

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
THURSDAY FEBRUARY 17, 2011

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 DEBTOR 12

Mr. Raphael Codlin Ms. Melissa Cunningham

GIVING EVIDENCE Debtor 12

1 February 17, 2011

2 COMM. BOGLE: Good afternoon everyone. This enquiry is
3 now in session and I would like as usual
4 for the names of the attorneys present.

5 MR. CODLIN: Thank you, Mr. Chairman and your
6 members. I suggest that the names of the
7 attorneys present in the matter
8 involving Debtor 12 are the same as
9 we were yesterday.

10 COMM. BOGLE: I would still prefer that the names
11 be stated for the benefit of the
12 stenographer.

13 MR. CODLIN: Raphel Codlin, Melissa Cunningham
14 representing witness, Debtor 12.

15 COMM. BOGLE: Thank you.

16 MR. GARCIA: Dave Garcia, representing Patrick
17 Hylton.

18 MRS. PHILLIPS: Sandra Minott-Phillips, instructed by
19 Myers Fletcher and Gordon representing
20 Jamaican Redevelopment Foundation Inc.

21 COMM. BOGLE: Okay, thank you very much. Yesterday
22 when we were here you had completed your
23 presentation, Mr. Codlin, or you have
24 some additional information?

25 MR. CODLIN: I have not completed my presentation.

1 COMM. BOGLE: Okay.

2 MR. CODLIN: We had reached a stage Mr. Chairman and
3 your members, where you indicated to
4 Counsel that if we could find additional
5 evidence as regards payments by Debtor 12
6 through the attorney who acted for him
7 before Mr. Pearson that would be of
8 assistance to the Commission.

9 COMM. BOGLE: Right.

10 MR. CODLIN: I tried without success since I left
11 here yesterday to make contact with
12 Mr. Pearson, I didn't stop there. I
13 checked our files and found a number of
14 documents including an affidavit
15 executed by Mr. Pearson which has been
16 filed in the court, the Supreme Court
17 and which might be of assistance to you.
18 That together with the other documents,
19 I am prepared to ask you to put into
20 evidence after they have been shown to
21 my learned friends and the result of
22 their response.

23 COMM. BOGLE: Okay, thank you.

24 MR. CODLIN: I will do that Mr. Chairman and your
25 members, at the appropriate time.

1 COMM. BOGLE: Okay. Have you got copies?
2 MR. CODLIN: We have copies, sir.
3 COMM. BOGLE: Okay. At this time therefore I will ask
4 you to call your witness to the stand.
5 MR. CODLIN: Thank you sir. Debtor 12?
6 DEBTOR 12: Present.
7 DEBTOR 12 CALLED & SWORN
8 COMM. BOGLE: Thank you very much.
9 MR. CODLIN: Much obliged.
10 COMM. BOGLE: Mr. Codlin, just before you begin. In
11 the package that we got yesterday --
12 well, we used it yesterday, there is a
13 document numbered ..
14 MR. CODLIN: 77, sir?
15 COMM. BOGLE: 76 through 80.
16 MR. CODLIN: Yes, sir.
17 COMM. BOGLE: Nothing was done about it, would you be
18 dealing with it?
19 MR. CODLIN: We will deal with that now, sir.
20 A Okay, fine. I have 76 to 78. You said
21 you have 76 to 80, sir?
22 COMM. BOGLE: Yes.
23 MR. CODLIN: Okay, that is correct.
24 COMM. BOGLE: Again, I am going to ask that persons
25 with cellular phones please turn them to

1 silence or vibrate or something or turn them
2 off because we will not continue to have
3 interruption by cell phones or by persons not
4 taking care of their cell phones. So I am
5 asking again turn your cell phones to silence
6 or turn them on vibrate or off.

7 Go ahead Mr. Codlin.

8
9 MR. CODLIN: Thank you, sir. In order
to deal with

10 documents which you have kindly drawn
11 counsel's attention to, Mr. Chairman and
12 your members, perhaps the thing to do is
13 to ask you to look at paragraph 21 of
14 the witness statement of Debtor 12.

15 COMM. BOGLE: Yes.

16 MR. CODLIN: Thank you sir.

17 Debtor 12, please look at paragraph 21 of
18 your Affidavit.
19 A Yes, sir.

20 Q Just browse over it quickly please.

21 A Yes.

22 Q Are its contents true and correct to the
23 best of your knowledge?

24 A Yes, sir.

25 Q Please turn to page 77 beginning with

1 75, page 75. You recall identifying
2 that document yesterday?

3 A Yes, sir.

4 Q I think Mr. Chairman and your members,
5 it is in evidence either, 5 or 6.

6 COMM. BOGLE: It is ML9.

7 MR. CODLIN: ML9, thank you sir. Now, based on the
8 witness' evidence in paragraph 21 Mr.
9 Chairman and your members, these
10 documents have been exhibited to show,
11 and I shall ask you to allow me to read
12 them out that if a foreign company is in
13 a certain state of disobedience as to
14 American law and the article is clearly
15 spelt out that company may be struck off
16 by the United States authorities and its
17 assets either in the States or overseas
18 seized by the United States authorities,
19 and that is why Debtor 12 has brought
20 that to your attention so that you may
21 kindly make whatever use of it that you
22 deem prudent to make.

23 I recall Mr. Chairman and your members,
24 that you enquired of Counsel yesterday
25 what's the purpose of number 9, Exhibit

1 9. So 9 plus this one which we are going to
2 ask you to mark as an exhibit indicate just
3 what the witness has developed in paragraph
4 21 of his witness statement.
5 And therefore you are tendering 76?
6 COMM. BOGLE: Yes, sir.
7 MR. CODLIN: Through 78 or through 80?
8 COMM. BOGLE: We would ask you to tender 76 through 80 as
9 MR. CODLIN: one exhibit.
10 And that would therefore be ML10?
11 COMM. BOGLE: Yes, sir.
12 MR. CODLIN: Yes Mr. Codlin?
13 COMM. BOGLE: Yes, sir, may we continue.
14 MR. CODLIN: Yes, sir.
15 COMM. BOGLE: Debtor 12, you told the Commission
16 MR. CODLIN: yesterday that your property in
17 Mandeville was put into receivership?
18 Yes.
19 A Do you recall when it was put into
20 Q receivership?
21 The year 2007.
22 A In the year 2007. Do you know the name of
23 Q the person who said he was the receiver?
24
25

1 A Yes, sir, Mr. Tomlinson.

2 Q A Mr. Tomlinson?

3 A Yes.

4 Q Do you know if he has an office out of

5 which he operates?

6 A Yes.

7 Q: Where?

8 A New Kingston.

9 Q Do you recall the date when he took over

10 your property?

11 A I was not around, sir.

12 Q You were not around?

13 A No.

14 Q That means you were not in Jamaica?

15 A No, I was not in Jamaica.

16 Q Okay. After you returned to Jamaica,

17 did you speak with him?

18 A Yes, sir.

19 Q Would you kindly tell the Commission

20 when you spoke with him after you

21 returned, what year, what month?

22 A I don't remember the year or month.

23 Q Was it in 2007?

24 A It was in 2007.

25

1 Q Good. When you spoke with him, did he
2 tell you anything?

3 A No, sir.

4 Q So what did you speak about?

5 A I spoke about his coming into my place
6 and just take it over.

7 Q Yes, that's what I mean. Yes, and what
8 was his response?

9 A Nothing much, you know, sir.

10 Q Yes, but did he tell you why he was
11 taking it over?

12 A That money owed to Redevelopment.

13 Q He said he was taking it over because of
14 money that you were owing to
15 Redevelopment?

16 A Yes.

17 Q Did he serve any paper on you?

18 A No, sir.

19 Q Before he took it over, did you operate
20 an office there?

21 A Yes, sir.

22 Q You had tenants on the property?

23 A Yes.

24 Q You also had shops?

25 A Yes, sir.

1 Q How many tenants?

2 A About 45 tenants.

3 Q And an equal number of shops?

4 A Yes, sir.

5 Q Now, as far as you are aware, up to the

6 time when Mr. Tomlinson took over your

7 property, were you making payments to

8 Jamaican Redevelopment Foundation?

9 A Yes.

10 Q Were those payments made through a

11 lawyer?

12 A Yes, sir.

13 Q Do you, Debtor 12, have in your

14 possession a letter written on the 5th

15 of November 2007?

16 A Yes.

17 Q It is written to JRF, Jamaican

18 Redevelopment Foundation by your

19 attorney, Mr. Alton Morgan?

20 A Yes, sir.

21 Q It reads:

22 **"Many thanks for yours of the 5th**

23 **instance with enclosure.**

24 **We return your cheque Number xx for**

25 **the sum of \$xx...."**

1 COMM. BOGLE: 166 or 116?

2 A 116. Much obliged, sir.

3 "**...\$xx herewith as our**

4 **instructions do not allow us to accept.**

5 **It is clear that you are attempting to**

6 **renege on your mortgages sanction of the**

7 **sale to the Purchasers by purporting to**

8 **return (four years later) the portion of**

9 **the sale proceeds which you accepted in**

10 **January of 2003."**

11 Now, up to that time you were making

12 payments to JRF through Mr. Morgan?

13 A Yes, sir.

14 Q And those payments related, didn't they,

15 to business which you had with the

16 company?

17 A Yes, sir.

18 Q Can you throw any light on this cheque

19 why it was sent back by Mr. Morgan?

20 A It was sent back from Redevelopment to

21 Mr. Morgan.

22 Q And that is why he sent it back?

23 A (No answer)

24 Q Sorry?

25 A Repeat that question, sir.

1 Q Can you kindly tell the Commission the
2 cheque having been sent by Mr. Morgan to
3 Redevelopment, Redevelopment having
4 returned it to him, do you know why he
5 sent it back to Redevelopment?
6 A Because they said I built in the common
7 areas in the mall.
8 Q They said you built in common areas in
9 the mall?
10 A Yes, sir, and so they could not accept
11 the cheque.
12 Q I see. Do you know if other cheques had
13 been sent to them which they have
14 accepted?
15 A I don't know.
16 Q You don't know if Mr. Morgan was making
17 more payments on your behalf?
18 A Yes, he made more payments.
19 Q You told the Commission that when your
20 property was taken over by the receiver
21 you operated an office there?
22 A Yes, sir.
23 Q What did you have in that office?
24 A All my papers pertaining to my business.
25 Q Describe some of them for the Commission

1 please.

2 A My taxes papers, Redevelopment papers,

3 everything.

4 Q Did you have receipts there?

5 A Receipts, everything was there.

6 Q Pay cheques?

7 A Pay cheques, valuation, everything was

8 there.

9 Q Everything was there?

1 A Yes.

10

11 Q And you were not there when the receiver

12 went in, so by the time you came back he

13 had taken over?

14 A He had taken over.

15 Q That is Mr. Tomlinson?

16 A Mr. Tomlinson, yes.

17 Q Did he allow you to go into your office

18 to remove anything?

19 A No, sir.

20 COMM. BOGLE: Are we to take it that you are putting

21 this in as an exhibit?

22 MR. CODLIN: Yes, Mr. Chairman and your members,

23 perhaps this is an appropriate time. May

24 I ask if it pleases you that this

25 be tendered in evidence as Exhibit 11?

1 COMM. BOGLE: ML11.

2 MR. CODLIN: Thank you sir. Did you want to go into
3 your office to retrieve your documents?

4 A Yes, sir.

5 Q Did Mr. Tomlinson give you any reason
6 why he would not allow you to retrieve
7 your documents?

8 A He gave me no reason.

9 Q Did those documents, as far as you are
10 aware, also include pay cheques to
11 Jamaican Redevelopment Foundation?

12 A Yes, sir.

13 Q When you spoke to Mr. Tomlinson after he
14 took over your property, did he tell you
15 that he would be giving you periodic
16 reports about his stewardship, about his
17 receivership?

18 A No, sir.

19 Q Did you have workers employed to you?

20 A On the compound?

21 Q On the compound?

22 A Yes, sir. He came in like a common
23 criminal and just take over my place.

24 Q No, just a moment please.

25 A All right.

1 Q What I asked you, did you have workers
2 employed to you?
3 A Yes.
4 Q When you left?
5 A Yes.
6 Q How many?
7 A About nine.
8 Q On your return when you met Mr.
9 Tomlinson there, were all or any of your
10 workers still employed there?
11 A No, sir, they left.
12 Q Do you know why they left?
13 A They turned them out of the building.
14 Q We don't know, you have to tell us?
15 A Pardon me?
16 Q It is all right Debtor 12. Have you seen
17 any of those workers since then?
18 A Now and then.
19 Q Now and then?
20 A Yes.
21 Q Have they made any demand on you for
22 payment in any form or other?
23 A Not really you know, sir, because they
24 knew what happened.
25 Q I see. Do you know if you are liable to

1 make any payments to them, bearing in
2 mind how they were turned away?

3 A Yes.

4 Q Yes, meaning that you are so liable?

5 A Yes.

6 Q All right. You told the Commission that
7 you had forty odd shops and forty odd
8 tenants, the tenants used to pay rents
9 before you left?

10 A Yes, sir.

11 Q About how much per month would the
12 tenants be paying?

13 A About xx Dollars to xx
14 Million Dollars.

15 Q Per month?

16 A Yes.

17 Q Have you received any of that moneys
18 since Mr. Tomlinson took over?

19 A No, sir.

20 Q As far as you are aware the shops and
21 tenants are still there?

22 A Yes, sir.

23 Q Have you spoken to them or any of them?

24 A Of the tenants?

25 Q Yes.

1 A No, not really.

2 Q Not one?

3 A One or two.

4 Q Did you request any of them to pay the
5 rent to you?

6 A No, sir.

7 Q Now, for the three years or more that
8 Mr. Tomlinson has taken over your
9 property, has he given you weekly,
10 monthly or yearly returns about his
11 stewardship?

12 A No, sir.

13 Q Did he ever tell you that you were
14 entitled to such returns under law?

15 A No, sir.

16 Q Has he ever given you any form of
17 accounting whatsoever?

18 A No, sir.

19

20 Continued...

21

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24

25

1 Q: You told the Commission yesterday that
2 your property has been sold?
3 A: Yes, sir.
4 Q: Do you know to whom?
5 A: Yes, sir.
6 Q: To whom?
7 A: John Doe and John Doe.
8 Q: Do you know what year it was sold?
9 A: It was sold about six months ago.
10 Q: About six months ago?
11 A: Yes.
12 Q: I see. Has the receiver or anyone else given
13 you any accounting as regards to sale?
14 No, sir.
15 A: Has anyone indicated to you that you were
16 Q: entitled to such accounting?
17 Of course, I am entitled.
18 A: No, all right, I am asking you if anyone told
19 Q: you that?
20 No, sir.
21 A: Well in particular Mr. Tomlinson?
22 Q: No, sir.
23 A: Have you been told how much your
24 Q: property has been sold for?
25

1 A: No, sir.

2 Q: Have you been told by anyone that you

3 will be told in due course?

4 A: No, sir.

5 Q: Am I correct in saying that the only

6 interest rate of which you are aware

7 that JRF, Jamaican Redevelopment

8 Foundation, has applied is the one

9 indicated on the accounting sheet that

10 you showed the Commission yesterday?

11 A: Yes, sir.

12 Q: What value would you put on your

13 property at about the time it was sold?

14 A: About xx million.

15 Q: xx million what?

16 A: J.A.

17 Q: J.A. Dollars?

18 A: Yes.

19 Q: Look at the signature on that document

20 please.

21 (Document shown to witness)

22 Q: Debtor 12, that **is** an affidavit of

23 Mr. Anthony Pearson, it was filed in the

24 Supreme Court on the 7th of

25 February 2008, have you read it?

1 A: Yes, sir.

2 Q: Are its contents shown correct as far as
3 you are aware?

4 A: Yes, sir.

5 Q: With your kind permission, may I read it?

6 I Anthony Pearson being duly sworn
7 report as follows.

8 I am an attorney-at-law and former member of
9 the Firm Playfair, Junior, Pearson and
10 Company and our offices were located at 116
11 Tower Street in Kingston. That Debtor 12 has
12 been known to me since the 1980s. I was
13 engaged in doing legal work for Debtor 12
14 during the 1990s.

15 That in 1997 the office of Playfair Junior
16 Pearson and Company was destroyed by fire and
17 most of the records in that office went up
18 in flames.

19 That I recall very vividly however that I
20 conducted sale of a property for Debtor 12
21 in 1996 and the proceeds of sale amounting
22 to xx million dollars which was paid over to
23 me by

24

1 Messrs Livingston Alexander and Levy who
2 were the purchaser's attorney.

3 That my recollection is that of that sum I
4 paid Debtor 12 xx million and sent the other
5 xx million, approximately, to Eagle
6 Commercial Bank at 4 Duke Street
7 for the attention of John Doe

8 That I do not have any record of the
9 transaction in my possession because of what
10 I have stated here earlier but I am in no
11 doubt that the sum was paid aforesaid and I
12 shall endeavour to obtain some concrete
13 proof of what I have stated herein.

14 If it pleases you, Mr. Chairman and your
15 members, you will recall yesterday what
16 transpired as regards Mr. Pearson. I must
17 confess that this affidavit, not having been
18 prepared pursuant to your request, falls
19 short of the information which you would
20 require based on what you said. I have no
21 doubt, if that accords with your approval,
22 that I will be able to get a more
23 comprehensive
24
25

1 affidavit from Mr. Pearson and make it
2 available to you, I trust, before the
3 proceedings in relation to Debtor 12 are
4 complete.

5 COMM. BOGLE:

Yes.

6 Q:

And if you should desire to hear viva
7 voce evidence from Mr. Pearson, I have
8 no doubt that I will be able to persuade
9 him, I will be able to let him come
10 before you.

11 COMM. BOGLE:

And you are now presenting this as an
12 exhibit.

13 Q:

I am asking you to tender this in
14 evidence as Exhibit 12?

15 COMM. BOGLE:

Your efforts in obtaining additional

16 information from Mr. Pearson would be
17 appreciated.

18 MR. CODLIN:

Sure, thank you, of course we will.

19 Thank you sir.

20 Debtor 12, the letter that I showed you
21 from Mr. Alton Morgan sending back the
22 cheque for \$xx, I can't recall
23 asking you what that money was for.

24 What was it for?

25 A:

I had tenants in the mall who bought

1 shops, paid down on shops to the tune of
2 xx million dollars so Mr. Morgan
3 had all those moneys to pay off my loan
4 there.

5 Q: To pay off your loan to who?
6 A: Redevelopment.

7 Q: I see.

8 COMM. BOGLE: Debtor 12 you mentioned, referring to
9 ML11, the matter of the letter of Alton
10 Morgan to Jamaican Redevelopment
11 Foundation. You mentioned that Alton
12 Morgan had received over xx million
13 dollars for the sale of the shops?

14 A: Yes.

15 COMM. BOGLE: So the shops were sold?

16 A: The folk paid deposits on the shops.
17 COMM. BOGLE: So he received xx million dollars in
18 deposits?

19 A: Yes, in deposits, the same day they put
20 it up for auction.

21 COMM. BOGLE: Who put it up for auction?

22 A: Redevelopment.
23 COMM. BOGLE: So in 2003, did Jamaican Redevelopment
24 put the shops up for auction, because
25 the xx million here per the letter,

1 the letter is indicating that the
2 \$xx was accepted by JRF in 2003,
3 so my question is, in 2003, if JRF put
4 the place up for auction at that time,
5 how did the persons get to buy the
6 shops, who were your sellers, who were
7 your agents at the time selling the
8 shops, if you had agents?.

9 A: The same Alton Morgan Company.

10 COMM. BOGLE: Alton Morgan was...

11 A: He has a lady in his office by the name
12 of Doe, Mrs. Doe who sold the
13 shops.

14 COMM. BOGLE: So she was selling shops on your behalf.

15 A: Yes.

16 COMM. BOGLE: So she got -- you are saying that Alton
17 Morgan through her collected
18 approximately xx million dollars in
19 deposits.

20 A: Yes, in deposits.

21 COMM. BOGLE: Now I see here that Alton Morgan is
22 saying that they had sent, I presume
23 Jane Doe, I don't know, \$xx.

24 A: Yes.

25 COMM. BOGLE: Now what would have happened to the

1 difference between the \$xx and
2 the xx million?

3 A: Well they said that the strata wasn't
4 good, so it couldn't be sold to the
5 people.

6 COMM. BOGLE: So?

7 A: So the strata wasn't good for me, but it
8 is good for John Doe and John Doe.

9 COMM. BOGLE: No Debtor 12, let's see if we can follow
10 this through, I am trying to understand
11 what took place. I am saying that you
12 said that Alton Morgan received
13 approximately xx million dollars.

14 A: Yes.

15 COMM. BOGLE: This letter refers to \$xx, I am
16 trying to find out whether or not the
17 difference of approximately xx
18 million dollars was returned by Alton
19 Morgan to the depositors or what took
20 place with that.

21 A: Well, I don't know, I really don't know
22 know.

23 COMM. BOGLE: May I ask another question, is it
24 possible that the sale value of the
25 shops was xx million but you only

1 received \$xx in deposits.

2 A: All the tenants paid deposits.

3 COMM. BOGLE: Right, that is what I am saying, I am

4 asking now, could it be that the total

5 sale value of the shops was xx

6 million dollars of which Alton Morgan

7 had gotten deposits for \$xx?

8 A: Yes.

9 COMM. BOGLE: So in actual fact Alton Morgan received

10 \$xx and not the full xx

11 million?

12 A: He received all money.

13 COMM. BOGLE: He collected all money?

14 A: Yes.

15 COMM. BOGLE: But you do not know how he disposed of

16 the xx million.

17 A: Yes, sir.

18 COMM. BOGLE: Mr. Codlin, continue please.

19 MR. CODLIN: Thank you sir.

20 COMM. BOGLE: Mr. Codlin, can you follow up on this

21 matter for us, possibly with Alton

22 Morgan to find out exactly what

23 transpired, because, we are hearing that

24 Alton Morgan collected xx million

25 dollars approximately. This letter

1 indicates that \$xx was sent to
2 JRF in 2003 which they returned in 2007.
3 Can he therefore shed some light on the
4 approximately xx million dollars
5 that we are not sure where is it.

6 MR. CODLIN: You have my assurance that I will follow
7 it. I don't think we will be through
8 with Debtor 12 this afternoon bearing in
9 mind cross-examination in which
10 circumstance, by the time I get back
11 here, even if I am through with my
12 examination-in-chief I will give my best
13 endeavours to get that information for
14 you Mr. Chairman and your members.

15 COMM. BOGLE: Thank you.

16 MRS. PHILLIPS: Mr. Commissioner if I may, it maybe best
17 to wait until after the cross-
18 examination to send out request for
19 information, you may then know what
20 information you don't have and can then
21 request it at that time, it maybe that
22 at the end of the cross-examination you
23 will find that you have such
24 information.

25 COMM. BOGLE: All right. Mr. Codlin, in view of that

1 we will await cross-examination which
2 seems to have some information for us.

3 MR. CODLIN: Thank you sir. We will likewise do that,
4 and we will not take any action until
5 such time.

6 COMM. BOGLE: You could continue to pursue
7 Mr. Pearson.

8 MRS. PHILLIPS: That too.
9 COMM. BOGLE: So we will await the cross-examination.

10 MR. CODLIN: Yes, sir, sure.

11 COMM. BOGLE: And hope that it will answer our
12 thoughts and questions and not create
13 more questions.

14 MR. CODLIN: The problem with that Mr. Chairman is
15 that, in your opinion, after the
16 cross-examination is complete and you are
17 still not enlightened sufficiently, if we get
18 the information in the meantime and you do not
19 need it so be it but I wouldn't like the
20 situation to arise where we could have gotten
21 the information and we waited and did not get
22 it only to find at the end of the day you still
23 need it. Perhaps the prudent thing is to get
24 the information,

1 if you need it you use it, if you don't
2 need it, you don't use it.
3 COMM. BOGLE: Fine, I go along with you, you can
4 continue your pursuit.
5 MR. CODLIN: Sure, sir.
6 Debtor 12, since the property has been
7 sold, have you spoken to Mr. Tomlinson?
8 A: Once.
9 Q: At that time did you have any exchange
10 with him as regards accounting for your
11 property?
12 A: No, sir, whenever I ask him anything he
13 say I must refer to **Redevelopment up** at
14 their office and there is nobody to see
15 there.
16 Q: All right. If it pleases, you
17 Mr. Chairman and your members, those are
18 the questions that we have of Debtor 12
19 at this time.
20 COMM. BOGLE: Therefore you are saying you are through
21 with your witness at this time.
22 MR. CODLIN: I take it that subject to your ruling we
23 may have the right to re-examine him?
24 COMM. BOGLE: You will.
25

1 MR. CODLIN: Thank you.

2 COMM. BOGLE: Okay, thank you very much and at this
3 time may we take a short ten minute
4 break after which Debtor 12 will be
5 subject to cross-examination by, I take
6 it, Mrs. Phillips.

7 MRS. PHILLIPS: Yes, Commissioners.

8 (SHORT BREAK)

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2 COMM. BOGLE: Enquiry is now re-convened.

3 Debtor 12, please remember that you are
4 still under oath.

5 Mrs. Phillips.

6 MRS. PHILLIPS: Thank you Commissioners. Before 1
7 actually start to ask Debtor 12 anything,
8 I take the opportunity to hand out an
9 extract of the Registration of Titles
10 Act to assist the Commission because I
11 gather there was a little difficulty
12 being experienced with the appointment
13 of a Receiver of land. So I will just
14 hand up that section which is section
15 125, so that at your leisure you can
16 peruse it.

17 COMM. BOGLE: Thank you Mrs. Phillip.

18 MRS. PHILLIPS: Which as you can see is different from
19 the appointment of a receiver under a
20 debenture. I would like to point out one
21 thing though and that is, sub-section
22 (3) of Section 125:

23 **It is very important as a matter of law,**
24 **that the receiver shall be deemed to be**
25 **the agent of the mortgagor and the**

1 mortgagor shall be solely responsible
2 for the receiver acts of defaults unless
3 the mortgagee otherwise provide.

4 So that Mr. Tomlinson would be
5 Debtor 12's agent.

6 COMM. BOGLE: Thank you.

7 MRS. PHILLIPS: First one. Secondly, I would like to
8 hand up a copy of the Citizens Bank
9 Limited '**Transfer of Business Investing**
10 **Other Assets of Eagle Commercial Bank**
11 **and Island Victoria Bank Limited Order**
12 **1999**' which you looked at as being
13 endorsed on the title yesterday. And you
14 will see that it is an order, a rule of
15 law that was enacted in 1999 which
16 hopefully will clarify whatever concerns
17 you may have had, Commissioner Ross, and
18 complaint, why it is that in 2002, is
19 it, that the mortgage which was
20 exhibited would have been signed on
21 behalf of Eagle Commercial Bank. So,
22 that is point two.

23 That document, in fact, if my memory
24 serves me correctly, has already been
25 tendered in evidence before this

1 Commission along with several other
2 orders relating to the investing of
3 assets of various financial
4 institutions. Commissioners, you may recall
5 that was done and so this is actually the
6 second time that I am submitting a copy of
7 that order. I will ask since it relates to an
8 endorsement on the Title that you mark it as
ML, is it

10 13?

11 COMM. BOGLE: ML13.

12 MRS. PHILLIPS: Debtor 12, good afternoon to you.

13 A: Good afternoon.

14 Q: When you mortgaged your property to
15 Eagle Commercial Bank, was it not your
16 intention that Eagle Commercial Bank
17 should have the power to sell your
18 property in the event that you didn't
19 repay your loan in accordance with the
20 terms?

21 A: No.

22 Q: Now, Debtor 12, isn't it correct that the
23 interest rate that you agreed to pay in
24 the Instrument of Mortgage that you have
25 put before this Commission was xx

1 percent per annum and that this is the
2 rate that you agreed to pay to Eagle
3 Commercial Bank? You can look at the
4 mortgage if you wish?

5 A: No, I did not.

6 Q: Look for me at ML2 on page 34. Do you
7 see Item 4 on page 34 where it says,
8 **'Original Rate of Interest'**? Would you
9 read what is there, please?

10 A: xx percent.

11 Q: The **'Rest at Which Interest is Payable'**.
12 A: Monthly.

13 Q: **'Principal Sum'**.
14 A: xx Million.

15 Q: **'Principal Sum'**.
16 A: xx million.

17 Q: \$xx Million?
18 A: Yes.

19 Q: **'interest Due'**.
20 A: Yes, xx Million.

21 Q: And note that it says, **'interest due'**,
22 \$xx Million, which together add up to
23 \$xx million.

24 A: Yes.

25 Q: And you had already identified your

1 signature at the end of this document.

2 A: Where was it?

3 Q: You have already done that, Debtor 12?

4 A: Yes, I identified it.

5 Q: Turn to page 25. Now, Debtor 12, do you

6 see at Item (a) on page 25 where it

7 says, **"that you are the owner of the**

8 **lands, described in the mortgage dated**

9 **October 22,1992 and registered on the**

10 **eleventh day of November 1992 to secure**

11 **a principal sum of xx Million Dollars**

12 **with interest and up stamped to cover**

13 **further sums covered by miscellaneous**

14 **numbers xx, xx,xx,xx and**

15 **xx.** Do you see that?

16 A: Yes.

17 Q: So it is not true that you only borrowed

18 xx Million. You agree?

19 A: No. I just signed for xx Million

20 Dollars. I do not know. I didn't sign

21 for any more.

22 Q: But you did sign a mortgage for xx

23 Million in 1992, did you not?

24 A: Yes, for xx Million.

25 Q: And that one, you agreed to pay Eagle

1 Commercial Bank interest on the money
2 that you borrowed?
3 A: Yes, but how much interest.
4 Q: Well, it is your agreement, Debtor 12, do you
5 remember?
6 A: I don't remember xx%.
7 Q: Because it was not xx%. You remember what
8 percentage it was?
9 A: At that time it was about xx percent.
10 Oh, you think so low. Do you agree with me,
11 Q: Debtor 12, that a copy of this mortgage is
12 available at the Office of the Registrar of
13 Titles?
14 T don't know about that.
15 A: Do you agree with me that you did not put
16 Q: a copy of this mortgage before this
17 Commission?
18 No.
19 A: No, you don't agree with me or, no, you
20 Q: didn't put it before the Commission? The
21 what, the mortgage?
22 A: The mortgage for xx Million. Do you agree
23 Q: with me that you did not put a copy of the
24 mortgage for xx Million
25

1 before this Commission?
2 A:
3 No.
4 Q:
5 No, you don't agree with me, or you
6 don't put it before the Commission?
7 A:
8 Yes, I put the xx Million Dollars before
9 this Commission.
10 Q:
11 You put the mortgage for xx Million before
12 this Commission, Debtor 12? Yes.
13 A:
14 You want to show it to me?
15 Q:
16 1994 I borrowed xx Million Dollars. Show
17 me what exhibit number it is? You must
18 tell me what is the exhibit number.
19 A:
20 Look at ML2, is that the mortgage you are
21 referring to, the one that you just looked
22 at awhile ago?
23 Yes.
24 And that is the only mortgage you put before
25 this Commission, is that correct? Yes.
Q:
Go to page 25. Before we go to the other
mortgage, on page 31, Debtor 12 - I draw the
Commissioners' attention half way down the
paragraph on page 31, at the

1 top about five lines from the top, a
2 sentence that begins:

3 **The Powers of Sale and of distress and**
4 **of appointing a Receiver and all**
5 **ancillary powers conferred upon the Bank**
6 **a mortgage by the Registration of**
7 **Titles Act shall be conferred upon and**
8 **be exercisable by the Bank without any**
9 **notice to or demand on or consent by the**
10 **Mortgagor NOT ONLY on the happening of**
11 **the events mentioned in the said Act BUT**
12 **ALSO whenever the whole or any part of**
13 **the principal moneys or any payment**
14 **under Clause 3(a) above or other sums of**
15 **money payable hereunder shall remain**
16 **unpaid for three days after the date on**
17 **which the same should have been paid**
18 **under the covenants hereof.**

19 You agree that is one of the terms that
20 you agreed to, Debtor 12, when you signed
21 this document, yes?

22 A: No. I don't know about it.

23 Q: Let's look at Clause 1. I direct your
24 attention to the last line of Clause 1
25 on that page, page 31. Let me start at

the beginning of the paragraph:

At any time after the security has become enforceable the Bank (that is Eagle Commercial Bank) may appoint a receiver of the property subject thereto upon such terms as to remuneration and otherwise as it shall think fit and may from time to time remove any such

receiver and appoint another in his place, any such appointment or removal shall be in writing. A receiver so appointed shall be the agent of the mortgagor (that's you) which shall be responsible for his acts and defaults and for his remuneration, costs, charges and expenses.

Right below is set out the powers that the receiver has in addition to those powers, set out in the Registration of Titles Act.

You agree that all of that is there in this document, Debtor 12, in the document you signed with Eagle Commercial Bank?

A: I just signed for xx million dollars.
I don't know anything else about

1 anything.

2 Q: I suggest to you that is not so at all
3 Debtor 12.

4 I am going to show you a another
5 document now, Debtor 12. You have a
6 document entitled, '**Mortgage Under the**
7 **Registration of Title Act**' in your
8 hands, Debtor 12?

9 A: Yes.

10 Q: Do you agree that this is another
11 mortgage that you signed?

12 A: This signature don't look like mine.
13 That was which year, Miss Phillip?

14 Q: That was not a point that you took
15 before the court, Debtor 12.

16 A: I don't know about that.

17 Q: You did not dispute signing it when you
18 were before the court, Debtor 12. Are you
19 disputing signing it now?

20 A: That is not my signature at all.

21 Q: Okay, let me formally ask you. That was
22 not a point that you took before the
23 court, Debtor 12, did you?

24 A: I did not sign it.

25 Q: And would you agree with me that this is

1 the first time that you are saying so? This
2 A: is the first time I am seeing this. You agree
3 Q: this is the first time that you are saying
4 so?
5 A: Yes.
6 Q: I am suggesting that you did indeed sign it,
7 Debtor 12?
8 A: I don't think so, Miss Phillips.
9 Q: Okay, soon get to that. Look at Clause 5 on
10 the second to last page of that mortgage.
11 Well, first of all, do you agree that this
12 is a mortgage between yourself and Eagle
13 Commercial Bank? So long I don't even
14 A: remember.
15 Q: You don't remember...
16 A: Which year was that Mrs. Phillips?
17 Q: 1992 Debtor 12.
18 A: You remember telling the Commission
19 yesterday that it could have been 1992 or
20 it could have been 1994 but you did sign
21 a mortgage with Eagle Commercial Bank?
22 For xx Million Dollars.
23 A: I am suggesting to you that this is it, the
24 Q: 22nd of October, 1992 for xx
25

1 that you have put before this
2 Commission.
3 Now, Debtor 12, look back at ML2 and tell
4 me if this is not mortgage that is
5 referred to in Clause(a) of ML2.
6 A: xx Million?
7 Q: ML2, Clause(a) where it says:
8 **WHEREAS:**
9 **The Mortgagor is the registered owner of**
10 **the lands (hereinafter called "the said**
11 **lands") described in the Mortgage**
12 **Instrument dated the 22nd day of**
13 **October, 1992.**
14 Is this not the mortgage instrument
15 dated the 22nd of October, 1992 for xx%
16 per annum compound interest with monthly
17 rest that you agreed to pay to Eagle
18 Merchant Bank.
19 A: No, I did not agree.
20 Q: I suggest it is.
21 A: xx percent?
22 Q: Yes. Can we have this tendered in
23 evidence.
24 A: I would have to be a madman.
25 COMM. BOGLE: Debtor 12, please try to contain

yourself.

1 MRS. PHILLIPS: You could be, you would be correct
2 there.

3
COMM. BOGLE: Contain yourself there. ML14.

4 MRS. PHILLIPS: Thank you.

5
6 Would you agree with me, Debtor 12, that
7 unless you have a restructured agreement
8 with JRF, which you don't, JRF doesn't
9 charge you interest, it seeks to recover
10 the interest that you agree to pay to
11 some other institution, that's what it
12 does?

13 A: That is the bank I agree to pay xx% to?

14 Q: Yes.

15 A: No, I don't think so.

16 Q: You don't seem certain. The document
17 speaks for itself.

18 A: It is doctored document then. It is in
19 the system.

20 Q: Did you say that when you were before
21 the court?

22 A: Which court that?

23 Q: We will soon get to that; we will soon
24 get to that. Now, Debtor 12?

25 A: Yes, Miss Lady.

1 Q: What did you say.

2 A: Lady. You don't like that compliment.

3 Q: Let's look at the titles?

4 A: Yes.

5 Q: Debtor 12, let's look at the title ML1(a)

6 I am going to, at the same time as I am

7 looking at one of the titles, you see, I

8 am going to look at Clause (a) of ML2

9 and I am going to see if I can just

10 identify on the title those numbers that

11 appear in Clause (a). Let us look at

12 the first title, that is the one that

13 appears on Page 1.

14 A: Yes.

15 Q: And let us turn to Page 2. Do you see on

16 the left hand side, second to last entry

17 which speaks about mortgage number --

18 sorry, that should be the one higher up.

19 The first page, third item from the

20 bottom you will see where it speaks

21 about mortgage number 739538.

22 A: Yes.

23 Q: Is that the same number that appears in

24 Clause (a) of ML2, first number from the

25 lefthand side. Yes Debtor 12?

1 A: ML2.

2 Q: Commissioners, are you with me?

3 COMM. BOGLE: Yes.

4 MRS. PHILLIPS: Second to last entry on the title on

5 Page 1. Do you see **Miscellaneous Number**

6 **789300**, where it says that, '**The above**

7 **mentioned mortgage 739538 has been up**

8 **stamped to cover a further indebtedness**

9 **of xx Million.'**?

10 A: I see it.

11 Q: That is the second number that appears

12 in Clause (a). And do you see below that

13 **Miscellaneous Number 816036.**

14 A: Yes.

15 Q: Let's see what that says: **The above**

16 **mentioned mortgage 739538 has been up**

17 **stamped to secure a further indebtedness**

18 **of xx Million Dollars.** Let's turn to

19 Page 2 now, Debtor 12?

20 A: Which page is that?

21 Q: Let's turn to Page 2. Do you see at the

22 top of Page 2 **Miscellaneous Number**

23 **866370**, which is the fourth number

24 referred to on page 25, Clause (A), and

25 that says:

1 **The above mentioned mortgage number**
2 **739538 has been up stamped to cover a**
3 **further indebtedness of xx Million**
4 **dollars?**

5 A: Yes.

6 Q: You see that?

7 A: Yes, I see it.

8 Q: And below that you have 877467, and you
9 see that it says:

10 **The above mentioned mortgage has been up**
11 **stamped to cover further indebtedness of**
12 **xx Million Dollars?**

13 A: I have seen it but I don't know what was
14 happening around me; the banks, the
15 banks, the banks.

16 Q: You don't know what was happening?

17 A: Yes.

18 Q: It is easy for you to say that, isn't
19 it, Debtor 12?

20 A: Yes.

21 Q: And all of these endorsements were put
22 on by Eagle Commercial Bank, correct?

23 A: Yes, it seems so.

24 Q: Sorry, I didn't hear that.

25 A: It seems so.

1 Q: It certainly does seem so. Now
2 Debtor 12, the Statement of Account that
3 you put before this Commission, Exhibit
4 could I get some assistance with the
5 exhibit number, Commissioners, if you
6 recall which number?
7 COMM. BOGLE: ML4, page 39.
8 MRS. PHILLIPS: Now Debtor 12, what does it say at the
9 bottom of the page or I should say turn
10 the page horizontally so that you are
11 looking at it. What does it say at the
12 very bottom of the page.
13 A: Sold...
14 Q: Below that.
15 A: It must be different.
16 Q: At the very bottom, turn it side ways.
17 A: 39.
18 Q: Turn it side ways. At the very bottom of
19 the page, what does it say?
20 A: Nothing is written here.
21 Q: You don't see page 1 of 5?
22 A: Yes.
23 Q: And you have chosen to put one page
24 before this Commission?
25 MR. CODLIN: I object.

1 MRS. PHILLIPS: By what means?

2 COMM. BOGLE: Let us hear your objection?

3 MR. CODLIN: My objection is that it is not Debtor 12
4 who has chosen to put one page before
5 the Commission and it is unfair to
6 abscribe to the witness something that
7 he did not do. If my learned friend is
8 contending that there are other pages
9 that the Commission should see, the
10 proper thing to do is to put them before
11 the Commission and indicate that they
12 are part of what the witness has spoken
13 of and not accused the witness of
14 wrongdoing when he didn't do anything
15 wrong.

16 COMM. BOGLE: This exhibit was submitted by the
17 witness.

18 MR. CODLIN: By the witness and that is all he wanted
19 to submit. So, he cannot be accused of
20 not submitting something that someone
21 else thinks that he should have
22 submitted, and this is not strange with
23 my learned friend. This happens
24 elsewhere.

25 MRS. PHILLIPS: It is certainly not strange. I am used

1 to people putting select page of select
2 document before the Commission.

3 MR. CODLIN: No, he puts what he wants to put. You
4 can capitalize on it if you want to?

5 COMM. BOGLE: Your objection is duly noted.

6 MRS. PHILLIPS: Thank you, sir.

7 Debtor 12.

8 A: Yes.

9 Q: You have in your hand a letter dated
10 September 18, 2007 from Jamaican
11 Redevelopment Foundation Inc, copied to
12 the Receiver and copied to your lawyer.
13 Do you have that in your hand, Debtor 12?

14 A: Yes, I have it here.

15 Q: And it is accompanied by a five-page
16 enclosure?

17 A: Yes.

18 Q: It starts on the 20th of February, 2001.
19 Do you see the 20th of February, 2001

20 **'Agreed Balances, \$xx and**
21 **\$xx total.**

22 A: \$xx...

23 Q: Do you see that, Debtor 12, page 1, very
24 first, it is in bold at the top. 20th
25 of February, 2001. Look back.

1 COMM. BOGLE: Debtor 12, are you looking at the page
2 like this?
3 A: Like this? (indicating)
4 COMM. BOGLE: That is the page, not the front page,
5 the statement page. All right, that is
6 the page.
7 MRS. PHILLIPS: Is it the first time your seeing this,
8 Debtor 12? You have seen it so many times
9 in court. Look at it again one more
10 time from the top, page 1.
11 A: It is the first I am seeing it. I never
12 see this.
13 Q: You have Page 1. You have put Page 1
14 before the Commission and you are saying
15 that is the first time that you are
16 seeing this, Debtor 12? Look back at
17 page - keep it open, keep open this
18 first page, sorry, page 1 of 5 and look
19 back at ML2. On page 37 what is the date
20 that you see at the bottom of page 37.
21 The 20th of February, 2001?
22 A: Yes.
23 continued....
24
25

1 MRS. PHILLIPS: Debtor 12, look at page 34.

2 DEBTOR 12: Yes, but this page is very strange to

3 me.

4 Q: Debtor 12, look at page 34. Do you agree

5 with me that the principal balance there

6 that you have signed with this mortgage

7 of xx Million xx

9 Dollars is what appears as the Principal

10 Balance on the Agreed Balance Column as

11 the opening figure on page 1 of 5? Do

12 you see \$xx the exact figure

13 that you signed to in your agreement

14 with Eagle Commercial Bank?

15 A: I did not sign to that.

16 Q: Do you see the same figure there?

17 A: Yes, I see it.

18 MRS. PHILLIPS: Are you with me, Commissioners?

19 COMM. BOGLE: Yes.

20 MRS. PHILLIPS: Now, move along to where it says

21 Cumulative Interest and you see a figure

22 of \$xx. Do you see that

23 figure?

24 A: Yes.

25 Q: Look at Item 7 on page 34. Is that the

1 exact same figure that you have signed
2 to as being the interest due;
3 \$xx?

4 A: No, I did not sign to that.

5 Q: We will get to that. And do you see the
6 total of \$xx at Item 8,
7 that's just below that item on page 34?
8 Pay Off Figure. Do you see pay of figure
9 in the stream right column. \$xx
10 as at the 20th of February, 2001. That's
11 what you signed to Debtor 12. That's why
12 it said 'Agreed Balance' as of that
13 date.

14 A: I did not sign that one. I am telling
15 you I signed the blank paper, the
16 literature I don't know nothing about
17 it.

18 Q: We are getting to the literature.

19 A: Yes.

20 Q: Now, Debtor 12, would you agree with
21 me -- if you run your finger down on the
22 Payments column of this Statement of
23 Account, that there are two payments
24 made...

25 A: What page is that?

1 Q: You are with me here - look at me - on
2 page one of five?

3 A: Yes.

4 Q: You see the fourth column from the left
5 where it says Total Payment Received
6 starting in February, 2001 from the date
7 that you signed off on mortgage at xx
8 percent per annum.

9 A: I wouldn't even bother look,
10 Miss Phillips.

11 Q: Bear with me and look Debtor 12. Come,
12 the day soon done. Run your finger down
13 the Total Payment Received column and
14 see if you see any payments there
15 between the 20th of February 2001 and
16 the 21st of June 2002. Any payment,
17 Debtor 12?

18 A: No, not as far as I see.

19 Q: Not as far as I see either. Thank you
20 very much. Turn the page. Do you agree
21 with me that between 21st July, 2002
22 there is one payment on the 7th of
23 January 2003 for xx Million
24 Dollars?

25 A: Yes.

1 Q

Do you agree with me that between the 21st
2 of December, 2003 and the 21st of March
3 2005, there is one payment of a xx dollars?
4 Yes.

5 A:

Turn the page. Do you agree with me that
6 Q:
7 between the 20th of May 2005... Which page
8 are you on?

8 A:

Four of five.

9 Q

Okay.

10 A:

Do you agree with me that between the 20th
11 Q:
12 of May, 2005 and the 20th of October, 2006
13 you made no payments? No, I don't agree
14 with you.

14 A:

Okay, let me put it another way. Do you agree

15 Q:

with me that between the 20th of May 2005 and
16 the 20th October, 2006 there are no payments
17 recorded here? It's not recorded here, but
18 I paid. Turn the page. Do you agree with me

19 A:

that between the 21st of October, 2006 and

20 Q:

21 21st of August, 2007 -- you did say the
22 receiver was appointed in 2007, did you not?

22

Right.

23

24

25 A:

1 Q: There are no payments recorded here.

2 A: Miss Phillips...

3 Q: Hold on. You agree with me that there

4 are no payments recorded?

5 A: Yes, I agree, but Miss Phillips....

6 Q: Hold on Debtor 12. Mr. Codlin is going to

7 explain.

8 Now, Debtor 12....

9 A: You are still on that, not the same

10 paper here?

11 Q: Now, Debtor 12...

12 COMM. BOGLE: Mrs. Phillips, are you tendering this?

13 MRS. PHILLIPS: I certainly would like to do that. Thank

14 you so much.

15 COMM. BOGLE: ML15.

16 In your statement, Debtor 12, you said

17 that you heard of JRF through the

18 Gleaner in 2001?

19 A: Yes.

20 Q: And in your statement you say at

21 paragraph five, and look at it, because

22 I want to be fair to you, that you were

23 advised of the sale to Jamaica

24 Redevelopment Foundation Inc., in about

25 2001 -- that is the sale of what, of

1 your debts that you owed to Eagle
2 Commercial Bank?

3 A: Of xx million.

4 Q: Sorry, was that the sale of your debt
5 that you owed to Eagle Commercial Bank
6 that was subsequently vested in Citizens
7 Bank Limited?

8 A: I don't know.

9 Q: Well, you are speaking about a sale here
10 so I would think you would know what it
11 is you are speaking about, but let us
12 assume. You were advised of a sale to
13 Jamaican Redevelopment Foundation Inc.,
14 in about 2001 when same wrote to you
15 claiming that you owed a balance of over
16 xx million dollars. That was your
17 evidence that you gave to the
18 Commission?

19 A: Yes.

20 Q: Now, Debtor 12, would it not be correct
21 to say that you were written to by JRF
22 for the first time on the 14th of
23 February, 2002? Let me be fair to you
24 and show you a copy of a letter dated
25 the 14th of February 2002, not the first

1 time you are seeing that either, but
2 1'11 show you again. February 2002?
3 MR. CODLIN: Do you have a signed copy, please?
4 MRS. PHILLIPS: No, the signed copy would have gone to
5 Debtor 12. That's why this one is
6 stamped.
7 A: I have never seen this. No,
8 Miss Phillips, first I am seeing this.
9 MRS. PHILLIPS: Just let me make sure the Shorthand
10 Writer has recorded that statement.
11 Did you get him saying that it's the
12 first he has seen this?
13 SHORTHAND WRITER: Yes.
14 MRS. PHILLIPS: Debtor 12, 14th February, 2002.
15 **Notice of sale and Transfer of Servicing**
16 **Rights FINSAC Relationship Name: Debtor 12**
17 **(xx) .**
18 'ECB' is there in handwriting
19 **This serves to give you notice that your**
20 **debts or other obligations previously**
21 **owing to Worker's Savings and Loans**
22 **Bank, FIS and/or Refin Trust Limited (a**
23 **wholly owned subsidiary of FINSAC**
24 **Limited), have been acquired by Jamaican**
25 **Redevelopment Foundation, Inc. with**

1 **effect from 1st February, 2002.**

2 Commissioner, I ask you to note the date
3 that the loan was acquired.

4 DEBTOR 12: How Worker's Bank come into it?

5 MRS. PHILLIPS: Just a munite, Debtor 12.

6 A: No, you must explain to me.

7 COMM. BOGLE: Debtor 12, let Mrs. Phillips finish.

8 A: Mr. Bogle - alright.

9 COMM. BOGLE: Just let me clarify something, Debtor 12.
10 Debtor 12, Mrs. Phillips is asking the
11 questions now. Any clarification that
12 you need your attorney is supposed to
13 represent you with the questions. You
14 are really there not to ask questions.
15 Your attorney is there to represent you
16 with questions. If you know the answer,
17 you answer yes or no. If you do not
18 know the answer, then you don't, but it
19 is not for you to really ask question.
20 So let's get some order in what we are
21 doing.

22 Go ahead Mrs. Phillips.

23 MRS. PHILLIPS: I am going to explain your concern to
24 you in a little while, Debtor 12, so just
25 be patient.

1 Do you see the date there 1st of
2 February, 2002, Commissioners?

3 COMM. BOGLE: Yes.

4 MRS. PHILLIPS: Now, you will remember the - your mind
5 will of course immediately go back to
6 the Exemption Orders; loans acquired by
7 within the year commencing 30th of
8 January 2002 or within a year from that
9 date. So this would fall under the June --
10 2002 exemption which

11 Accordingly, all debts and other
12 obligations previously owing to Workers
13 Savings and Loans Bank, FIS and/or Refin
14 Trust Limited are now owed, and should
15 be paid to Jamaican Redevelopment
16 Foundation, Inc.

17 Joslin Jamaica Limited has been
18 appointed by Jamaican Redevelopment
19 Foundation, Inc. to service all such
20 debts and obligations, and currently
21 possesses all records pertinent to your
22 loan. Please reference the Relationship
23 Name shown above on all payments and
24 correspondence, which should be directed
25 to the address on this letterhead.

1 If you are in bankruptcy, this is not a demand
2 letter for payment. Feel free to give this
3 letter to your Attorney if counsel represents
4 you.

5 Your Account Officer is 'X' who can be
6 contacted with any questions you may have
7 at the telephone numbers as above between
8 8:30 and 4:30 p.m. Monday through Friday.

9 Yours sincerely.
10 JOSLIN JAMAICA LIMITED.

11 I beg to have this marked...

12 13 COMM. BOGLE: 16.

14 14 MRS. PHILLIPS: ML-16.

15 I suggest this was your introduction to
16 Jamaican Redevelopment Foundation,
17 Debtor 12. Before I leave it I know that
18 you are concerned because you see there
19 the name Workers Savings and Loan Bank.
20 Don't worry, you are not only one who
21 has expressed this concern.

22 Look for me at the title Debtor 12.
23 DEBTOR 12: What page is that?

24 Q: On page one. Turn over to Page 2. Now,
25 do you see, Debtor 12, three items from

1 the bottom one of your Mortgages to
2 Eagle Commercial Bank, that is, Mortgage
3 #1144768.

4 A: Yes.

5 Q: And then go down to the next item below
6 that. This is where the Registrar of
7 Titles has put an entry saying that that
8 Mortgage and another Mortgage is now
9 vested in Citizens Bank Limited by
10 virtue of a Citizens Bank Limited
11 (Transfer of Business and Vesting of
12 Assets of Eagle Commercial Bank Limited)
13 Order 1999.

14 So it went from Eagle Commercial Bank
15 via this Vesting Order to Citizens Bank
16 Limited.

17 Now, do you see below that it says
18 Transfer No. 1460121 registered on the
19 12th of March, 2007 of Mortgage No.
20 the same Mortgage number, 1144768 and
21 the same other Mortgage number, 739538,
22 to Refin Trust Limited. Consideration in
23 pursuance of the matters recited in the
24 transfer. For this and several others.
25 So that your loan went from Eagle

1 Commercial Bank; was vested by law in
2 Citizens Bank by virtue of an Order that
3 was made in the court and then was
4 transferred to Refin Trust Limited.
5 So let's look back at ML-16 now. Did
6 you see the second line of ML-16? The
7 same letter, Debtor 12. (indicating) This
8 letter.

9 A: Yes.

10 Q: I am trying to address the concern that
11 you were having. You see in the second
12 line where it says "...previously owing
13 to Workers Savings and Loans Bank, FIS
14 and/or Refin Trust Limited.

15 A: Which letter is this? (indicating)
16 This?

17 Q: Yes, the second line. See where it
18 says: **This serves to give you notice**
19 **that your debts or other obligations**
20 **previously owing to WSLB, FIS and/or**
21 **Refin Trust Limited(a wholly owned**
22 **subsidiary of FINSAC Limited.**

23 A: Yes.

24 Q: The one that concerns you is Refin Trust
25 Limited because your title shows that

1 your debt went from Eagle to Citizens, to
2 Refin and then to JRF. Get it now? Yes.
3 A:
4 Q: Good. Now, Debtor 12, before we come to the
5 end of the day's proceedings there are some
6 important things that z need to deal with.
7 Yes.
8 A: Do you recall you putting in evidence
9 before this Commission ML-9 at page 35? (No
10 answer).
11 Q: Yes. Now, Debtor 12, (indicating) isn't
12 this something that you put before the
13 court also?
14 Yes.
15 A: And when you put it before the court,
16 weren't you shown by your lawyer an
17 affidavit filed on behalf of Jamaican
18 Redevelopment Foundation that addressed
19 this?
20 Yes.
21 A: You recall that?
22 Q: On Page 75?
23 A: Yes.
24 Q: (Document passed up)
25

1 And in this affidavit that was served on
2 you through your lawyer, it says at
3 paragraph 10: **JRF's Audited Financial**
4 **Statements for the years ending January 2007**
5 **and January, 2008 have been prepared and are**
6 **with its auditors for certification as**
7 **audited statements. JRF expects to have**
8 **audited statements for January, 2007 in hand**
9 **within the next 30 days and, as soon as it**
10 **receives them, will have them filed at the**
11 **Companies Office of Jamaica.**
12 **Paragraph 11. JRF now files a consolidated**
13 **Texas Franchise Tax Report with Beal**
14 **Financial Corporation ("BFC"). The 2007**
15 **Consolidated Franchise Return for BFC has**
16 **been extended until August 15, 2008.**

17 I am informed by Beal Bank and do verily
18 believe that it is in full compliance with
19 all its regulatory filing requirements in
20 the State of Texas and in the U.S.A, and that
21 it intends to remain in compliance.
22 In October 2007 Beal Bank's charter
23
24
25

1 shifted from a Texas State savings bank to
2 a Federal savings bank, a prerequisite for
3 which is compliance with the corporate
4 filing requirements of the State of Texas.
5 This is not the first time you are seeing
6 this, Debtor 12.

- 8 A: No.

9 MRS. PHILLIPS: I ask that this be marked ML17.

10 COMM. BOGLE: 17.

11 MRS. PHILLIPS: Now, Debtor 12, I also would like you to
12 have a look at this document. Now,
13 Debtor 12, this is a letter on the
14 letterhead of Texas Comptroller of
15 Public Accounts, dated February 7, 2011,
16 CERTIFICATE OF ACCOUNTS STATUS.

17 And it says:

18 I, Susan Combs, Cumptrroller of Public
19 Accounts of the State of Texas, DO
20 HEREBY CERTIFY that according to the

21 records of this office.
22 JAMAICA REDEVELOPMENT FOUNDATION, INC.

23 Is, as of this date, in good standing
24 with this office having no franchise tax
25 reports or payments due at this time.

1 **This certificate is valid through the**
2 **date that the next franchise tax report**
3 **will be due May 16, 2011.**
4 Do you see that?
5 A: Yes.
6 Q: Do you agree with me that this document
7 is saying that Jamaican Redevelopment
8 Foundation is compliant insofar as the
9 Texas Comptroller of Public Accounts is
10 concerned...
11 MR. CODLIN: I object.
12 MRS. PHILLIPS: ...through to May 16...
13 MR. CODLIN: I object.
14 MRS. PHILLIPS: Mr. Codlin, I did not object when you
15 put your document.
16 MR. CODLIN: I object.
17 COMM. BOGLE: State your objection, Mr. Codlin.
18 MR. CODLIN: My objection is that my learned friend
19 is not entitled to ask Debtor 12 to
20 interpret the document. I have no
21 objection to her putting it in before
22 you, but I have objection for her to ask
23 a lay witness to interpret a legal
24 document which is not hers.
25 MRS. PHILLIPS: Thank you, Mr. Codlin.

1 Commissioner, may I ask that, that be
2 tendered as ML-18.

3 COMM. BOGLE: 18.

4 MRS. PHILLIPS: I do however, recall my friend asking
5 Debtor 12 about ML-9.

6 MR. CODLIN: Yes, but when I did so .

7 MRS. PHILLIPS: I am not sure I appreciate the
8 distinction, counsel is making.

9 MR. CODLIN: He is my witness so there is the
10 distinction. That's the distinction.

11 MRS. PHILLIPS: Now, Debtor 12, have a look at this one
12 for me.

13 My friend has no objection so can this
14 be marked ML-19, and as it is now an
15 exhibit I will read it.

16 **TAX COMPLIANCE CERTIFICATE.**

17 **This is to certify that.**

18 **JAMAICAN REDEVELOPMENT FOUNDATION INC.**
19 **has satisfied the statutory requirements**
20 **in respect of Income Tax (including**
21 **P.A.Y.E.), General Consumption Tax,**
22 **Special Consumption Tax, Education Tax,**
23 **and also in respect of N.I.S., N.H.T.,**
24 **and H.E.A.R.T. contributions for the**
25 **period ending NOVEMBER 30, 2010.**

1 **THIS CERTIFICATE IS VALID UP TO AND**
2 **INCLUDING MARCH 22, 2011.**

3 A date which we have not yet arrived at.

4 COMM. BOGLE: ML-19.

5 MRS. PHILLIPS: Fully tax compliant, not only in Jamaica
6 but also in the United States.

7 I do not know what time you intended to
8 sit to today, Commissioners, but if this
9 is a convenient time it would be a good
10 time to break and we can pick it up from
11 there.

12 COMM. BOGLE: I would say it is. We will take our
13 adjournment until 9:30 on Tuesday
14 morning when we will continue.

15 So Debtor 12, you are being asked to
16 return on Tuesday at 9:30 so that we can
17 have this matter concluded.

18 A: Tuesday?

19 COMM. BOGLE: Yes, sir. Your lawyer has agreed to
20 that...

21 A: Is that okay, Mr. Codlin?

22 MR. CODLIN: Yes.

23 A: On Tuesday?

24 MR. CODLIN: Yes.

25 COMM. BOGLE: Hopefully we will be able to finish with

1 you on Tuesday morning, Debtor 12.

2 DEBTOR 12: Thank you very much.

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4 Adjournment

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