Mr.
13 Commissioner, if I may.

14 COMM. BOGLE: Go ahead.

15 MR. WILLIAMS: I know the rules are relaxed before the
16 Commission but just to make it apparent
17 that Debtor 16 has not admitted
18 that this is her signature on this
19 document.

20 COMM. BOGLE: Yes.

21 DEBTOR 16: No, it is not.

22 MRS. PHILLIPS: Now, Debtor 16, before you move
23 from this document go back to page 8 for
24 me.

25 Continued....

1

2 DEBTOR 16: The same one that I have in my hand,
3 should I go backward to find the page or
4 forward?

5 MRS. PHILLIPS: Go back to page 8, the same one where
6 there was a missing page between 6 and
7 8, you remember?

8 A: Yes. I only have 6.
9 Look on the one that is marked 8 for me.

10 A: Yes, I am looking at 8.

11 Q: In addition to the middle column where a
12 signature appears, look at the bottom of
13 the page for me please.

14 A: I am looking.

15 Q: You see your signature there?

16 A: Not my signature, not me.

17 Q: Okay, look at page 1 of the document; go
18 back to page 1 for me please.

19 A: Forward or backward?

20 Q: Back to page 1?

21 A: Yes, I am there.

22 Q: You see some initials at the bottom of
23 that page?

24 A: Yes, I do.

25 Q: You recognize those initials?

1 A: No, I don't.

2 Q: Look at page 2?

3 A: I am there.

4 Q: You see initials there?

5 A: No initials at all.

6 Q: You don't see any initials on page 2?

7 A: No, none at all.

8 Q: You have initials, Commissioner?

9 COMM. BOGLE: Yes, I have one initial on mine.

1x MRS. PHILLIPS: Turn to page 3 for me. You see initials
11 on page 3?

12 A: Yes.

13 Q: It is your initials?

14 A: No, not mine.

15 Q: Page 4?

16 A: None on it.

17 Q: You said that *your* daughter's company is
18 called x Corporation?

19 A: Yes, it was called x Corporation.

2x Q: Are you aware that your daughter's
21 company, x Corporation borrowed
22 money from National Commercial Bank?

23 A: When she was buying the boat.

24 Q: Speak closer to the microphone.

25 A: When she was buying the boat she

1 borrowed the money from National
2 Commercial Bank.

3 Q: I crave your indulgence just a minute,
4 Commissioners.

5 Skip over the next two documents for me
6 for the time being, Debtor 16, that
7 is the notice to Miss Jane Doe 2 and
8 the notice to Mr. John Doe 2?

9 A: That is page what?

1x Q: Unfortunately the pages are not
11 numbered. Go back to page 8 where I had
12 asked you to look on the signature.

13 A: Yes, I am there.

14 Q: Right, flip over that page, you see a
15 letter dated the 26th of September, 2xxx
16 to Miss Jane Doe 2?

17 A: By John Doe 2 and Jane Doe 2,
18 that one?

19 Q: No, Debtor 16 right after that
2x page, there is a letter dated the 26th
21 of September, or there should be a
22 letter dated the 26th of September, 2xxx
23 by registered mail from REFIN Trust
24 Limited to Miss Jane Doe 2, the
25 Indebtedness of x Corporation to

1 National Commercial Bank Jamaica
2 Limited/REFIN Trust Limited.
3 A: Dated the 26th day of November 1993.
4 Q: May Mr. Goffe approach the witness, if
5 necessary?
6 COMM. BOGLE: Yes.
7 MRS. PHILLIPS: You know Commissioners, I called the
8 Commission yesterday to ascertain that a
9 copy of all the documents that were
1x attached to my letter be provided to
11 each of the Commissioner and also copies
12 would be made -- you found it?
13 MR. GOFFE: Yes.
14 MRS. PHILLIPS: I am grateful to my friend.
15 Are you now looking at a document dated
16 the 26th of September, 2xxx?
17 A: Yes.
18 Q: And you said you don't know who xxxx
19 xxxx, is that what you said?
2x A: No, I don't know who she is.
21 Q: The person that was your daughter's
22 friend was somebody named xxxx?
23 A: Yes, she was Jane Doe 2, I think.
24 Jane Doe 2 is her mother.
25 Q: Jane Doe 2 is her mother?

1 A: Yes.

2 Q: She is the mother of your daughter's
3 friend?

4 A: Yes.

5 Q: Permission for this to be marked VD11.

6 COMM. BOGLE: VD.12.

7 MRS. PHILLIPS: VD.12. And Commissioners, I am
8 switching note that at this time REFIN
9 Trust Limited is claiming a principal
1x balance owed by X Corporation of
11 \$x million, interest of \$x Million,
12 a total of \$x Million. They are
13 making a formal demand for payment and
14 the interest rate being applied by REFIN
15 Trust Limited is 3x% per annum.
16 Turn over the page for me,
17 Debtor 16 please. You see a letter
18 below dated the 26th of September 2xxx,
19 this time addressed to Mr. John Doe +

2x ?

21 A: Yes.

22 Q: Commissioners, may that be marked VD12?

23 COMM. BOGLE: VD13.

24 MRS. PHILLIPS: VD13. Right below that you should see

25

another letter dated the 26th of

1
2 A: September 2xxx to Mr. xxxx. Yes, I see it.
3 Q: Address, Spanish Town, St. Catherine.
4 That is your address?
5 Used to be.
6 A: That was your address in the year 2xxx? Yes,
7 Q: it was my address in the year 2xxx. Thank
8 A: you very much. And REFIN Trust wrote you a
9 Q: letter telling you that xxxx Corporation
10 Limited had failed to pay its debt and it
11 was calling on you as guarantor to pay?
12 I don't remember that. Because when I heard
13 of REFIN Trust I am wondering who are they;
14 A: I never got a letter from them.
15 You knew about FINSAC?
16 I know about FINSAC.
17 Okay, you got a letter from FINSAC? I
18 Q: know about FINSAC, I know I get letters
19 A: from Redevelopment.
20 Q: We don't reach Redevelopment yet, we
21 A: will soon get there.
22 I don't remember.
23 Q:
24
25 A:

1 Q: Jamaican Redevelopment wasn't even here
2 when all of this was happening.

3 A: I don't remember'.

4 Q: Can this letter be marked VD14,
5 Commission?

6 COMM. BOGLE: Yes.

7 MR. ROSS: Mrs. Phillips, can I just ask you. Is
8 this letter in relation to the guarantee
9 of \$xxx,xxx.xx?

1x MRS. PHILLIPS: I am unable to say at this point in
11 time. The demand certainly is in excess
12 of \$xxx,xxx.xx and I don't presume that
13 I have each and every document that was
14 signed by this debtor, I just have the
15 ones that I have. Certainly the
16 documents which the debtor has agreed
17 that she signed were not put before this
18 Commission by her. That is all I can
19 say. This letter was not sent by my
2x client, Commissioners, so perhaps when
21 we are in the presence of FINSAC Limited
22 we could address that question to them.
23 It seems to **be** a confusion between them
24 and my **client**.

25 COMM. BOGLE: All right.

1 MRS. PHILLIPS: Commissioners, was that marked VD14?
2 COMM. BOGLE: Yes.
3 MRS. PHILLIPS: And another letter behind that one,
4 Mrs. Debtor 16, dated the 26th of
5 September, 2xxx, this time to your
6 husband, Mr. xxxxx at the same
7 address that you said you lived in the
8 year 2xxx at Address,
9 Spanish Town St. Catherine?
1x A: Yes.
11 Q: Demanding payment of the indebtedness of
12 x Corporation which had been
13 guaranteed by him to National Commercial
14 Bank Jamaica Limited?
15 A: But he died in 1996.
16 Q: Did you tell the bank?
17 A: (No answer).
18 Q: VD15, Commissioners.
19 COMM. BOGLE: VD15.
2x MRS. PHILLIPS: Now, turn the page for me, do you see
21 another letter marked the 26th of
22 September 2xxx, Mrs. Debtor 16?
23 A: Yes, I see it.
24 Q: And this is the letter addressed to
25 Maximerl Corporation, UDC Pier, Ocho

1 Rios, St. Ann. In the very first line
2 it says: **I act on behalf of REFIN Trust**
3 **Limited, a wholly-owned subsidiary of**
4 **FINSAC Limited, Assignees of your debt**
5 **at National Commercial Bank Jamaica**
6 **Limited.**

7 There is any difficulty accepting that
8 REFIN Trust Limited is a related company
9 of FINSAC Limited?

1x A: Now, I hear.

11 Q: And this letter, Mrs. Xxxx, was
12 copied to you, was it not?

13 A: I can't remember.

14 Q: Okay, look below the signature you will
15 see where it says 'copy'?

16 A: Yes, I do.

17 Q: You see where it says Archer Cummings &
18 Company - Attention Ms. Debra
19 Reid-Archer?

2x A: Yes.

21 Q: Do you know her?

22 A: Yes, I know her.

23 Q: Who is she?

24 A: She is the lawyer.

25 Q: She is the lawyer for Maximerl

1 Corporation?

2 A: No, she wasn't.

3 Q: The lawyer for who then, Debtor 16?

4 A: I know her as a lawyer.

5 Q: I suggest to you that she was the lawyer

6 for xxxx Corporation.

7 A: I don't know; I wouldn't know.

8 Q: You would not know, but you see your

9 name right underneath the name of her

1x firm mentioned?

11 A: Yes.

12 Q: So I am suggesting to you that you

13 received a copy of this letter.

14 A: No, I don't because I wonder why they

15 don't write to us.

16 Q: VD16, Commissioners?

17 COMM. BOGLE: Yes please.

18 MRS. PHILLIPS: That is a letter to xxxx Corporation

19 dated 26th September, 2xxx, Re your

2x indebtedness to National Commercial Bank

21 Jamaica Limited/REFIN Trust Limited.

22 Turn the page for me, Debtor 16.

23 COMM. BOGLE: That is VD1, I think, this was VD1 that

24 was entered in?

25 MRS. PHILLIPS: If it is entered in we don't need to put

1 it in again.

2 COMM. BOGLE: It is in.

3 MRS. PHILLIPS: Debtor 16, would you turn the page
4 to the next page. You see a letter
5 dated July 2, 2xx3?

6 A: It says May 8, 2xx3.

7 Q: No, turn the page, you see another
8 letter?

9 A: Yes.

1x Q: Would you agree with me that this
11 letter, not only is addressed to Miss
12 Xxxx but also to Miss xxxxx
13 xxxx?

14 A: I don't know, I cannot be definite about
15 it, I don't know.

16 Q: Commissioners, you will see that letter
17 is addressed to xxxxxx and Miss
18 xxxx.

19 Would you agree with me that Dennis
2x Joslin Jamaica Inc put a proposal to
21 Miss xxxxx and Miss xxxxx in relation
22 to the debts that they owed to Jamaican
23 Redevelopment Foundation Inc?

24 A: Did you ask me a question?

25 Q: Do you agree with me that Jamaican

1 Redevelopment Foundation through Dennis
2 Joslin Jamaica Inc. put a proposal to
3 your daughter for settlement of the debt
4 that she owed to Jamaican Redevelopment
5 Foundation Inc?

6 A: It could have, but I don't know of it.

7 Q: Part of the difficulty that confronts me
8 Commissioners, is that Debtor 16 in
9 her submission to the Commission has
1x made statements not just about herself
11 but about x Corporation and her
12 daughter and her daughter as far as I
13 know has not given evidence and x
14 Corporation has not given evidence and
15 so the only way I can get document in
16 relation to the statement that she has
17 made about x and her daughter is
18 by putting documents through her, even
19 though she herself may not have been a
2x signatory to the document. For instance,
21 this document, reference is made of a
22 proposal which involves Item 2 which
23 says each of the borrower's parents will
24 sign a guarantee of US\$xx,xxx.xx. I am
25 asking for this document to be -

1 was an Asset Manager at Dennis Joslin
2 Jamaica Inc. Permission to read it
3 Commissioners?

4 COMM. BOGLE: Yes please.

5 MRS. PHILLIPS: Dear Mr. xxxx.

6 Good day. I have received the package
7 you have sent to me on behalf of my
8 mother and myself.

9 **The letter stated that the documents**
10 **must be signed before a Justice of the**
11 **Peace or an Attorney-at-Law. My mother**
12 **is not able to leave the house because**
13 **of ill health. She is a very old lady**
14 **and she is not able to walk because of**
15 **arthritis in both feet and she also has**
16 **diabetes and heart problem...**

17 COMM. BOGLE: Chronic diabetes.

18 MRS. PHILLIPS: **Chronic diabetes and a heart**
19 **problem. If**

20 **you need a letter from the doctor I will**
21 **get it for you. I am willing to sign**
22 **these papers myself and although I am**
23 **not working at this moment I am willing**
24 **to pay the \$1xx.xx per month that you**
asked for. I spoke to Miss Patterson

25

and was told that a US account will be

1 setting up soon.

2 Mr. xxxx, I know you and Mrs. xxxxxx

3 have worked very hard for us and I want

4 to thank you for allowing my mom to stay

5 in her house until she die.

6 I spoke to her about it and she said to

7 say to you both God bless you. It has

8 been hard for me more than you can

9 imagine. This is like a death sentence

10 hanging over my head. I pray you will

11 understand.

12 Looking forward in hearing from you.

13 What a mistake I have made. It is with

14 tears in my eyes that I close this

15 letter. I am sorry.

16 Yours truly.

17 xxxxxxxxxxxx.

18 VD...

19 COMM. BOGLE: VD19.

20 MRS. PHILLIPS: The next letter Commissioners, is a

21 letter dated April 21, 2xx5.

22 COMM. BOGLE: Just a minute. Can we talk a little

23 more quietly please? Thank you. Go

24 ahead.

25 MRS. PHILLIPS: I am obliged. This letter is dated

1 April 21, 2xx5 from Robinson Phillips and
2 Whitehorne. I think that you can take notice
3 that they are a firm of Attorneys-at-Law,
4 Dennis Joslin Jamaica Inc. and because of the
5 connection between xxxxx and Jane Doe 2, one
6 being a debtor and one being a guarantor I
7 am asking with your leave to read this letter
8 also.

9 **We represent Mrs. xxxxx and Ms. Jane Doe 2**
10 **who are indebted to you. We advise that Mr.**
11 **& Mrs. xxxx have agreed to purchase Mrs. Jane**
12 **Doe 2's premises at Address Saint Ann which**
13 **is mortgaged to you for the amount which is**
14 **owed. Would you advise us of the amount**
15 **required to settle the indebtedness and also**
16 **send us a copy of the Certificate of Title.**
17 **Please confirm that you will send us the**
18 **Certificate of Title and discharge of**
19 **mortgage if we send you the money required**
20 **to settle with you." That would be VD19.**

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1 COMM. BOGLE: VD2x.
2 MRS. PHILLIPS: And behind is a follow-up letter, VD 21.

3 and then there is the letter dated April
4 7, 2xx8 from Jamaican Redevelopment
5 Foundation to your daughter xxxx
6 xxxxxx.
7 Mr. Goffe, could you find that for her,
8 please.
9 COMM. BOGLE: Can we just have a short six minute

1x break.

11 BREAK

12

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2x

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1 ON RESUMPTION

2 COMM. BOGLE: This Enquiry is reconvened. You may

3 proceed, Mrs. Phillips.

4 MRS. PHILLIPS: Thank you Commissioners.

5 When we took the break Commissioners, I

6 was looking at a letter dated April 7,

7 2xx8, to the witness's daughter, xxxx

8 xxxxx, from Jamaican Redevelopment

9 Foundation Inc. May I have a moment,

1x sirs?

11 One of the difficulties, when the

12 witnesses stand down for too long I have

13 a difficulty separating one testimony

14 from the other in terms of who said

15 what. That is why I prefer to deal with

16 it one time.

17 You agree with me, Debtor 16, that

18 JRF wrote to your daughter demanding

19 repayment of the debt that she owed? You

2x agree with me? Do you know whether or

21 not JRF wrote to your daughter demanding

22 repayment of the debt that she owed?

23 A: I don't know. I wouldn't know that.

24 Q: Yes, but you have come here to this

25 Commission and given evidence on her

1 guarantors might have been treated
2 dealing with the same debt.

3 Q: I will refresh my memory as to the exact
4 wording of the Terms of Reference. My
5 friend, Mr Goffe, has happily reminded
6 me of the recitation of the Terms of
7 Reference by the Chairman at the very
8 outset, not this Chairman, the then
9 Chairman. It was this Chairman? As a
10 matter of fact, it is this Chairman.

11 COMM. BOGLE: The thing is that if I am a borrower and
12 borrowed some money and it is
13 guaranteed, in the event that the
14 borrower defaults, then the guarantee
15 steps in by the mere fact that the
16 guarantor has guaranteed and, therefore,
17 if we are looking into how the borrower
18 was treated, then by extension we will
19 be looking as well when the guarantor
20 steps into those shoes.

21 Q: If you were to look at every guarantor
22 as falling within the Terms of
23 Reference, then we will be here for a
24 very very - an even longer time than I
25 anticipated that we will be here for?

1 done so and is doing so now. So I would
2 be surprised to hear from my learned
3 friend now that a guarantor has no right
4 of audience before this Commission. That
5 cannot be the situation.

6 MRS. PHILLIPS: I don't believe I said that.

7 MR. WILLIAMS: Well, that would be the implication of
8 your submission.

9 MRS. PHILLIPS: I don't believe I said that.

1x MR. WILLIAMS: But to state it for the record again,
11 Mr. Commissioner, Debtor 16 is here
12 as a guarantor solely. Her submission is
13 not that of a principal debtor and I
14 don't represent the principal debtor or
15 debtors. And she is not purporting to
16 speak on behalf of the principal debtor
17 or debtors.

18 MRS. PHILLIPS: Well, that is a little difficult because
19 the submission that they have put before
2x the Commission seems to indicate
21 otherwise.

22 COMM. BOGLE: Well, while we are going through that,
23 what really is the point that you are
24 making. You seem to be objecting to
25 something that we are doing or

1 something. Can you state it? What
2 exactly is the problem?
3 MRS. PHILLIPS: I think that we were interrupted in the
4 course of doing something. The witness
5 had first of all said that she didn't
6 recall the letter of April 7, 2xx8. Is
7 that consistent with your recollection
8 of what she said? And, of course, I draw
9 your attention to her signed submission
1x numbered paragraph six. Have you seen
11 that Commissioner?

12 A: Yes, Mrs. Phillip.

13 Q: And do you see that her submission is
14 signed by her?

15 A: Yes, I saw that.

16 Q: Debtor 16. Sorry, I don't recall if
17 I did put this in evidence.

18 Commissioners, I think I was making the
19 point that Miss xxxxx is her daughter,
2x although Miss xxxxxx is not herself
21 here. This notice was sent to Miss
22 xxxxx by JRF and when I had asked her
23 she said she had known nothing about it
24 and I am asking that you mark it VD22.
25 That is the one to Maxine xxxxx. And

1 right underneath that there is a letter
2 of the same date to xxxxx and
3 Xxxx from Jamaican
4 Redevelopment Foundation, I think.
5 COMM. BOGLE: VD23.
6 Q: Another formal letter of demand. You
7 know anything about JRF demanding
8 repayment of the indebtedness of xxxxx
9 xxxxx and xxxxx, Miss
1x xxxxx?
11 A: Of who?
12 Q: The joint indebtedness of xxxxx
13 and xxxxxx. Do you know of them
14 getting a notice asking for them to to
15 be repaid. Did your daughter tell you
16 about it?
17 A: I don't remember.
18 Q: You don't remember. VD23.
19 COMM. BOGLE: Yes.
2x MRS. PHILLIPS: Letter of April 7, 2xx8 to x
21 Corporation from Jamaican Redevelopment
22 Foundation.
23 COMM. ROSS: One question. This letter of April 7,
24 VD23, refers to Workers Savings & Loan
25 Bank. Is this in anyway connected to

1 Debtor 16?

2 MRS. PHILLIPS: VD23. I think it said, Workers Savings
3 & Loan Bank, Refin Trust, Financial
4 Institutions Services, Workers Savings &
5 Loan Bank Limited and Refin Trust.

6 COMM. ROSS: Is this in anyway related to
7 Debtor 16?

8 Q: Her evidence - I refresh my memory from
9 the Certificate of Title, I think it
10 went from NCB to Refin Trust to Jamaican
11 Development Foundation?

12 COMM. BOGLE: This refers to Financial Institutions
13 Services and Workers Savings & Loan
14 Bank.

15 Q: And Refin Trust Limited.

16 MRS. PHILLIPS: Right. Well, it doesn't say NCB.

17 Q: Because NCB's loans went to Refin Trust
18 and then went from Refin Trust Limited
19 to the Jamaican Redevelopment
20 Foundation.

21 COMM. ROSS: How does Workers Savings & Loan Bank
22 come into the picture? How does
23 Financial Institutions Services come
24 into the picture?

25 MRS. PHILLIPS: Commissioner Ross, I think you are

1 failing to recall the document that was
2 admitted in evidence a couple of years
3 ago when the Commission first started
4 that shows the assignment of the debt
5 portfolio. It was an assignment from
6 FIS Limited to Workers Savings & Loans
7 Bank and Refin Limited to Jamaican
8 Redevelopment Foundation and within that
9 portfolio were the debts of other
1x institutions that had gone to Refin
11 Trust Limited before, so for instance,
12 if you had a NCB debt that was assigned
13 to Refin Trust Limited and when the debt
14 was sold to Jamaican Redevelopment, it
15 was sold by the then owner to Refin
16 Trust Limited but it would have
17 originated by what is loosely called the
18 legacy banks among which would be NCB.
19 COMM. ROSS: But I am trying to understand why
2x Workers Savings & Loan Bank is part of
21 the reference for a NCB debt.
22 Q: Because it is one document that
23 transferred the entire loan portfolio,
24 whether the debt came from Workers or
25 whether it came from Century or Blaise,

1 it went to FIS or whether it came from
2 NCB it went to Refin Trust.

3 COMM. ROSS: But we had an earlier letter referring
4 to NCB and Refin Trust.

5 COMM. ROSS: I am not understanding why you are
6 having a difficulty. When the debt
7 portfolio was sold - excuse me, am I
8 speaking to the Commissioner or am I
9 speaking to somebody else?

1x COMM. BOGLF: Go ahead.

11 MRS. PHILLIPS: I am not understanding the difficulty

12 that you are having, Commissioner, not
13 understanding it.

14 COMM. ROSS: The difficulty I am having is that we
15 are starting off with a guarantee to NCB
16 for xxxxxx thousand
17 dollars in one case and xxxx million in
18 another case. We have documents earlier
19 which refer to FINSAC and NCB and Refin
20 Trust. In fact, the first letter of
21 demand that came from FINSAC referred to
22 NCB and Refin Trust. We are now having
23 letters referring to Workers Savings and
24 Loan Bank and Financial Institutions
25 Services. I am just wondering why this

1 change and whether any of these, whether
2 the debts that are being demanded are
3 debts which are coming from Workers
4 Savings and Loan Bank and Financial
5 Institutions Services.

6 MRS. PHILLIPS: No, and that is not what the letter is
7 saying. This letter is not saying that
8 this debt came from Financial
9 Institutions or Workers Savings & Loan
1x Bank. This letter is saying that this
11 debt which was sold to JRF among a group
12 of debts which came from FIS, Workers
13 Bank and Refin Trust and this one came
14 from Refin Trust.

15 A: Is all it is saying. And if you look
16 back at the Title that was adduced in
evidence, Certificate of Title, I
believe my friend put it in, xxx Folio
xxx.

Commissioner Ross, perhaps if you look
at the Certificate of Title...

COMM. BOGLE: VD7.

MRS. PHILLIPS: Is that what it was?

COMM. BOGLE: I think that is what it was, VD7.

MRS. PHILLIPS: That is?

1 COMM. BOGLE: Yes, it was in as VD7.

2 MRS. PHILLIPS: Okay. I am obliged.

3 And if you look therein you will see

4 that this land was transferred on the

5 second page of the Title. If you look at

6 the second to last endorsement you will

7 see that this land was transferred to

8 Leonard and Debtor 16, xxxxx

9 xxxxx and Debtor 16

1x . Do you see that? And

11 underneath that you will see that they

12 mortgaged it to VMBS and if you turn

13 the page you will see that they

14 mortgaged it to National Commercial Bank

15 and that mortgage number is xxxx. Do

16 you see that, Commissioners?

17 COMM. BOGLE: We have seen that.

18 Q: And you will see that mortgage is then

19 transferred to Refin Trust Limited from

2x NCB. You see that mortgage goes to Refin

21 Trust Limited from NCB, and then you see

22 that mortgage goes from Refin Trust

23 Limited to Jamaican Redevelopment

24 Foundation? Does that help?

25 COMM. ROSS: The change in captions is just a little

1
2 A: Does that clarify things for you?
Somewhat, yes.
3 Q: Now, the next document behind that, I
4 would like you to agree with me, that
5 was...
6 COMM. BOGLE: Just a minute. Let me see if I can - the
7 letter dated April 7 with the U.S. amount
8 of \$xxx,xxx, that would be VD23. Yes.
9 MRS. PHILLIPS: And this last letter here now would be VD2
1x COMM. BOGLE: 4 .
11 Yes, the one directed to x
12 MRS. PHILLIPS: Corporation.
13 Right. I just want to get it in order. And
14 COMM. BOGLE: you remember telling this Commission, Miss
15 MRS. PHILLIPS: Xxxx, you recall telling this Commission
16 that...
17 Have we passed VD23 already?
18 COMM. ROSS: We have but we can certainly go back
19 MRS. PHILLIPS: there if you wish.
2x What is VD23 referring to? Is this a new
21 COMM. ROSS: debt or a different debt? I am not sure.
22 Is there any evidence of a new debt,
23 Commissioner?
24 MRS. PHILLIPS:
25

1 A: I have no idea, but I am seeing a figure
2 of xxx million U.S.

3 MRS. PHILLIPS: Is there any evidence of proposals to be
4 made?

5 COMM. ROSS: I don't know.

6 MRS. PHILLIPS: There is evidence of one person
7 accepting on behalf of several. There is
8 no evidence of them having accepted.
9 There is evidence of documents going to
1x people to be signed to restructure a
11 debt. There is no evidence of those
12 signed documents coming back as having
13 been signed. In fact, the evidence such
14 as it is, is that one of those persons
15 was unable to go before a Justice of the
16 Peace to sign anything. There is
17 certainly evidence of efforts having
18 been made on the part of JRF to
19 restructure the debt for a lesser amount
2x but there is no evidence of the document
21 that is sent having been signed and
22 returned to them. Hence, their notices
23 refer to the original debts acquired
24 from the legacy banks through Refin
25 Trust.

1 million and the U.S. xxxx
2 Thousand Dollar. So this
3 exhibit VD24 is simply dealing with the
4 same amounts as under Exhibit 3.

5 MRS. PHILLIPS: This is part of the difficulty that you
6 are having, because what you have is the
7 guarantor and not the debtor because if
8 the debtor was here to complain and --
9 in fact not to complain -- but the
1x debtor had complaint, perhaps we could
11 have asked the debtor how many debts
12 they had?

13 A: Therefore we have to conclude that these
14 figures that are here, we don't know the
15 source of it, we don't know what gives
16 rise to these figures. So we have xxxx
17 xxxx Million here and we don't know
18 where that came from because the only
19 thing that we have noticed, we saw where
2x there was a guarantee of a loan for
21 xxxxx Thousand to x Corporation
22 and I think we saw previously there was
23 a guarantor for...

24 Q: There was a guarantee limited to xxxx
25 xxxxx Thousand Dollars...

1 would seem to me, on the other side of the
2 debtor, there is the lender and the
3 information that the Commission would need
4 to clarify these issues would easily come
5 from the lender.

6 Now, perhaps this is an appropriate time for
7 me to raise this. The Commissioner will
8 recall the last occasion that we had tendered
9 in evidence a letter from Jamaican
10 Redevelopment Foundation in which they
11 indicated that the debt, having sold the
12 property for X million had been reduced to
13 X Million. I wrote to Jamaican Redevelopment
14 Foundation through my learned friend as to
15 how that X million was arrived at and I didn't
16 get a response as to how that Fourteen million
17 was arrived at. Now, it also seems that if the
18 Jamaican Redevelopment Foundation is making
19 a demand for X Million Dollars they would
20 have had something to support that demand.
21 There were debt collectors employed by the
22 lender who bought the debt and I am
23
24
25

1 pretty sure they would be in possession of
2 documents or what-have-you to substantiate
3 the demand for One X

4 Million. It can't be that because the
5 principal debtor is not here, we can't
6 clarify those issues, it can't be.

7 COMM. BOGLE: Following that I think that there is and

8 I am sorry to - well I think that T
9 better wait until you reach there to
10 continue. What I note is that there is
11 is a letter further around addressed to
12 Debtor 16 requesting or demanding,
13 I should say, the X Million
14 Dollar which puts her in the driver's
15 seat because the payment of the
16 x Million is being demanded of
17 her.

18
19 Continued...

20

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2 MRS. PHILLIPS: Are you referring to a letter dated
3 April 7?

4 COMM. BOGLE: Yes.

5 MRS. PHILLIPS: I don't think so. Have you read the
6 entire letter?

7 COMM. BOGLE: \$x million but still referring to the
8 \$xxx million....

9 MRS. PHILLIPS: No, no, there is no evidence of any
10 demand on this witness for the payment
11 of \$xxx million, zero; and you know it
12 is -- well I am not here to ask
13 questions. So far as you are aware, no
14 money was borrowed from Jamaican
15 Redevelopment Foundation, correct?

16 A: Yes, I know that.

17 Q: Where was the money borrowed from?

18 A: National Commercial Bank.

19 Q: And you say you don't know of the debt
20 of x Corporation?

21 A: No, I don't know.

22 Q: I think I was about to take her to her
23 statement, her submission when I was
24 stopped. Would you show her her
25 submission please Mr. Williams. Anybody

1 has a copy of her submission that you
2 can show her? Let me read a paragraph
3 of something to you? Debtor 16,
4 this is a submission that you sent to
5 this Commission and it is signed by you
6 on the 31st of August 2x1x.

7 Debtor 16?

8 A: Yes, ma'am.

9 Q: Just turn over the page. Mrs. Debtor 16
10 put down the pen and turn over the page
11 and look at the date of the submission,
12 next page and one more page. Do you see
13 your signature?

14 A: Yes, I do.

15 Q: Do you see the date over your signature?

16 A: Yes, please.

17 Q: What date you see there?

18 A: 31st day of August, 2x1x.

19 Q: And this was sent to the Commission by
20 you, correct.

21 A: Yes.

22 Q: Turn back to the first page, paragraph

23 **1. In 1993 I mortgaged by property**
24 **registered at xxx Folio xxx to National**
25 **Commercial Bank Jamaica Limited. The**

1 **purpose of the mortgage was to secure a**
2 **debt incurred by X Corporation**
3 **Limited, a company which was partly**
4 **owned by my daughter Mrs. Jane**
5 **Doe. As such, I was a guarantor for**
6 **the said loan.**

7 Now having read that Debtor 16, do
8 you now agree with me that you knew
9 about the debt of Maximerl Corporation?

1x A: I did say to you I don't know about
11 their debt because I loaned the money --
12 I mortgaged my house to my daughter, I
13 did not know anything about X
14 Corporation.

15 Q: You mortgaged your house to National
16 Commercial Bank?

17 A: Yes.

18 Q: And you didn't know anything about
19 X Corporation, so how this
2x statement signed by you reach inside
21 here, how does this statement reach into
22 a statement signed by you?

23 A: Which statement, read that statement.

24 Q: **The purpose of the mortgage was to**
25 **secure a debt incurred by X**

1 Corporation, a company which was partly
2 owned by my daughter Mrs. xxxxx
3 xxxxxx.

4 A: But that was what she called it,
5 X Corporation.

6 Q: All right Debtor 16.
7 Commissioners, let me continue putting
8 in the documents please. Letter from
9 Jamaican Redevelopment to xxxxxx
10 and xxxxx dated April 7, 2xx8
11 -- sorry letter to xxxxxx and
12 Debtor 16 dated April 7 2xx8.
13 Did you receive this letter Mrs.
14 Debtor 16?

15 A: I don't get any letter. What I hear I
16 hear from my lawyer.

17 Q: Beg to tender as VD25?
18 HER LADYSHIP: And the one behind that to the xxxxx
19 as VD26.

20 COMM. BOGLE: Dated the same day?

21 MRS. PHILLIPS: Yes, dated the same day.

22 Q: And skip over the next page and then
23 turn to the next page Debtor 16,
24 you see a letter addressed to you, dated
25 April 7, 2xx8, Address,

1 Spanish Town, St. Catherine?

2 A: To xxxx and Debtor 16?

3 Q: No, skip over that one and skip over the

4 next one to the xxxxx and see if you

5 see one behind that to Debtor 16

6 , Address?

7 A: Yes, I have seen it.

8 Q: Did you receive this letter?

9 A: No, as I keep telling you I don't

1x receive any correspondence.

11 Q: Did you live at Address,

12 Spanish Town, St. Catherine?

13 A: That was my home.

14 Q: In 2xx8?

15 A: In 2xx8? I think it was sold at that

16 time by Finsac, by Redevelopment.

17 Q: In April of 2xx8, Mrs. Debtor 16 , I

18 don't think so. Did you live there

19 Mrs. Debtor 16?

2x A: Well, I have lived there before it was

21 sold.

22 Q: You live there before it was sold?

23 A: But maybe I was not there at that time.

24 Q: I am suggesting to you that you received

25 this letter from them.

1 A: No, I don't get any letter, no I don't.

2 Q: VD27 Commissioners?

3 COMM. BOGLE: Yes.

4 Q: And then right behind that

5 Debtor 16 there is a registered

6 notice, a statutory notice issued to you

7 and your husband?

8 A: Page what, could you tell me?

9 Q: It's a long paper.

1x A: You can ask me again please.

11 Q: The notice, that notice Debtor 16,

12 you received that, didn't you?

13 A: As I keep telling you I have not

14 received any letter or statement or

15 whatever you may call it.

16 Q: Okay Debtor 16, I am going to read

17 for you, I am going to read to you

18 paragraph 6 of your written submission

19 to this Commission.

2x **In or about April 7 2xx8 I received a**

21 **Statutory Demand from Jamaican**

22 **Redevelopment Foundation Inc. claiming**

23 **that they would commence legal**

24 **proceedings to recover the debt.**

25 A: I don't remember.

1 Q: You don't remember saying that in your
2 written submission to the Commission or
3 you don't remember it or you don't
4 remember getting the Statutory Demand?

5 A: I just don't remember.

6 Q: Okay. Can we mark this VD...

7 COMM. BOGLE: The notice.

8 A: VD28.

9 MRS. PHILLIPS: And there is one behind it to the
10 Xxxxxs, I ask that that be entered as
11 VD29. And then there is a letter from
12 Wenworth Charles and Company, Dennis
13 Joslin Jamaica Inc, dated October 6
14 2xx8. Did Mr. Wenworth Charles
15 represent your daughter Mrs. xxxxx
16 xxxxx, Debtor 16?

17 A: No, he did not.

18 Q: I beg that this be admitted as VD3x and
19 the response to it from Jamaican
20 Redevelopment Foundation VD31. And in
21 that response from Jamaican
22 Redevelopment Foundation, I would ask
23 the Commissioners to allow me to read a
24 portion of it because it references what
25 was put forward before the Commission as

1 2 being an agreement in the early stages but
3 4 remember it was only signed by one person.
5 6 Reference is made to your letter of October
7 8 6, 2xx8 -- I think I should read Mr. Charles'
9 letter as well.

1x Mr. Charles' letter, Dennis Joslin
Jamaica Inc,

**We represent Mrs. Xxxxxx who has passed to
us your letter of May 8, 2xx3.**

11 **In your letter you offer to her mother "a
12 lifetime dowry", in a house,
13 mortgaged to your institution. After her
14 death the said house to be sold and the
15 amount of xx Million Jamaican Dollars plus
16 interest of xx% per annum retained and the
17 balance be paid to her family.**

18
19 **The aforementioned offer to my client was
20 made in recognition of her financial
21 situation. This offer was accepted by Mrs.
22 xxxxx on May 12, 2xx3.**

23

24

25

1 Recently, it was brought to the attention
2 of my client that the **property** located in
3 Spanish Town was **advertised** for sale in
4 flagrant **violation** of the aforementioned
5 agreement.

6 Will you now confirm **that** you have **revoked**
7 the agreement to my client or
8 alternatively why a notice was served on the
9 accupant of the premises for sale
10 thereof? We expect to hear from you within
11 14 days.

12
13 If we do not hear from you, our
14 instructions are to **take** immediate legal
15 action to prevent the unlawful
16 **disposition** of our client's property.

17
18 Response to Mr. Wenworth Charles dated
19 September 14, 2xx8.

20 Reference is made of your letter dated
21 October 6, 2xx8 which has been forwarded to
22 the writer for response. The letter from
23 Dennis Joslin Jamaica, Inc dated May 8,
24 2xx3 which you reference states "We have
25 a possible solution that our

1 credit committee might consider'". The
2 letter was not an offer, merely a proposal
3 made in the course of negotiations that
4 must be approved by the appropriate credit
5 committees prior to being implemented.

6
7 The approved settlement was documented in an
8 9 Agreement to Restructure Existing Debt and
1x new Guarantees were prepared to be executed
11 by the borrowers and guarantors of the loans.
12 The documents were sent to your client as
13 well as the co-borrower under cover letter
14 dated April 3x, 2xx4 which stated the
15 documents must be signed and returned by May
16 21, 2xx4. The documents were not returned by
17 any of the borrowers or guarantors within the
18 time specified, nor was the property ever
19 transferred to Jamaican Redevelopment
2x Foundation, Inc, as suggested in your
21 letter. Therefore, no agreement, with the
22 exception of the original loan documetns,
23 ever existed between your clients, the
24 guarantors and
25

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Jamaican Redevelopment Foundation, Inc.

**Notice under the Registration of Titles Act
was served and adequate advertising was done
by Jamaican Redevelopment Foundation, Inc.
and the property offered for sale at Public
Auction, same was not sold and the property
is now listed for sale at private treaty. 1x**

11

Please be guided

accordingly.

12 So Commissioners, the evidence shows --
13 COMM. BOGLE: VD31.

14 MRS. PHILLIPS: There were several debts, the borrowers
15 of these debts have not complained that
16 an attempt was made by Jamaican
17 Redevelopment Foundation after the debts
18 were assigned to it to restructure the
19 debts at very favorable terms and
20 documents were sent and were not
21 returned, thereby leaving on the table
22 only the original debts which had of
23 course been sold to Jamaican
24 Redevelopment Foundation. Jamaican
25 Redevelopment Foundation is not in a

1 position to force anybody to sign any
2 Restructure Agreement on any term, it is
3 entirely a matter for them whether they
4 choose to do so. What we do know, that the
5 debtors have not complained and that Debtor
6 16 was the guarantor of one or more of those
7 debts, and that the debt was called and so
8 too was the guarantee. We also know from the
9 evidence adduced that she says that one of
10 the guarantees does not which
11 purports to be signed by her was not in
12 fact signed by her, that is what she says.
13 That guarantee is a guarantee that was given
14 to National Commercial Bank Jamaica Limited.
15 If, and there are several possible
16 interpretations of that, assuming without
17 accepting that what she says is so, that the
18 signature is not in fact hers, then the
19 document would have come in existence either
20 at the behest of the borrower who was her
21 daughter or at the behest of the bank. I am
22 not in a position to say which although I
23 would be surprised if it was
24

1 at the behest of the bank. Her daughter is not
2 here and cannot be examined or cross-examined
3 in relation to either her sole debt, her joint
4 debt with her friend Miss Xxxx or the debts
of the

6 company that she was a director. I
7 don't know what it is that the
8 Commissioners can safely conclude in
9 relation to such evidence as has been
1x put before it, other than that the
11 existing debts, the original debts which
12 were entered into by the debtors and the
13 legacy banks from which they borrowed
14 the moneys still obtain and those debts
15 were never replaced by any other
16 facilities. That may it please you is my
17 cross-examination of Debtor 16.

18 COMM. BOGLE: Thank you.

19 MR. WILLIAMS: Firstly, there is a letter which I wrote
2x to mi learned friend requesting these
21 guarantees following on the last
22 occasion and for a statement as to how
23 the balance was arrived at in your
24 letter and I wish to tender that in
25 evidence. This would be VD32.

1 If it pleases you, sir, if I might comment
2 on the document tendered by my learned
3 friend, if I might refer to VD3x, the letter
4 from Mr. Wenworth S. Charles and Company, his
5 letter to Dennis Joslin, Jamaica Inc; he
6 refers to the initial letter speaking about
7 a lifetime dowry and to an acceptance made by
8 Miss xxxxxxxx on May 12, 2xx3 and this letter
9 was in October 6, 2xx8. What we can safely
1x infer from this letter, we go no further than
11 that, is that obviously Mr. Charles'
12 instruction did not take into account the
13 letters which came from Jamaican
14 Redevelopment Foundation Inc submitting
15 further documents to be signed by the
16 principal debtors and guarantors. Obviously
17 from this letter, it would appear that
18 certainly he was unaware of that
19 correspondence, and that appears from the
2x face of it. In fact, VD31 is telling him about
21 those letters, VD31 which comes from
22 Jamaican Redevelopment Foundation where
23 they say the initial
24
25

1 letter was not an offer, so that it wasn't
2 something that could be accepted, all of that
3 is being told to Mr. Charles who admittedly
4 said he represents
5 Mrs. xxxxx. So what we can infer from this
6 letter is certainly, his instructions did not
7 include the correspondence to the principal
8 herself to sign further documents to
9 restructure the loan.

1x
11 Z would like to draw the Commissioners'
12 attention to the complaint at paragraphs
13 three and four. Paragraph 3 says, how did a
14 principal debt of xxxxx million dollars
15 which was disbursed in December 1993 become
16 xxxxx hundred million, three forty three
17 thousand, six hundred and twenty and
18 thirt-two in April of 2xx8. Now I have heard
19 mi learned friend to say that no actual
2x demand was made for one hundred and odd
21 million dollars and when one reads the letter
22 one will see that *while* no actual demand was
23 made of Debtor 16 for the xxxxxxxx
24
25

1 million, the letter, and this is the
2 letter of April 7, 2xx8 did indicate that the
3 debt rose to that figure. Question four, how
4 did the alleged debt of one hundred and odd
5 million in April of 2xx8 reduce to \$xxxxxxx
6 after selling the property for \$xxxx
7 million. Now, it is in evidence that that
8 figure of \$xxxxx million has been the balance
9 outstanding now came from Jamaican
10 Redevelopment Foundation Inc, it is in their
11 letter which did not include a comprehensive
12 account as to how that figure was arrived at,
13 the Commissioners will recall. My letter to
14 Jamaican Redevelopment Foundation Inc to
15 their attorney sought a statement as to how
16 that figure was arrived at. At the end of the
17 evidence now we still do not know how that
18 figure was arrived at. So, if I may say this,
19 in respect of question three and question
20 four, those questions still remain
21 unanswered and those questions are to be
22 addressed by the enquiry.
23
24
25

1

2

One of the complaints being made, how

3

much does Jamaican Redevelopment

4

Foundation Inc is saying is justly owing

5

now by Debtor 16 and we still are

6

in the dark as to how this figure was

7

arrived at. May it so please you.

8

COMM. BOGLE:

Okay.

9

COMM. ROSS:

Mr. Williams, the guarantees that were

10x

presented here show or state a debt of

11

xxxxxmillion, and xxxx hundred and

12

xxxx thousand respectively, can you

13

explain how much larger demand is being

14

made of the guarantor for those amounts?

15

MR. WILLIAMS:

Well, first Mr. Commissioner -- well the

16

short answer is no, the short answer is

17

that I can't explain it and if I may

18

Commissioners, my client's evidence is

19

that the second ..

20x

COMM. ROSS:

We understand that, but at the moment

21

what is the face value.

22

MR. WILLIAMS:

It appears from the face of the letter

23

of the 7th of April 2xx8 that different

24

actual demands for payment were being

25

made rather than the outstanding debts

1 from debtors.

2 COMM. ROSS: I appreciate but there is essentially

3 more than the amount...

4 MR. WILLIAMS: I can't explain how it is, how those

5 figures were arrived at, we just don't

6 know how those figures were arrived at.

7 I don't understand how, you know, even

8 with no payments on the one million at a

9 particular time, I still can't, to my

1x mind, see how it rose to the principal

11 figures even though you don't demand the

12 full amount, how it arose to a

13 particular principal debt at the

14 appropriate time and that is the primary

15 question we are asking to be cited.

16 COMM. ROSS: What I would like to know, do you -- one

17 of the things we don't know, what were

18 the amounts borrowed, we don't have

19 evidence in front of us but I am just

2x asking; the question in my mind is a

21 matter of the principle of demanding

22 more than the amount stated in the

23 guarantee. I mean presumably there must

24 be some basis for that, so even if we

25 assume that, and I am just wondering

1 whether there is a basis, and if you were
2 to accept, if the figures could be
3 justified, that amount mentioned, the
4 amount stated as the guarantee, should be
5 properly demanded of the guarantor.
 continued.....

7 8

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1x

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2x

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1 MR. WILLIAMS: What I wish you would accept Mr.
2 Commissioner, is that certainly one
3 cannot demand more than what the
4 guarantee covers. The guarantee may be
5 stamped for a particular amount beyond
6 which one couldn't recover. So that
7 would be the extent to which I could
8 admit, that would be the extent of it,
9 sirs.

1x MRS. PHILLIPS: May I comment on that? What is clear,
11 Commissioners, is that you don't have
12 all the documentation. You do not know
13 how many debts there were; you do not
14 know what was is the documentary
15 evidence in support of those debts. You
16 have two guarantees, I believe, before
17 you. That does not mean that there
18 wasn't another one. You have a debt by
19 you, have a debt by Miss xxxxx alone,
2x you have a debt by Miss xxxxx and Miss
21 xxxx; you have a debt by xxxxxx
22 Corporation and certainly you have more
23 than two debts on the face of the
24 evidence. What you have is guarantees
25 relating to two of those debts. It is

1 clear that the complete picture has not
2 be adduced in evidence by either the
3 bank which granted the loans or the
4 person who is giving evidence here. Or
5 it maybe - well yes, or the person who
6 is giving evidence here.

7 MR. WILLIAMS: If it pleases you, Mr. Commissioner, the
8 evidence that has been given by
9 Debtor 16 is all that she knows.

1x MRS. PHILLIPS: With respect, that cannot be so. With
11 respect that cannot be so.
12 CHAIRMAN: Allow him to finish, he might be coming
13 around to that. Let him finish.

14 Go ahead, Mr. Williams.
15 MR. WILLIAMS: I am aware of another property for
16 which, Debtor 16, a mortgage was
17 registered over it, I am actually aware
18 of it and I think I have a copy here
19 with me now.

2x The thing about that property, Mr.
21 Commissioner, is that the mortgage was
22 discharged. The property over which she
23 was the owner, transferred to Refin
24 Trust and on the very day it was
25 transferred to Refin Trust the mortgage

1 was discharged and this is some time
2 prior to the property in issue before
3 the Commission.

4 COMM. BOGLE: I think, Mr. Williams, the fact is that
5 we do not have all the information
6 surrounding this case. We have some
7 information, but the information, if we
8 are to look at it, would indicate that
9 there are some links, some parts missing
1x for us to really be able to say what
11 transpired. I think that some of the
12 information that we require may go
13 further back than JRF In terms of what
14 was assigned to JRF, what did JRF buy in
15 terms of the loans. The proof of the
16 loans coming from NCB over to FINSAC.
17 So I think that there are a lot of areas
18 that are missing in this for anyone to
19 conclude, and I think the witness is
2x right to question, based on the
21 information that she has got. But it is
22 difficult and we have here a lot of
23 paper work in front of us but there are
24 so many areas, so many apparent gaps in
25 it that it is difficult for us to say

1 exactly what transpired. We note where
2 there was principal of 99 million at one
3 point in one of the communications. Now
4 how did that principal arrive, it was
5 arrived at? So I think there are a lot
6 of gaps in here and we hope in due
7 course we will be able to get some more
8 information on this.

9 MR. WILLIAMS: Would the Commission be exercising its
10 powers in relation to possible witnesses
11 from FINSAC and Refin Trust?

12 COMM. BOGLE: The Commission will be exercising its
13 powers as it sees fit in terms of
14 gathering information and wherever we
15 think that information may be or that
16 may be of interest, of importance to
17 this Commission then the Commission will
18 exercise its powers to garner such
19 information.

20 Okay, at this point the Enquiry for
21 today is now ended and we are adjourned
22 until tomorrow morning at 9:30.

23 Debtor 16 thank you very much. You
24 are dismissed.

25 MRS. PHILLIPS: Yes, Commissioner, I am just asking you

1 to refresh my memory. I know it is quite
2 a while but did we get a statement from
3 my colleague who is coming tomorrow?
4 MR. DePERALTO: It was sent out by courier week before
5 last.
6 COMM. BOGLE: I hope you have it, because I know I got
7 a copy of it quite some time,
8 maybe about two weeks, a week and a half
9 two weeks.
10x MR. DePERALTO: It came on Raphael Codlin's.
11 MRS. PHILLIPS: We have something Mr. Codlin gave to the
12 Commission last year sometime.
13 MR. DePERALTO: It was sent week before last by currier
14 to your office.
15 MRS. PHILLIPS: Could we get a copy.
16 CHAIRMAN: Okay. As I said before tomorrow morning
17 at 9:3x the Commission will reconvene
18 and we look forward to a lengthy day
19 tomorrow.
20x
21 Adjourned
22
23
24
25