

Debtor : Mr. Debtor 7  
(section 1)

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 KN UTSFORD BOULEVARD, KINGSTON 5

ON  
THURSDAY , FEBRUARY 3, 2X11 Part 1

PRESENT WERE:

COMMISSIONERS

Mr. Charles Ross  
Mr. Worrick Bogle

COUNSEL FOR THE COMMISSION

Hon. Justice Henderson Downer (Retired)  
Ms. Judith Clarke

SECRETARY TO THE COMMISSION Mr.

Fernando DePeralto

REPRESENTING JAMAICAN REDEVELOPMENT FOUNDATION

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

GIVING EVIDENCE

Mr. Debtor 7

1 February 3, 2X11

2 COMM. BOGLE: Good morning everyone. This enquiry is  
3 now in session and I would like to ask  
4 the attorneys present to give us their  
5 names and who they represent.

6 MRS. PHILLIPS: I am Minott-Phillips and Gavin Gaffe  
7 instructed by Myers Fletcher & Gordon  
8 for Jamaican Redevelopment Foundation  
9 Inc.

1X MS CLARKE: Judith Clarke, appearing on behalf of  
11 the witness scheduled for today,  
12 Mr. Debtor 7.

13 COMM. BOGLE: Miss Clarke, could you call Debtor 7.

14 **DEBTOR 7 CALLED AND SWORN**

15 MS CLARKE: Debtor 7, good morning, sir.

16 A: Good morning.

17 Q: Could you for the benefit of the  
18 Commission give your name, address, and  
19 occupation please?

2X A: My name is Debtor 7, I  
21 live at Address. My  
22 occupation is a Realtor.

23 COMM. BOGLE: Kingston 8 or Kingston 1X?

24 A: I think it is Kingston 1X, I am not so  
25 sure about that.

1 MS CLARKE: Yes, go ahead.

2 Q: Debtor 7, have you signed a written  
3 statement on which you would wish to  
4 rely for the purposes of these  
5 proceedings, have you signed a written  
6 statement?

7 A: I have, yes ma'am.

8 Q: Sirs, may the witness be shown a copy of  
9 his statement.

1X (Witness statement shown to witness)

11 That is your statement?

12 A: Yes, it is the statement.

13 Q: And you state at paragraph 3 that you  
14 are the principal of three companies  
15 which were severely impacted and  
16 collapsed as a result of what was  
17 happening in the financial sector in the  
18 1990s and these companies are  
19 Company Ltd., Company Ltd.  
2X and Company Ltd.?

21 A: Yes, ma'am.

22 Q: Is it Company Ltd. Limited or just  
23 Company Ltd.?

24 A: Company Ltd. Limited.

25 Q: It was a registered company?

1 A: Yes.

2 Q: I have to seek an amendment to that.  
3 With your leave, sirs, may Debtor 7 be  
4 allowed to read his statement down to  
5 paragraph 1X?

6 COMM. BOGLE: Fine.

7 A: From 1?

8 Q: From paragraph 4 to paragraph 1X.

9 A:

1X In the 197Xs, with the  
11 encouragement of Prime Minister  
12 Michael Manley I sold two houses  
13 in England and together with my  
14 wife, an X  
15 who studied here and loved  
16 Jamaica, I returned home.  
17 New World Development.  
18 A: In 1979 we started a real estate  
19 brokerage company, Company  
2X Limited. We had offices in Kingston,  
21 Address, Address, Address, Address  
22 and Address. We employed sixty  
23 agents and staff.  
24 Further, we started  
25 Corporation which was

1 involved in real estate development.  
2 This entity employed thirty persons. We  
3 also established Company Ltd. from which  
4 we were engaged in eye care. This business  
5 employed four people.  
6 Later we started Company Ltd., a project  
7 whereby we leased several acres of land in  
8 Morant Bay with its main object being to  
9 cultivate X for export. Company Ltd.  
1X employed 12X persons.  
11 The X business was very successful and it  
12 was left in the care of a capable General  
13 Manager and an in-house accountant, both  
14 of whom were supervised by the auditing  
15 firm, Marcus Stephenson & Company, while  
16 I concentrated on land development.  
17 I started with ten lots in Belvedere and  
18 having made a success at that project we  
19 purchased an adjoining lot of thirty  
2X acres. All told, we had fifty eight lots.  
21 At this time we borrowed money from  
22 Horizon Merchant Bank to finance the  
23 development.  
24  
25

1 Q: Thank you Debtor 7. Now, you go on  
2 further to say that the principal loan  
3 amount was \$x million which was  
4 disbursed or taken in two parts, \$x  
5 million and \$x million and you say you  
6 are riot able to find the loan agreement.  
7 You did sign a loan agreement but you  
8 are not able to locate it?

9 A: That is correct, ma'am.

10 Q: These loans were however secured by way  
11 of mortgages against the title, is that  
12 so?

13 A: That is correct, ma'am.

14 Q: Title register at Volume 000 folio 8X1,  
15 if I may, sirs, Debtor 7 could you  
16 turn -- before you go on let me deal  
17 with the other aspects of paragraph 11.  
18 You said that the first two mortgages on  
19 that title reflect the actual amounts  
20 totaling \$x million but there is an  
21 additional mortgage because Horizon Bank  
22 registered another mortgage to secure  
23 unpaid interest. Isn't that so?

24 A: I think it is called compounded in  
25 banking, they compound both the interest

1 and principal together to make it the  
2 principal.

3 Q: That is your understanding?

4 A: That is my understanding of it.

5 Q: If we may, could we look at Exhibit  
6 Debtor 7 1 which is the first  
7 document attached or appended at the end  
8 of his affidavit and for the benefit of  
9 the enquiry there are in fact three  
1X mortgages endorsed on that title, the  
11 first of which is a mortgage to Horizon  
12 Merchant Bank Limited to secure \$x  
13 million with interest; the second  
14 mortgage to Horizon Building Society to  
15 secure -- I grave your indulgence, I am  
16 trying to follow the dates, to secure \$5  
17 million with interest and then there is  
18 a third mortgage dated 24th January 1996  
19 to secure \$x million with interest?

2X COMM. BOGLE: Is \$5 million the first one and \$5.5 the  
21 second one.

22 Q: And then \$x. So the total, and for  
23 mathematical purposes I am sure the  
24 Commissioners will compute?

25 COMM. BOGLE: \$x, the third mortgage -- \$x, would



1 be the second?

2 A: The third would be \$x.

3 COMM. BOGLE: Yes, the third would be \$x.

4 Q: If we are looking at it based on the  
5 date of registration, the third  
6 registered mortgage would be the one for  
7 \$x, but as to whether it was the third  
8 mortgage, the second, from the dates, I  
9 don't know if those would be conclusive,  
10 as to which one was taken first, second,  
11 third in time having regard to the  
12 witness's evidence. May I continue?

13 COMM, ROSS: I would like to ask, no mention is made  
14 of the first mortgage dated August 1994.

15 MS CLARKE: Debtor 7, explain that.

16 A: What was the question?

17 MS CLARKE: In paragraph 11 you don't mention the  
18 mortgage for \$x million.

19 A: To my knowledge and understanding the  
20 total mortgage was \$x, it was \$x and  
21 \$x which was actually \$x

22 Q: They are asking, there is a mortgage for  
23 \$x million that is dated 1994 which  
24 would have been the first registered  
25 mortgage, they are asking whether you

1 are able, if you are not fine, but they  
2 are asking whether you are able to  
3 explain?

4 A: I can't think back now, but it might be,  
5 if it was registered, it might be the  
6 first mortgage.

7 Q: Are you hazarding a guess or you are  
8 saying you are not able to say?

9 A: Precisely, there are so many things that  
10 happened since, so many paper, but what  
11 I remember distinctly was the \$x.

12 Q: Let me ask you, are you able to say from  
13 your personal knowledge whether the  
14 mortgages were registered as they were  
15 taken out by you in terms of the date?

16 A: To my knowledge I would say yes because  
17 we had accountant there dealing with  
18 that and I didn't really -- I am not . . .

19 Q: That is why I am asking you, are you  
20 able to say from your personal  
21 knowledge, from your personal knowledge?

22 A: That is a bit vague now, because you  
23 know I am not equipped with these  
24 accounting figures to follow everything.

25 Q: And you did not have personally to do

1 with the actual registration of the  
2 mortgages on the titles?

3 A: Not at all, my accountant and attorney  
4 would have done that.

5 Q: All right Debtor 7. You say at  
6 paragraph 12, this is where we are at  
7 now, that the companies, when you sent  
8 in your returns to -- you are referring  
9 to New World Development Corporation and  
10 Debtor 7 and Debtor 7, am  
11 I correct?

12 A: You are correct.

13 Q: You are saying that you also took out a  
14 loan for about \$x million with  
15 Citizens Bank?

16 A: That is correct.

17 Q: And this was to raise the development of  
18 some lands that you had in Discovery  
19 Bay?

20 A: That is correct.

21 Q: For the purposes of subdivision and  
22 sale?

23 A: That is correct.

24 Q: Could you read paragraph 13 now please?

25 A: **We subdivided the land and as we sold**

1 individual lots we made lump sum  
2 payments on account of the mortgage  
3 debts.

4 Q: Could you pause there for me; are you  
5 saying that as the lots were sold you  
6 would pay lump sums to the bank to  
7 satisfy the mortgage payments?

8 A: That is correct.

9 Q: Yes, read on please?

1X A: **Payments were made to facilitate the  
11 release of individual titles to  
12 purchasers. The titles would be  
13 released upon payments of these lump  
14 sums to the bank. This was the  
15 arrangement we had with Horizon and we  
16 proceeded as such even after FINSAC took  
17 control of the bank, meaning we made  
18 lump sum to FINSAC then.**

19 Q: That's where?

2X A: Bank/building society.

21 **These payments were made to our  
22 attorneys. I am attaching the following  
23 copy letters showing the several lump  
24 sum payments.**

25 Q: Could you pause there Debtor 7. There

1 are in fact 29 letters, I believe  
2 attached, I think Exhibits 25 may  
3 consist of two letters, so if the  
4 Commissioners could pause for a brief  
5 moment to just have a look, I doubt  
6 whether the witness intends for the  
7 Commission, certainly at this stage, to  
8 go into the actual details of these  
9 letters but just simply to show that  
1X there are these several letters dating  
11 back from 1996, I think the first in  
12 time is October 14, 1996 showing  
13 payments coming from -- your attorney,  
14 was Jennifer Messado and Company you  
15 said?

16 A: Yes.

17 Q: To Horizon Merchant Bank?

18 A: Miss Clarke, may I add something here.  
19 These letters are not the total, these  
2X are just examples, it would be too much  
21 to, because we did forty three lots in  
22 Address, forty three, and ten, about  
23 seventy three lots was our total.

24 Q: So there were, sirs, payments of \$x  
25

1 X thousand and perhaps the Commissioners  
2 may want to note that certainly as of 1996  
3 there was a payment on October 14, there was  
4 a another lump sum payment on October 24th  
5 of that year, there was a further payment,  
6 a lump sum payment on October 25, there was  
7 a payment on November 14, payment on November  
8 19, December 9, 1996 and yet another payment  
9 on December 9, 1996. There was one payment  
10 on December 9, 1996, LP7

11 Xdollars and on that same date a payment was  
12 sent from the attorney for X thousand X  
13 dollars. I am indicating this on behalf of  
14 the witness to show the frequency in terms  
15 of the payments, the

1 lump sums as they were advanced to the  
2 bank. And then if we should go through  
3 the exhibits there were three payments  
4 in January 1997, one in February of that  
5 same year, one in March of that same  
6 year, one in April. I am indicating all  
7 of this bearing in mind the witness'  
8 evidence that these receipts are not  
9 exhaustive but certainly as a samble to  
1X show how the payments were made and what  
11 payments were made.

12 COMM. ROSS: What was the total amount of money paid?

13 Q: I believe the witness in the course of  
14 his evidence will attempt to address  
15 that. So I am just going through these  
16 exhibits to show, if permitted, that in  
17 fact the witness is attempting to prove  
18 that in fact these lump sum payments  
19 were made and certainly with a certain  
2X notable frequency?

21 A: Commissioners you want me to reply to  
22 that? I don't know the percentage of  
23 what was paid for each lot but taking in  
24 consideration, for example, one  
25 subdivision in Address we had forty

1 three lots and we sold and got titles  
2 for, I would say, thirty-nine to my  
3 knowledge and those were released and  
4 those people are happily living in their  
5 houses that they have built, so while I  
6 can't be exact in giving the amount of  
7 money that was paid, I know that all of  
8 those lots and especially those in  
9 Chancery Hall, all those lots are built  
1X out.

11 Q: And the witness has indicated that the  
12 same manner of payment proceeded once  
13 FINSAC entered in and Exhibits 26 to 28  
14 are letters enclosing payments to  
15 FINSAC.

16 Paragraph 13, you said before that not  
17 all the payments were accounted for by  
18 these exhibits, that there are several  
19 others, right Debtor 7?

2X A: Yes, they are.

21 Q: You are saying that between 1996 and  
22 1998 you had made payments in excess of  
23 \$15.8 million on account of the mortgage  
24 debt to Horizon?

25 A: From the accounting of my attorney.



1 Q: Based on your attorney's accounting you  
2 are able to say that?

3 A: Yes.

4 Q: And you are saying that -- I think the  
5 witness has a document that he wishes --  
6 what is that document that you passed  
7 up?

8 A: Just to show the tabulation of the  
9 amounts paid, it came to \$x Million  
1X plus.

11 Q: The amounts that were sent directly from  
12 your attorney to the bank?

13 A: They sent that to us indicating what  
14 they have paid.  
15 COMM. BOGLE: They sent that to you indicating what  
16 they have paid to the bank.

17 A: Yes.

18 Q: Mr. Deperalto, could we have a look to  
19 determine whether we should...

2X A: You can appreciate that we were only...

21 Q: Hold on a minute, give us a second to  
22 have a look at the document. You say  
23 that is a document coming from Jennifer  
24 Messado and Company?

25 A: Yes, that is correct.

1 Q: And you wish for that to form a part of  
2 your evidence?

3 A: Yes.

4 Q: I don't know if the Commissioners may  
5 wish to enquire as to whether there is  
6 any objection to that document being  
7 introduced as an exhibit at this stage.  
8 I am asking whether the document can be  
9 tendered as an exhibit, I am wondering  
1X whether there would be any objection?

11 COMM. BOGLE: I didn't hear any objection.  
12 MS CLARKE: In which case I would ask, so that the  
13 sequence is maintained, that that be  
14 marked Exhibit Debtor 7 28A?  
15 COMM. BOGLE: Okay, so marked. Continue. Go ahead

16 Miss Clarke.  
17 MS CLARKE: And you are saying, further stating at  
18 paragraph 13 that even as of 1999 when  
19 there was a letter from FINSAC demanding  
2X settlement of the debt, even after that  
21 date lump sum payments were made to  
22 FINSAC, is that what you are saying?

23 A: Yes, because some of the lots that were  
24 not included in that, they were sold  
25 after, I can't remember the lots now,

1 but there was a time when -- I don't  
2 know if -- we had some difficulties,  
3 our telephone -- am I allowed to say  
4 things that are not directly related to  
5 this case Commissioners?

6 COMM. BOGLE: If it is important to your statement,  
7 you are making a statement.

8 A: It is very important; while this was  
9 happening my wife who was of a baby, she  
10 returned back home with my children and  
11 I died at that point, so nothing was  
12 happening. The agent also left because  
13 we were owing telephone bills of over  
14 X million in all the offices, there  
15 was a free-for-all and I had to  
16 physically, personally deal with the  
17 sales of those lots that were left over,  
18 I think it could be about twelve lots  
19 that were not mentioned in these and I  
20 sold them and those were a part of the  
21 payment that was made.

22 MS CLARKE: Okay Debtor 7, look at this letter  
23 marked LP 29, the letter where FINSAC  
24 wrote to you demanding the payment of  
25 \$23 million and I would ask you a

1 2 question in relation to what you just  
3 4 said. It is a letter dated July 28, 1999  
5 6 to New World Development Corporation  
7 8 Limited, caption Re your indebtedness to  
9 Horizon Merchant Bank Limited.

1X **I act on behalf of Refin Trust, a wholly owned**  
11 **subsidiary of FINSAC Limited, assignees of**  
12 **your debt at Horizon Merchant Bank Limited,**  
13 **and I am instructed that as at the 22nd day**  
14 **of July, 1999 you were indebted to my clients**  
15 **in the amount of twenty three million four**  
16 **hundred and ninety thousand two hundred and**  
17 **fifty dollars inclusive of interest, with**  
18 **further interest accruing on the principal**  
19 **debt at the rate of thirty per centum per**  
2X **annum. And the figures are set out in terms**  
21 **of the computation**

22 **I hereby make formal demand upon you for the**  
23 **payment of all sums owing together with the**  
24 **sum of \$3,5XX.XX representing legal costs**  
25 **within twenty-one days of the date hereof.**  
**In the event of your**

1 failure to comply, my clients shall have  
2 no alternative but to dispose of the  
3 security held and sue for any shortfall  
4 without further reference to you.

5 I had asked you whether or not, the  
6 question asked was whether or not even  
7 after you received this letter you  
8 continued to make lump sum payment.

9 This letter was in 1999. You indicated  
1X at paragraph 13 of the witness statement  
11 that even after you received the letter  
12 you continued the system of lump sum  
13 payment as lots were sold

14 A: Yes, ma'am, that was by instinct.

15 Q: In your explanation just now, you were  
16 saying that these remaining lots, they  
17 were sold and some settled after this  
18 letter?

19 A: Yes, ma'am, because I continued  
2X instinctively as I said before.

21 Q: Read paragraphs fourteen to sixteen?

22 A: **By the time FINSAC took control of the**  
23 **Horizon Group, most of the purchasers of**  
24 **lots in the subdivision had received**  
25 **their titles. We continued our sales as**

1 we developed the project. By this time  
2 interest rates were spiralling out of  
3 control and this resulted in a downturn  
4 in our business. We were unable to pay  
5 our bills including salaries as the bulk  
6 of our earnings had to be used to try to  
7 service our debts. The enormously high  
8 interest rates made our debts virtually  
9 unserviceable.

1X The lots were not being sold to the  
11 extent that they were being sold before  
12 because our staff and agent left the  
13 company. Our bills piled up. The  
14 brokerage business failed and I stopped  
15 the development of Discovery Bay to put  
16 all my effort and resources into  
17 advancing the Belvedere and Address  
18 **developments.**

19 Q: Read on?

2X A: 16. As we, (meaning myself  
21 Company Limited and  
22 Company Limited) continued  
23 selling some of the Address and  
24 Address lots we continued  
25 servicing our debts and were not in



1           A:           In simplicity it means we didn't owe any  
2                            money on the Addressproject, we  
3                            didn't borrow any money on it.  
4                            Continued...

5

6

7

8

9

1X

11

12

13

14

15

16

17

18

19

2X

21

22

23

24

25



1

2 MISS CLARKE: Okay, that **is** what you are actually  
3 saying?

4 **A:** We didn't borrow any money on **it**.

5 **Q:** Okay.

6 **A:** **17. We completed the Address**  
7 **Development smoothly and we were not in**  
8 **arrears with respect to the debt for**  
9 **this project. We even gave FINSAC one-**  
10 **and-a-half acres of land in the Address**  
11 **Development as collateral for debt**  
12 **which we had incurred to carry out the**  
13 **Company Ltd. development. This debt was**  
14 **also secured by way of mortgage of**  
15 **Address. I intend to deal with**  
16 **Company Ltd. in greater detail later.**

17 **Q:** Read right down to paragraph 2X.

18 **A:** **By this time it became clear to me and**  
19 **others that with interest rates**  
20 **continuing to sky rocketing we would**  
21 **never be able to repay our debts. As**  
22 **Vice President of Returning Residents**  
23 **Association myself and Mr.**  
24 **John Doe, (the President) made**  
25 **representations to the Minister of**

1                   **Finance making offers for settlement on**  
2                   **behalf of the debtors.**

3           Q:            Could you pause there for me please and  
4                            explain to the Enquiry, this Commission,  
5                            what you mean when you say you made  
6                            representations to the Minister of  
7                            Finance, what would have been the nature  
8                            and manner of these representations made  
9                            by you and the President of the  
1X                          Returning Residents?

11          A:            What I would say the Association worked  
12                            out at my office and while I was not up  
13                            front Mr. Latouche was very vocal and  
14                            visible around with people visiting from  
15                            various parts of the island.

16          Q:            So what kind of representation did he  
17                            make?

18          A:            I think he went personally and we had  
19                            sent letters. I haven't got a copy of  
2X                            them because he is not in the office  
21                            anymore.

22          Q:            So letters were sent and personal  
23                            visits?

24          A:            Letters were sent and it is obvious  
25                            nothing was done.

1 Q: All right. So read on for me the rest  
2 of paragraph 18 and going down "all our  
3 offers".

4 A: **All our offers and suggestions were**  
5 **either rejected or flatly ignored. In my**  
6 **view, this was a real pity because of**  
7 **the rising interest rates, billions**  
8 **which would have otherwise stayed in**  
9 **Jamaica were repatriated overseas.**

1X MR. GOFFE: Could I interrupt there, Commissioners.  
11 My friend has been very good to  
12 constraining the witness to give  
13 evidence of facts and things which come from  
14 his personal knowledge. I don't think that  
15 his last sentence in paragraph 18 falls to be  
16 treated as such. This is an opinion which he  
17 is giving of facts, he has no knowledge of and  
18 I think he is specifically directed at our  
19 client in circumstances where I don't know  
2X that he is speaking from a position of  
21 personal knowledge. I know for a fact that he  
22 could not be speaking from a position of  
23 personal knowledge. I would ask then  
24 Commissioners that this

1 entire statement here, the sentence  
2 be struck from the witness' statement.

3 A: With respect...

4 MISS CLARKE: May I respond, Debtor 7. I am hoping

5 that I am appreciating the range and  
6 ambit of this enquiry. In response to  
7 Mr. Goffe, I would simply say that I do  
8 not believe that any particular witness  
9 is precluded from expressing an opinion.  
1X In terms of how it would be treated by  
11 the Commission that is certainly a  
12 matter for the Commission. But I doubt  
13 whether the expression of an opinion,  
14 even if we were to treat it as a matter  
15 of strict evidence in a court of law  
16 which this is not, and you know as much  
17 as we want to be constrained by certain  
18 proper proceedings, I don't believe that  
19 we are boxed in by the Evidence Act in  
2X terms of how the evidence proceeds. But  
21 even if that were so, to the extent that  
22 the witness is expressing an opinion, I  
23 doubt whether in point of any law or  
24 process that it is objectionable in and  
25 of itself. If my friend feels that it

1 touches and concerns his client whom he  
2 represents, I am sure that when it  
3 arises the opportunity for him to  
4 cross-examine the witness and to put  
5 certain things he will deal with it in  
6 terms of trying to establish as to its  
7 soundness and its source. So it is open  
8 to the Commissioners as to whether or  
9 not to allow this witness or any of  
1X these witnesses to express an opinion.

11 DEBTOR 7: Could I just add to that?

12 MISS CLARKE: Not yet, sir.

13 COMM. BOGLE: This Enquiry is to look at what happened  
14 during a certain period and we believe  
15 that statements made will be up to the  
16 Commissioners, when they are going  
17 through, how they will deal with  
18 statements of this nature and so I do  
19 not think that we will strike it down. I  
2X don't agree with striking out this  
21 statement, but it will be up to the  
22 Commissioners to decide when they are  
23 summarizing and making their report what  
24 they will rely on.

25 MR. GOFFE: Thank you Commissioner. But in that

1                   vein then I would ask then that the  
2                   Commission certainly investigate the  
3                   basis for making this speculative  
4                   statement.

5    COMM. BOGLE:       Mr. Goffe, I just mentioned that we will  
6                   not strike it down. The Commissioners,  
7                   when they are going through they will  
8                   deal with matters such as these as we  
9                   see fit. And you surely may, during  
1X                   your cross-examination, explore it with  
11                   the witness as you see fit.

12   MR. GOFFE:        Thank you sir.

13   MISS CLARKE:     Thank you Commissioner. Now, we are at  
14                   paragraph 19. Could you please continue  
15                   Debtor 7.

16           A:        **Soon after FINSAC's takeover and with**  
17                   **the enormously high interest rates, my**  
18                   **ability to advance the projects was**  
19                   **severely compromised, earnings therefore**  
2X                   **declined and I was faced with unpaid**  
21                   **government taxes, statutory deductions**  
22                   **and purchasers wanting their titles or**  
23                   **refunds.**  
24                   **Still, we struggled to make lump sum**  
25                   **payments whenever we could. Some of**



1 just ask him to read it.

2 A: Attention Ms Suzette Campbell.

3 Dear sirs:

4 RE Company Ltd. - LOAN ON

5 Address **SUB-DIVISION**.

6 We would be very grateful if you could

7 inform us of the total payments made to

8 Horizon Merchant Bank and FINSAC on the

9 above loan.

10X After reviewing our records, we have

11 established that this loan was

12 capitalized three times. The actual

13 monies received from Horizon Merchant

14 Bank is just over X Million Dollars.

15 Payments made to date is over X

16 Million Dollars.

17 Mr. Rose from Horizon Merchant Bank told

18 us in previous discussions that all

19 monies paid would liquidate the

20X principal loan and the interest would be

21 forgiven. In view of this policy and

22 the amount already paid, this account we

23 believe can now be qualified for a

24 write-off.

25 We anxiously await your response in this



1                   **regard.**

2           Q:           Debtor 7, may I ask you, from your  
3                           recall, did you ever receive a response  
4                           to this letter?

5           A:           It is extremely difficult to say, but  
6                           maybe we have, because I was in  
7                           correspondence with them and they  
8                           replied to us. Maybe it is in the file  
9                           some place, but let me see, I can't sit  
1X                       here and tell you now.

11          Q:           You can't recall?

12          A:           But the reply that I generally get from  
13                       FINSAC, from the loan from the bank is  
14                       just that they would write to say they  
15                       ignore our request and we have to  
16                       continue settling the debt, whatever the  
17                       debt was.

18   COMM. BOGLE:       Debtor 7, just for our benefit here.  
19                       The original - we started out with loan  
2X                       of \$X in your paragraph 11, \$X and  
21                       \$X, in your letter now you are stating  
22                       that the monies received from Horizon  
23                       Merchant Bank is just over X Million  
24                       Dollars. What's is the relationship with  
25                       these two?





letter.

1  
2 **After reviewing our records we have**  
3 **established that this loan was capitalized**  
4 **three times. The actual monies received from**  
5 **Horizon Merchant Bank is just over Seven**  
6 **Million Dollars. Payments made to date is**  
7 **over X Million Dollars.**

8 When you say in that letter the actual  
9 monies received is just over X Million  
10 Dollars, tell me exactly what you were  
11 meaning to say in that paragraph? Because  
12 you were asking in the first paragraph for  
13 an accounting based on the fact that you had  
14 paid X Million Dollars. Did anybody send  
15 you any data - I am referring to paragraph  
16 21 of your Affidavit now. Do you recall  
17 receiving any data from FINSAC which said  
18 that as of this date we have only been able  
19 to see where you have paid down only Seven  
20 Million Dollars on account of your loan, do  
21 you recall receiving any such  
22 correspondence?  
23  
24  
25

1           A:           Now, that you asked me that, I am  
2                        thinking now if we had actually received  
3                        all the money promised by Horizon.  
4                        Because not on record, Horizon itself at  
5                        times was having problems, although this  
6                        is not on our record, financial  
7                        problems. So I don't know if we had  
8                        received all the money from Horizon,  
9                        quite likely.

1X          4:           So you could very well have been, from  
11                        what you say, that all of the loan  
12                        proceeds may not have been disbursed?

13          A:           It is quite possible.

14          Q:           Okay.

15          A:           I am not saying it is definitely so.

16          Q:           All right, let me go through paragraph  
17                        **22. Between 2XX1 and 2XX3 we made**  
18                        **tireless efforts to negotiate with**  
19                        **FINSAC terms which would allow us to**  
2X                        **settle our indebtedness while continuing**  
21                        **to operate. FINSAC's posture was**  
22                        **characterized by either an outright**  
23                        **failure to reply or in some instances**  
24                        **very terse rejection of our proposals,**  
25                        **without explanation or invitation to**

1 2 **have further discussion.** And you referred to  
3 4 three letters Exhibits 31 to 34. With your  
5 6 permission sir, may I just refer to those  
7 8 letters quickly. Exhibit LP31 is a letter  
9 from FINSAC to  
1X Mr. Debtor 7, dated March 26, 2XX1, again the  
11 caption just say **Indebtedness - Debtor 7 Your**  
12 **letter of 2XX1 March 19 refers. This serves**  
13 **to advise that your proposal to settle the**  
14 **captioned indebtedness as outlined in your**  
15 **said letter is unacceptable.**  
16 **Please be guided accordingly.**  
17 Then there is Exhibit LP32 where  
18 Mr. Debtor 7 is writing to Mr. Patrick  
19 Hylton, the Managing  
2X Director of FINSAC. Letter dated 27th  
21 March, 2XX1.  
22 **Further to my letter dated 17th March, 2XX1**  
23 **offering to settle the principal of this**  
24 **account, I have subsequently received a**  
25 **letter (copy enclosed) advising me that this**  
**was unacceptable. I would therefore further**  
**offer to pay**

1 you Thirty percent (3X%) of the accrued  
2 interest up to the end of March 2XX1. This  
3 would be paid on or before the 3Xth September,  
4 2XX1.

5 Many thanks for accepting this new  
6 proposal.

7 I do look forward to hearing from you soon.

8 And then there is Exhibit LP33 with  
9 Debtor 7 writing again to FINSAC.

10 We are in receipt of yours dated March 26,  
11 2XX1 informing us of your non-acceptance to  
12 our proposal. This is very disappointing as  
13 we had already gone ahead with plans to  
14 settle this account.

15 However, we would like to take this  
16 opportunity to increase our offer by paying  
17 off the principal amount of X Million X  
18 Hundred Thousand Dollars (\$X,xXX.XXX)  
19 immediately and interest payment of thirty  
20 to fifty percent will be paid over a period  
21 of six months. As you know, time is of the  
22 essence where this matter is concerned and  
23 we  
24  
25





1 property. We had only about twelve lots  
2 left with the extra eight acres.

3 Q: Could you now read down to paragraph 26  
4 please.

5 A: From 26?

6 Q: You are going to be now reading from  
7 paragraph 23 to paragraph 26. I am  
8 sorry.

9 A: **When Jamaican Redevelopment Foundation**  
10 **took over from FINSAC, we entered into**  
11 **an arrangement whereby the previous**  
12 **system of making lump sum payments of**  
13 **the net proceeds from lot sales as lots**  
14 **were sold were changed. We were now**  
15 **required to make monthly payments.**

16 Q: Hold on a minute now. You are saying at  
17 this point that when JRF took over you  
18 entered into a new arrangement with  
19 them, you no longer were making lump sum  
20 payments as lots were sold, but you were  
21 now paying a monthly sum?

22 A: Yes.

23 Q: Read on.

24 A: **This was good for us because we were now**  
25 **able to meet some of our other expenses**

1 from the proceeds of sales rather than  
2 to have to pay it all out on account of  
3 the loans. This arrangement worked well  
4 and we remained in good stead with JRF.  
5 I can even recall Mr. Robert Best, JFR's  
6 account executive assigned to me that  
7 based on the new arrangement we had  
8 overpaid...

9 Q: Could you pause there. Probably you  
10 wanted to say, I can even recall Mr.  
11 Robert Best, JRF's account executive  
12 assigned to me saying, is there a word  
13 missing there or indicated?

14 A: I can even recall Mr. Robert Best JRF's  
15 account executive who was assigned to  
16 me, he said that based on the new  
17 arrangement we had overpaid and stating  
18 he would be willing to return the amount  
19 overpaid to me. I told him to retain the  
20 amount overpaid and credit it to our  
21 account. Is that clear?

22 MISS CLARKE: I believe if you put 'saying' there then  
23 it makes sense.

24 COMM. BOGLE: Saying, yes.

25 A: **After most of the lots in Red Hills were**

1 2 sold we did not have much income coming in.  
3 4 In a meeting with Mr. John Doe he  
5 6 suggested that I should globalize all New  
7 8 Company Ltd. and Debtor 7 and Wife Debtor  
9 7 debts. (This would not include debts  
1X incurred for Company Ltd.). I refused at  
11 first because at the time the Citizens  
12 Bank, the Citizens Bank, meaning the loan  
13 was relatively small and I thought maybe I  
14 should move to pay that one off, but in a  
15 subsequent meeting I was told that even  
16 though my **wife had left** Jamaica the debts  
17 could still follow her and it would **be**  
18 very embarrassing if JRF should go after  
19 her in the **country** where she is now  
2X residing.  
21 I conveyed this to **her** attorney here in  
22 Jamaica and she and I agreed reluctantly to  
23 the globalization of the **debts. As a result,**  
24 **JRF** globalized all debts relating to New  
25 Corporation Limited (that is loans  
secured to develop **Address** and Address in  
keeping with this

1                    agreement. In 2XX4 Margaret Debtor 7 and  
2                    I executed the Agreement to restructure  
3                    existing debt. A copy of that document  
4                    is exhibited herewith and marked  
5                    Debtor 7 35.

6            Q:                    That sir, is somewhat a lengthy document  
7                    which is exhibited and marked LP35, it  
8                    is an agreement to restructure debt  
9                    which at its initial stage or in its  
1X                    body does not bear a date strictly  
11                    speaking, but where one of the parties  
12                    had signed, it is dated 22nd September,  
13                    2XX4, the signing portion where Margaret  
14                    Debtor 7 had signed most of the document  
15                    just indicate a blank 2XX4, but it is in  
16                    fact an agreement to restructure  
17                    existing debts between  
18                    Corporation,  
19                    Debtor 7 and Wife Debtor 7

2X    MR. GOFFE:                    Excuse me Commissioners, I actually have  
21                    a complete copy of that document signed  
22                    by all parties.

23    COMM. BOGLE:                    Yes.

24    MR. GOFFE:                    Perhaps we could use that instead and  
25                    mark it as 35(a) so that we don't have a

1 confusion later.

2 COMM. BOGLE: Okay, can we be provided with a copy of  
3 that one.

4 MISS CLARKE: You have it, Debtor 7? Yours stopped  
5 at page 13? A date is inserted in this  
6 one. This is my copy?

7 MR. GOFFE: Yes.  
8 MISS CLARKE: Thank you.

9 COMM. BOGLE: Alright, for completeness LP35(a) is the  
1X one with all the signatures.

11 MISS CLARKE: Thank you very much sir. So read now  
12 from paragraph 27 to paragraph 34  
13 please, Debtor 7, paragraph 27 to 34.

14 A: **At the time the debt on Belvedere was**  
15 **about \$x Million and the debt on**  
16 **Discovery Bay was about \$4 Million.**  
17 **At that time my wife and I agreed to**  
18 **sign over Company Ltd.'s**  
19 **building at Address to JRF to**  
2X **set off our debt in relation to Company**  
21 **Ltd. After all the lots in Red Hills**  
22 **were sold and those funds applied to**  
23 **offset**  
24 **Corporation's debts I could not afford**  
25 **to continue to repay the loans as I was**

1 accustomed to doing.

2 3X. I tried to enter into a joint venture  
3 agreement with a third party to develop and  
4 build houses on the property (12 acres) in  
5 Discovery Bay. The first prospective joint  
6 partner pulled out of the negotiations  
7 because he was afraid of the prospect of  
8 dealing with JRF. That is for quite some time.  
9 Much later we got another joint partner.  
10 Negotiations proceeded very well. JRF was  
11 included in these negotiations and a draft  
12 contract was prepared. Again, when faced with  
13 the enormity of the terms of my indebtedness  
14 to JRF, this joint partner also pulled out.

15 32. At that point words are totally  
16 impossible to describe the state I was in,  
17 with three young children going to school  
18 in foreign lands, court cases against me  
19 by persons wanting their titles or their  
20 money back, and taxes and death threats,  
21 I can easily empathize with my colleagues  
22 who have committed suicide. I was told that  
23  
24  
25

1                   **there were persons in similar position as**  
2                   **mine with FINSAC and JRF who have committed**  
3                   **suicide or died of stress related ailments.**

5

6                   Continued...

7

8

9

1X

11

12

13

14

15

16

17

18

19

2X

21

22

23

24

25

1

2 MR. GOFFE: I am just repeating my objection, for  
3 the record, to that last sentence.

4 DEBTOR 7: Should I read it again? But  
5 Commissioners this is my feeling, my  
6 personal feeling, that was my personal  
7 feeling. That was my feeling that  
8 existed, that actually happened. That is  
9 really a fact. I could relate to those  
1X people who I heard committed suicide and  
11 some of who I knew committed suicide and  
12 those who suffered.

13 COMM. BOGLE: Continue for me.

14 A 33. I am a X citizen with landing  
15 status to live in other countries. So I  
16 wondered why I was punishing myself. But  
17 I was determined to stay and resolve my  
18 problems even if I were to leave after.  
19 By this time there were...

2X COMM. BOGLE: Just a minute. On that note, could we  
21 have our usual break just before you  
22 begin 34. After break, after a ten minute  
23 break we will pick up at paragraph 34.

24 (1X Minute break)

25 (ON RESUMPTION)





1 released by JRF for a payment US\$5,XXX.'

2 So if we could just now read on. I ask

3 you Debtor 7 to read that sentence

4 again.

5 A I just wonder if we are reading from the

6 same document?

7 MISS CLARKE: I am not reading the same handwritten

8 portion. I see it on this now but it is

9 not on my copy.

1X A I read item 12(a) of the schedule.

11 MR. GOFFE: The sentence you read a while ago on

12 mine there is a hand-written note.

13 MISS CLARKE: Well, I am not dealing with the

14 hand-written portion. I see it on this

15 now but it is not on mine.

16 A It's not on my mine either.

17 COMM. BOGLE: The copies that I have here for 35(a) is

18 the one signed and another one and I

19 don't have the hand-writing either.

2X MR. GOFFE: I think you have the wrong 35(a) then,

21 sir. The 35(a) which I copied and

22 provided the Commissioners all have

23 'each' on it.

24 A Sorry, Mr. Goffe, the 35 (a) that I have

25 in my file there is no handwriting on

1 it.

2 MR. GOFFE: The one that I brought today is not the  
3 one which you have.

4 MISS CLARKE: May I intervene here. There are two  
5 exhibits 35 and 35(a). The witness in  
6 terms of his Witness Statement is  
7 referring to the document which he  
8 exhibited. I am now asking the witness  
9 to read from that exhibit which is  
10 exhibited to his affidavit.

11 A So I am to just read 3X...

12 Q What I have just read. If you could just  
13 look at 35(a) as being Item 12(a) on page  
14 12.

15 A 12(a) says...

16 MR. GOFFE: Sorry, are you asking him to read 35(a)  
17 or 35?

18 MISS CLARKE: Thirty five. It is the one exhibited to  
19 his affidavit, not the exhibit tendered  
20 on behalf of JRF. Go ahead and read it.

21 A 'The six lots listed below will be  
22 released by JRF for a payment of  
23 US\$5,XXX.'

24 Q That is what? That is the document that  
25 you have in your possession?

1           A                   Yes, and that is the one that I signed.

2           Q                   Let me ask you, having regard to the  
3 fact that there is no exhibit 35(a) did  
4 you at any point when this Agreement to  
5 Restructure was to be executed by you,  
6 become aware or agreed to an amendment  
7 to that document to include the word  
8 'each'?

9 MR. GOFFE:                 Sorry, no, Miss Clarke. Hold a second.  
1X It is a leading question which is being  
11 asked as to whether it was an amendment  
12 at all because on the face of the  
13 document there is nothing which  
14 indicates that it was amended after  
15 signature or before signature. So, I  
16 don't think that the question is an  
17 appropriate question.

18 COMM. BOGLE:             The thing is that I have two documents  
19 but one of the copies has signature in  
2X all the places that have been amended.

21 MR. GOFFE:                 Again, I think, that was a document that  
22 Debtor 7 brought. The one which I put  
23 in as 35(a) is identical and each one of  
24 them has handwritten word, 'each' on it,  
25 which again, the point I am making is

1 that we don't know if it is an  
2 amendment. An amendment being a change  
3 to the document made after it was  
4 signed.

5 MISS CLARKE: May I Commissioners? First of all...

6 MR. GOFFE: Could I submit another one of 35(a)? It  
7 seems perhaps that the Commissioner does  
8 not have enough copies of 35(a)?

9 MISS CLARKE: And that exhibit would be marked as  
1X tendered by the Attorneys for JRF. It is  
11 not an exhibit on which the witness  
12 before the Commission is now relying.  
13 The exhibit on which he relies is the one  
14 exhibited in his statement. Suffice it  
15 to say, Commissioner, that I do believe  
16 that there was an open and expressed  
17 invitation relative to these  
18 proceedings, to lead the witnesses  
19 through their evidence.

2X COMM. BOGLE: We are allowing the leading of witnesses  
21 for us to get out the information.

22 MR. GOFFE: Leading the witness through their  
23 statement, not leading them in relation  
24 to things that they have not said.

25 COMM. BOGLE: I would imagine that she is asking a

1 question, sir. Maybe she needs to  
2 rephrase the question?  
3 MISS CLARKE: I am not particularly eager to rephrase  
4 the question because in truth and in  
5 fact the item arose based on a  
6 submission that is now being made on  
7 behalf of JRF, relative to a document  
8 that JRF has put in where the witness  
9 was reading from something entirely  
10 different, so if a document is being put  
11 in and has been put in and it is now  
12 exhibit 35 (a), I believe it ought to be  
13 open to counsel for the witness to put  
14 to him a question relative to the point  
15 that is raised because what is being now  
16 proffered by counsel is that the  
17 document before the Commission is a  
18 document that has a hand-written note on it.  
19 I believe that it is entirely proper  
20 therefore, to ask the witness whether in the  
21 course of entering that agreement at that  
22 particular place he was made privy to, he  
23 agreed to, he signed to any hand-written  
24 insertion in the document. And one was not  
leading

1 him, one was asking him the questions  
2 based on the fact that it was being  
3 asserted that the actual document should  
4 read 'each' and I believe only the  
5 witness can speak to what he agreed  
6 because he is speaking to an agreement  
7 that he entered into, not a document in  
8 vacuum.

9 COMM. BOGLE: Therefore you are speaking about the  
10X difference between 35 and 35(a)?

11 A I would certainly have to now establish  
12 it with the witness.

13 MR. GOFFE: Commissioners, I don't have a copy of  
14 the document which Commission Bogle, you  
15 were handed. by the witness, sir.

16 COMM. BOGLE: It is part of your bungle.

17 MR. GOFFE: No. I was told that there was one which  
18 has JRF's signature on it that he handed  
19 up. I have not seen that document as  
20X yet.

21 A Mr. Gaffe, the answer is emphatically,  
22 no.

23 COMM. BOGLE: Just a minute.

24 A I believe it ought to be brought to the  
25 attention of the Commissioner that the

1 one document does not seek to replace  
2 the other, we now have two exhibits and  
3 if something is written, then questions  
4 probably ought to be led to show the  
5 difference.

6 MR. GOFFE: It seems to be three documents being  
7 banded about. The first one which we got  
8 with the Witness Statement at page 8 and  
9 three signatures. There was no signature  
10 there for JRF and that one we had as  
11 Exhibit 35. Then I got a copy of an  
12 Agreement.

13 MISS CLARKE: From which source, sir?

14 COMM. BOGLE: I am not too sure but that one had all  
15 four signatures, that is, JRF and the  
16 other three but did have the adjustment  
17 'each'. And then there is another one.

18 A From JRF that...

19 COMM. BOGLE: From JRF which now has the four  
20 signatures with the word 'each' written  
21 on it.

22 MISS CLARKE: Written somewhere between the top line  
23 and the bottom line.

24 COMM. BOGLE: In actual fact we have three.

25 MISS CLARKE: I am sorry. Was the document handed



1 over, was it tendered by the witness  
2 giving evidence. Was it identified and  
3 marked as an exhibit?

4 COMM. BOGLE: Which one?

5 MISS CLARKE: The one that came from Debtor 7 from  
6 the witness stand.

7 COMM. BOGLE: I think that is where the confusion is.

8 MISS CLARKE: I was not given an opportunity to look  
9 at it.

1X COMM. BOGLE: So in this case, I think, what we need  
11 to do is to adjust our documents. We  
12 have received three documents so we have  
13 to have a 35 (b).

14 MISS CLARKE: I am not sure at this point. I would  
15 like to have a look at the one which I  
16 did not see.

17 COMM. BOGLE: Well, it is gone to be photo copied.

18 MISS CLARKE: And we would certainly now need to  
19 establish from this witness as to his  
2X connection to each document having  
21 regard to its difference or the  
22 differences between the documents.

23 COMM. BOGLE: I suggest that we have a five minute  
24 recess to allow for that document to be  
25 photo copied.

1 (Five minutes break)  
2 (ON RESUMPTION)

3 Okay. We will therefore have to make a  
4 decision now. We will say that the one  
5 from Myers Fletcher which has, sorry  
6 Jamaican Redevelopment Foundation which  
7 has the word, 'each' inserted at item 12  
8 we will retain that as 35(a); the one  
9 that was circulated just a while ago  
10 which has the four signatures but does  
11 not have the word inserted will now be  
12 35 (b) .

13 MISS CLARKE: That is the document produced by the  
14 witness in the course of the hearing.

15 COMM. BOGLE: Yes, okay.

16 MISS CLARKE: Having regard to the fact that two of  
17 these exhibits have just now been  
18 forthcoming, with your permission, sir,  
19 may they all be put in the hands of the  
20 witness? I would like to ask him some  
21 questions in relation to these  
22 documents.

23 COMM. BOGLE: Yes. Debtor 7, do you have Exhibit 35  
24 (a) and 35(b)?

25 A I have to go on with what I have, sir,

1 but could I ask a question? Before we  
2 continue with the two, would it be  
3 prudent to solicit the aid of the Fraud  
4 Squad at this time, sir?  
5 COMM. BOGLE: Debtor 7, that is something else that  
6 if you feel you need to proceed with,  
7 but that is not in the purview of the  
8 Commission. So, we will look at 35(a).  
9 Could you try to ensure that we have 35  
1X (a) which is the one that has the four  
11 signatures and at Schedule 12 under (a)  
12 there is the word, 'each' written in.  
13 Do you have that?  
14 A Yes sir.  
15 Q Okay, and you would then have also 35  
16 (b) which is the one that has four  
17 signatures but does not have the word,  
18 'each' written in?  
19 THE CLERK: It is on page 12 of all the documents.  
2X COMM. BOGLE: So you have you all the documents now  
21 Debtor 7?  
22 A I hope so.  
23 Q No, no, we are not hoping. Do you have  
24 all the documents?  
25 A I am a little bit confused now because I

1

2 MR. GOFFE:

was not expecting this on me.

3

4

5 MISS CLARKE:

Could I just interrupt here because that is not actually accurate. There is a difference in the schedule as well? We are going through at the point where we are.

6

7 Q

8

9

10X

11

12

13

14

15

16 COMM. BOGLE:

17

18

19 MISS CLARKE:

20X

21

22

23

24

25

I know but if we are identifying the differences in the documents even for the purpose of the - I don't want it to be stated that the only difference is that signatures appear here and the word 'each' appears there. The schedule itself differs, it reads, it is heading up 'Relationship Roll Up Sheet' at the back, it is different as well.

What I will say is that we will ask Miss Clarke to take the witness through the documents.

I should indicate at this point that if I am to be fair to the witness having regard to what is just put before me, I myself may not be apprised of all the differences, so perhaps inasmuch as we want to forge ahead there arises a need for a further momentary postponement so

1                   that the documents can be looked at because  
2                   I have not yet gone through. Two of the  
3                   documents having just come to hand, I would  
4                   not be able to take the witness through them  
5                   in terms of any other differences. What I was  
6                   proposing to do is to take him to the  
7                   particular aspect at page 12. If there are  
8                   in fact other differences perhaps we need to  
9                   establish what they are, so that the  
1X                  questions can be put and certain differences  
11                  can be established here and now.

12                  Commissioners and Miss Clarke, the only  
13                  difference there I see..

14   MR. GOFFE:           Mr. Goffe, hold on a second.

15                           We will allow for a further five minutes for

16   THE CLERK:           the review of the two documents.

17   COMM. BOGLE:

18

19

2X                           (continued..

21

22

23

24

25



1 witness box 35B. Was that to be marked  
2 35B?

3 COMM BOGLE: Yes.

4 MR. GOFFE: Sorry, I think its the 15th of October.  
5 MS. CLARKE: It's not the 13th? Is it the 13th or  
6 the 15th?

7 COMM BOGLE: I would go more with the 15th.

8 MS. CLARKE: I have no difficulty with that so 15th  
9 October, 35B which is the document  
1X passed to the Commissioners and made  
11 available to us from the witness in the  
12 witness box which also bears the date  
13 15th October 2XX4.  
14 COMM BOGLE: Right.

15 MS. CLARKE: At page 7 of that agreement I should  
16 indicate that that is not so much a  
17 difference but there is on all of the  
18 documents a hand written insertion, if  
19 you will, Item 12 of the Schedule is  
2X incorporated into the terms and  
21 conditions of the agreement that is just  
22 above the signiture or initials LP and  
23 LBP.

24 Page 9 of the document Exhibit LP35,  
25 that is the one exhibited to the

statement of the witness is undated.

1  
2 The schedule, the slot where the date is to  
3 be filled in has not been completed. 35A and  
4 35B have the date inserted 15th October 2XX4.  
5 Page 12 of the document, Exhibit 35 which  
6 is attached to the witness's affidavit,  
7 there on that document at Item 1XA, the  
8 fourth item down, pen ink ticked, item 12.A,  
9 there are some pen ink ticks between the  
10 items listed 1-6 under item 12A.

11 As it relates to 35.A on that same page, those  
12 pen ink ticks, are not on the document but  
13 they appear on the document item 35A tendered  
14 on behalf of JRF and a hand written insertion  
15 of the word 'each'.

16 At item 12A in the line between the words  
17 'US\$5,XXX,' and the line  
18 commencing 'Item 1, Lot 4'.

19 As it relates to Exhibit 35B which was  
20 passed up by the witness, the pen ink ticks  
21 on item 12 are not there either, and the  
22 word 'each' appears neither in  
23  
24  
25



1                   this document, that is the one passed up by  
2                   the witness from the witness box nor in the  
3                   document attached as his exhibit to his  
4                   witness statement. There is another  
5                   difference that I have noted in relation to  
6                   Exhibit 35, which is the one attached to the  
7                   affidavit. There are two documents attached,  
8                   one, entitled 'A Relationship Roll Up  
9                   Sheet'and the other entitled 'Exhibit A'.  
1X                  I should indicate that in relation to  
11                  Exhibit 35A which has been passed up on  
12                  behalf of JRF, the Relationship Roll Up  
13                  Sheet is attached but the document marked  
14                  Exhibit A is not attached. As it relates to  
15                  35B passed up by the witness, similarly the  
16                  Relationship Roll Up Sheet is attached but  
17                  the document marked Exhibit A is not  
18                  attached. Those are the differences as I  
19                  have perceived them.

2X                  I am not sure whether my friends will have  
21                  noticed or noted any other differences in  
22                  the document.

23                  Thank you for that, but yes, in the

24

25                  MR. GOFFE:

1 actual Relationship Roll Up Sheet  
2 itself, there are some significant  
3 differences between 35B and and 35A which are  
4 the only documents which bear the signatures  
5 of all the parties. If I could just point out  
6 that significantly it looks as if 35A is  
7 calculated to a much later date. If you look  
8 at the column that says 'date', roughly in  
9 the middle of the sheet you will see it  
10 calculated up to 3rd March, 2XX3 whereas 35B  
11 is calculated up to 15th July, 2XX2. There is  
12 also a difference - of course the interest  
13 figures would all be different once we  
14 recognize the calculation is to a later date  
15 but I would also point out that the principal  
16 amount stated is different in relation to  
17 each. You will see that in account ending;  
18 Debtor 7's account ending 5694, the principal  
19 amount is \$Xon 35A and on 35B it is \$X. On  
20 35B also there appears to be some discrepancy  
21 between rate of exchange, rate being in the  
22 heading, *one of 47* but  
23  
24  
25

1 in the actual column itself, it uses 5X.  
2 That error doesn't appear -- I assume  
3 it's an error -- that error doesn't  
4 appear in 35A.

5 MS. CLARKE: Beg pardon. Could you just indicate what  
6 the discrepancy is again?

7 MR. GOFFE: You will see on 35B where it says  
8 conversion one of 47, but then right  
9 below it, it says 5X. And there is a  
10 notation which says enter 1, it is in US  
11 Dollars and 47 in Jamaican Dollars and  
12 35A, all of of the conversion rates  
13 correspond and agree at 5X.

14 MS. CLARKE: I crave your indulgence, sir. Thank you  
15 Mr. Geoffe.

16 COM. ROSS: Just one other interesting point which  
17 is that the 'X3 documents are marked  
18 revised March 2X, 2XX2, but the dates  
19 are later than that on both documents of  
20 July and March 'X3. I am not so sure.

21 MS. CLARKE: Mr. Ross could you indicate for my  
22 benefit at what point in the document  
23 that was said.

24 COMM. ROSS: Same Roll Up Sheet, bottom left hand  
25 corner. It says Revised March 'X2

1                   whereas the date column of 35A says  
2                   March 2XX3.

3   MS. CLARKE:           In relation to all of the documents or  
4                   just 35A.  
5   COMM. ROSS:           Just 35A. On *B i t s a y s* July 2XX2.

6   COMM. BOGLE:          All the documents, all have revised  
7                   March 2XX2.

8   MS. CLARKE:           35A has a date after March, 2XX2.

9   COM. ROSS:            They both do; both 35A and 35B. 35 and  
1X                   35A have July 2XX2 - sorry, 35 and 35B  
11                   have July, 2XX2. 35A has March 2XX3.

12   MR. GOFFE:           Which has July 2XX2, sir? I am not  
13                   seeing that.

14   COM. ROSS:           In the date, as of date column, 35 and  
15                   35B.

16   MR. GOFFE:           And I think we should also point out, so  
17                   that we don't' get confused that in 35  
18                   itself; there is a separate Relationship  
19                   Roll Up Sheet, separate from the Exhibit  
2X                   which also has figures even more  
21                   current, this time updated to April  
22                   2XX4.

23   MS. CLARKE:          Beg pardon.

24   MR. GOFFE:           Exhibit A?

25   MS. CLARKE:          We have one Relationship Roll Up Sheet

1 and we have a document marked Exhibit A.  
2 Is that what you are calling the  
3 separate Relationship Roll Up Sheet?  
4 MR. GOFFE: I am not calling it that, I am simply  
5 saying that the figures in Exhibit A are  
6 even more current on the face of it, it  
7 being updated to April 2XX4.  
8 COMM BOGLE: Okay, can we proceed then? Have we  
9 covered all the differences?  
1X MS. CLARKE: Debtor 7, I am going to ask you some  
11 questions based on the exercise that was  
12 just done, based on the documents which  
13 were just put in, I am going to ask you  
14 some questions.  
15 DEBTOR 7: Okay, Miss Clarke.  
16 MS. CLARKE: Now, could you turn to Exhibit LP 35,  
17 the one attached to your statement.  
18 Now, look at -- you also have before you  
19 Exhibit 35A, the one passed up by the  
2X Attorneys for JRF.  
21 A: Okay.  
22 Q: And now look at 35B, the one that you  
23 gave us this morning, the one that is  
24 signed by all the parties. Have you  
25 written 35B on it? Do you have it?

1 I think Mr. DePeralto could assist him?

2 A: 35B; it is here.

3 Q: That is the one you passed up?

4 A: I think I have them both, yes, okay.

5 Q: I am going to put the one I have in your

6 hands just so we are at the time same

7 place. Could you look at this document.

8 (Document shown to witness)

9 That is the document you passed up.

1X From your recollection, based on the

11 portion that you are looking at now -

12 what page are you on?

13 A: The one you give me?

14 Q: Yes. What page are you on?

15 A: That's number 8, page 8 of the

16 Restructured Agreement.

17 Q: From your recollection looking at that

18 page 8, just looking at page 8, would

19 you say that the document is in keeping

2X with the document that you signed at the

21 bank, the agreement to restructure the

22 loan? Just looking at page 8.

23 A: This was not signed at the bank, this

24 was signed in JRF's office.

25 Q: Okay. I am sorry. When you look at page

1  
2 8 you would say that it was in keeping with  
3 the document that was signed in JRF's  
4 office?  
5 A: That is correct.  
6 Q: Turn to page 12. Look at page 12 of that now,  
7 the one I just gave you. Look at page 12 of  
8 the one you attached to your statement.  
9 Yes.  
10 A: Would you say that in all respects it is in  
11 Q: keeping with the one you signed at the JRF  
12 office?  
13 Yes.  
14 A: I am going to put another document in your  
15 Q: hands, Exhibit 35A.  
16 (Document shown to witness)  
17 Yes.  
18 A: You are looking at page 12 of the  
19 Q: document?  
20 Yes.  
21 A: Is it correct that there is a hand written  
22 Q: insertion on that document? Do you see a  
23 hand written insertion there? Yes.  
24 Look at that document, is it in keeping  
25 A:  
26 Q:

1 with the document that you signed at the  
2 JRF office?

3 A: No, it is not.

4 Q: In what respect is it different?

5 A: The insertion '**each**', I am sure my wife  
6 then or attorney did not see this  
7 either.

8 Q: Did you see it at the time when you were  
9 signing the agreement?

1X A: No.

11 MR. GOFFE: Mr. Chairman....

12 COMM BOGLE: The question was rephrased and reasked.

13 MS. CLARKE: I didn't ask a question, he just  
14 volunteered an answer.

15 A: I do have a copy of this signed  
16 document; the word '**each**' was not in it.

17 MS. CLARKE: Was not in it at the time you signed it?

18 A: No.

19 Q: Let me just ask you now -- I don't need  
2X to ask that. Now let us go back to your  
21 paragraph 34 of your statement. I'll read it.  
22 By this time there were about 12 persons who  
23 had fully paid for their lots in Belvedere and  
24 did not receive their



1 titles. In keeping with item 12 of the  
2 Agreement to Restructure Existing Debt  
3 which I mentioned and exhibited before,  
4 I made more than one payment of  
5 \$US5,XXX.XX to JRF. I mistakenly made  
6 more than one payment because at the  
7 time I thought that I was required to  
8 pay \$US5,XXX.XX for the release of each  
9 title.

1X Now, you are saying that looking at the  
11 Restructure Agreement, based on the  
12 Restructure Agreement you were required  
13 to pay \$US5,XXX.XX for the release of  
14 was this a one off payment of  
15 \$US5,XXX.XX for the release of all the  
16 titles? But you are also saying in your  
17 statement that at the time you were  
18 mistaken and based on this mistake you  
19 made more than one payment. Could you  
2X indicate to this Commission what may  
21 have led you to make this mistake.

22 A: I think it was the verbal understanding  
23 with Mr. Best or Mr. Gibson to my  
24 recollection and the demand when the  
25 properties were being advertised for

1 auction and also...

2 Q: Hold on a minute. When you said the  
3 demands when the properties were being  
4 advertised for auction, what demand are  
5 you referring to, demands for what, by  
6 whom?

7 A: Prospective purchasers.

8 Q: And this is in relation to what?

9 A: To the titles, the properties that they  
10 bought.

11 How was this demand expressed as it  
12 related to item 12A that you pay five  
13 thousand dollars?

14 A: I was trying my best to see how I  
15 could...

16 Q: Let me see if I can put it differently  
17 for you. You are saying that the  
18 agreement signed -- you signed it and  
19 you understood it?

20 A: No.

21 Q: Hold on. As you signed it and you  
22 understood it, the agreement was that  
23 you would pay \$5,XXX.XX for the release  
24 of all the titles.

25 MR. GOFFE: That's not what he said. He has given

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

his understanding in the witness statement  
and he has stated something contrary in  
relation to the exhibit, but he has not said  
that it was his understanding at the time  
that it was for all. That is not his evidence.

Continued....

9  
1

1

2 MS CLARKE:

The agreement is before you that you

3

have just read, Item 12A. For the

4

benefit of all let me read it again and

5

listen carefully Debtor 7. You could

6

read item 12 at page twelve with me.

7

The six lots listed below will be

8

released for a payment of five thousand

9

dollars. And you are saying that having

10X

signed to this that said this, you say

11

in your statement that you mistakingly

12

paid more than one x thousand

13

dollars. I am asking you now if you can

14

remember, based on what you would have

15

made that mistake and you were saying

16

just now that there were some demands as

17

the lots were sold and I asked you in

18

relation to the payment for the five

19

thousand, demand for what and by whom?

20X

Are you understanding me?

21

A:

Yes, I am understanding you but it is

22

very difficult and especially with

23

Mr. Goffe sitting there to relate my

24

feelings. I was earnestly trying to

25

appease the purchasers by getting their

1 titles because they were demanding on  
2 me, I don't want to go into everything  
3 but in addition to that...

4 Q: Hold on Debtor 7, what would have  
5 caused you, as you say, what do you  
6 think caused you to make this mistake,  
7 what you called a mistake of making more  
8 than one five thousand payment as  
9 against just one?

1X A: Because of demands from JRF.

11 Q: What was that demand?

12 A: To pay up or they will sell the lots  
13 which they did.

14 Q: To pay up what?

15 A: To pay up the X thousand dollars  
16 each.

17 Q: So that demand was made to you in what  
18 way, was it in writing, was it oral?

19 A: I was a regular visitor to JRF and on  
2X the phone and I would speak with  
21 Mr. Best first and Mr. Gibbs after, I  
22 was very much there, had coffee and we  
23 talked, etcetera.

24 Q: And did the demands come in the course  
25 of these calls and the coffee?

1 A: Yes.

2 Q: Was it a written demand or oral demand?

3 A: Written was not there, I wasn't dealing  
4 with writing in that case, I was dealing  
5 on a friendly basis or business basis,  
6 man to man as you will see as we go on.

7 Q: Would I be correct to say the demand for  
8 five thousand dollars in relation to  
9 each lot would have been made by oral  
10 exchange between you and the persons at  
11 JRF?

12 A: Yes, that is Mr. Gibbs.

13 Q: Thank you Debtor 7. Okay, I am going  
14 to ask you now, go back to the paragraph  
15 and you are going to read 'from one  
16 buyer told me' and you are going to now  
17 read down to paragraph 37?

18 A: Okay.

19 **One buyer told me that she went to JRF**  
20 **and paid US\$5XXX to have her title**  
21 **released. Another person told me that**  
22 **she went in and offered to pay the sum**  
23 **to have her title released but**  
24 **Mr. Gibson would not accept.**

25 She is going to give me the evidence

that she has paid so far.

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

35. I made some monthly payments under the restructured agreement. However as the payments were to be in US dollars with the continuing devaluation of the Jamaican dollar, I simply could not keep up.

By letter dated July 13, 2XX6 (Debtor 7 36) I wrote to Mr. Joe Gibson at Jamaica Redevelopment Foundation seeking

a 15% rebate on my indebtedness which by then I was told was \$3X million. To the

best of my recollection I did not receive a response to that letter.

Q: Let us pause and look at that letter Exhibit Debtor 7 36. Have you found it?

A: Yes.

Q: Your letter says:  
We understand that the balance owing is

JA\$3X Million. Therefore we are trying to make arrangement to pay the debt off

in full.

In view of all things we have mentioned in previous letters and our discussions,

1                   we would be very grateful if you would  
2                   accept a humanitarian settlement less  
3                   15% of the full amount.  
4                   Whatever your decision is, please let us  
5                   have same in writing as soon as possible  
6                   as we are presently in discussion with  
7                   our investors.

8                   And you are saying at paragraph 36 that  
9                   as far as you can recall there was no  
1X                  response from JRF to that letter?

11                A:           No, because sometimes Mr. Gibson would  
12                  just, when S called, follow up on my  
13                  letter, he would tell us but he would  
14                  not write to that effect because writing  
15                  would be a commitment and it could be  
16                  used here as it turned out now, so he  
17                  was very careful in writing.

18                Q:           Do you recall having had an oral  
19                  response or a verbal response from him  
2X                  to this request in your letter, do you  
21                  recall?

22                A:           The response for settlement would be  
23                  verbal most of the times especially  
24                  favorable settlements would be verbal, but  
25                  the response for rejection would



1 always be written.

2 Q: So was there a response, a favorable  
3 response based on your recollection to  
4 this request for a 0% reduction?

5 A: I think it came in later on when we were  
6 trying -- we sent someone to negotiate  
7 regarding one of the agreements to build  
8 houses and it was in the letter where we  
9 would be paying only \$x Million.

10 Q: So JRF did in fact agree to reduce your  
11 indebtedness by 0%?

12 A: They would if we had taken it up at the  
13 time with the development that did not  
14 come on, they would be paid out up-  
15 front.

16 Q: Paragraph 37, could you read from --  
17 look at Paragraph 37 and then we will  
18 look at the exhibit.

19 A: **When our subsequent proposals to**  
20 **Mr. Gibson were turned down, I wrote to**  
21 **JRF's Chief Executive Officer, Mrs.**  
22 **Janet Farrow in terms of a letter dated**  
23 **August 22, 2XX6.**

24 Q: Pause there again, could you just  
25 explain for the benefit of this enquiry,

1 based on the evidence you just gave that  
2 there was a favorable response to your  
3 proposal, you said it was given orally,  
4 why are you saying at paragraph 37 that  
5 subsequent proposals were turned down,  
6 did you make subsequent proposals after  
7 this?

8 A: Yes, we had another joint venture  
9 partner proposed and the draft agreement  
10 was assisted by Mr. Joe Gibson and he  
11 was in communication with the then agent  
12 for the partner and their attorney who  
13 drew up the agreement but that fell  
14 through, but then...

15 Q: Hold on, did it fall through or did you  
16 put a proposal that was rejected?

17 A: No, the partner, the prospective partner  
18 wouldn't bother, he was afraid of  
19 getting involved at this stage.

20 Q: So you wrote a letter to Mrs. Janet  
21 Farrow dated August 22, 2XX6 and that is  
22 Exhibit Debtor 7 37. And in  
23 that letter you -- could you read for  
24 us that letter LP 37?

25 A: Yes.

1 Dear Mrs. Farrow.

2 While it is not protocol to ignore Mr. Joe  
3 Gibson and approach you directly; I have  
4 no alternative at this time in view of the  
5 serious nature of my problem. An  
6 attorney-at-law Mx. Gayle Nelson, wrote  
7 to Mr. Joe Gibson sometime ago requesting  
8 four weeks to pay off the balance of this  
9 loan through a joint venture agreement.  
10 This was turned down and our deal fell  
11 through.

12 I am now left to deal with you directly by  
13 myself on behalf of my wife and myself.  
14 Therefore, I would like an appointment to  
15 meet with you as soon as possible so that  
16 we could come to an amicable solution to  
17 settle the above debt.

18 I would like to **make** full settlement  
19 immediately, however there are things I  
20 would like for to you take into  
21 consideration.

22 There was a loan of only \$x Million from  
23 Horizon Merchant Bank. Having paid over \$x  
24 Million from the average sale of

1 lots from \$6XX,XXX to \$9XX,XXX, there  
2 was not enough collateral left in  
3 Belvedere.

4 I developed a very good relationship with  
5 Mr. Bob Best, in a friendly way, I gave over  
6 Discovery Bay that had only a small debt.  
7 In addition I put pressure *on my wife to*  
8 sign. I thought  
9 everything was okay for often times I  
10 paid in advance. I was in no hurry to sell  
11 lots in Address for I hoped to build  
12 houses. There was a joint venture partner  
13 who wasted much of our time, then we  
14 withdraw looking for others. We have  
15 since found same and asked for the time  
16 as stated above.

17 Now we are ready to close off with you.  
18 Therefore, I would like for you to give a  
19 reasonable reduction of 25 to 3X% of the  
20 balance.

21 Considering the amount already paid,  
22 The huge balance left,  
23 My age, seventy years,  
24 Children at school,  
25 There is yet another debt with you,

1                   **Company Ltd. ,**

2                   **Therefore, I do look forward with great**  
3                   **interest to meeting you soon, then we**  
4                   **will settle this account to the benefit**  
5                   **of all concerned. I will then move onto**  
6                   **deal with Company Ltd..**

7                   **Many thanks in anticipation**

8                   **Debtor 7.**

9            Q:           Okay and Mrs. Janet Farrow responded to  
1X                   you in respect of Debtor 7 38 by  
11                   a letter dated August 28, 2XX6. I am  
12                   going to ask you to read that letter in  
13                   its entirety as well, please, and of  
14                   course that is with the leave of the  
15                   Commission?

16           A:           **Mr. Debtor 7.**

17                   **Re: Your indebtedness to Jamaica**

18                   **Redevelopment Inc.**

19                   **I am in receipt of your letters dated**  
2X                   **22nd and 24th August, 2XX6.**

21                   **inclined to meet with you.**

22

23

24

following.

1  
2 In 2XX4 you entered into an Agreement to  
3 restructure existing debt  
4 ("Restructure") with Jamaica Redevelopment  
5 Foundation Inc. which compromised the  
6 account to US\$4XX,XXX, that was conditional  
7 upon specific terms and conditions for  
8 repayment which included that you make  
9 regular monthly payments of US \$4xxxx which  
10 were due on the 8th of each month. In addition  
11 to your regular monthly payments you were to  
12 sell various pieces of real estate, held by  
13 JRF way of mortgage with net proceeds to be  
14 paid to JRF and applied to your debt.  
15 You failed to meet your obligations. There  
16 has been no payment to the account since 2XX5.  
17 Therefore, you are in default of the terms  
18 of the Restructure and pursuant to that  
19 agreement your debt has been reverted to the  
20 original debt owed which was J\$41,177,243 in  
21 March 2XX3 and which interest continues to  
22 accrue from that date forward.  
23  
24  
25

1 Mr. Best and Mr. Gibson have been  
2 extremely lenient on your account as you  
3 have been in default of your obligations for  
4 an extended period of time. This  
5 correspondence indicates that you have  
6 made several promises to pay and have  
7 failed to do so. At any event, under no  
8 circumstances were you ever waived of  
9 your obligation to make your scheduled  
10 monthly payments.

11 At this time, JRF is proceeding in  
12 accordance with its legal remedies.  
13 There will be no further reduction in the  
14 debt and in fact your debt is far more  
15 significant than the amounts noted in your  
16 letter since you are in default and the  
17 account has been reverted in accordance  
18 with your agreement. Mr. Gibson is your  
19 account officer and is the only person  
20 to whom all correspondence and enquiries  
21 should be directed.

22 In your letter to Mrs. Debtor 7, you speak  
23 of having significant funds available to  
24 pay within seven to ten days. However,

1 unless we receive an actual viable  
2 letter of undertaking to pay such an  
3 amount we are not inclined to delay  
4 action on your account any further. As  
5 you are aware any action proposed must  
6 be approved by our Credit Committee,  
7 therefore, if you are able to provide a  
8 letter of undertaking to pay the full  
9 amount owing under the Restructure  
1X Agreement within ten days of acceptance,  
11 I will allow Mr. Gibson to prepare a  
12 proposal to the Credit Committee for its  
13 consideration. Until that time, you  
14 remain in default of your obligations  
15 and we will continue to pursue all legal  
16 remedies.

17 Sincerely

18 Jamaican Redevelopment Foundation

19 Janet L Farrow.

2X Q: Then you wrote in response to that  
21 letter dated August 28, 2XX6 you wrote a  
22 letter dated August 29, 2XX6?

23 A: Yes, T did.

24 Dear Mrs. Farrow.

25 Re: XXCorporation



1                   **Debt**

2                   **We are in receipt of your letter dated**  
3                   **28th instant.**

4                   **For us to send you a letter of**  
5                   **undertaking for the required amount, we**  
6                   **would be very grateful if you would send**  
7                   **us the exact, correct, actual amount**  
8                   **needed according to the restructured**  
9                   **agreement.**

1X                  **Your sincerely**

11                  **New World Development Corporation**

12                  **Debtor 7**

13                  Q:                Just asking, did you get that account  
14                                   that you requested in writing?

15                  A:                No.

16                  Q:                I would also like to ask you a question  
17                                   relative to that letter from Janet  
18                                   Farrow. Could you turn back to it for me  
19                                   please, LP 38, the last sentence in  
2X                                   paragraph two that begins 'in addition'.

21                  **In addition to your regular monthly**  
22                  **payments you were to sell various pieces**  
23                  **of real estate held by JRF by way of**  
24                  **mortgage with net proceeds to be paid to**  
25                  **JRF and applied to your debt.**

1 First of all did you understand this to  
2 be a term of the restructured agreement  
3 that certain lots would be sold by you?

4 A: You say paragraph...

5 Q: LP 38, the letter from Janet Farrow to  
6 you?

7 COMM. BOGLE: Second paragraph.

8 A: In addition to your regular monthly  
9 payment, okay. And your question is?

10 Q: I asked you, I want to get the record  
11 straight, was this a term of the  
12 agreement to restructure the debt that  
13 you would sell some of the lots, certain  
14 lots would be available to you to sell  
15 that were mortgaged to JRF?

16 A: Yes, oh yes which I did, I sold those  
17 lots, those were not mentioned here,  
18 those were sold and paid up accordingly  
19 and they received I think sixty percent  
20 and we retained 4X% of the net proceeds  
21 from those sales and may I add that is  
22 the time that Mr. Robert Best was saying  
23 that we were overpaying because at the  
24 time we were paying monthly, not as lots  
25 were sold as before to Horizon, we were

1 paying on a monthly basis.

2 Q: So we are now at paragraph 4X?

3 COMM. BOGLE: Just before you go on, I think, just  
4 before we go to 4X, perhaps this is a  
5 good time for us to have lunch and so we  
6 will return at 1:3X. 7  
8 LUNCHEON ADJOURNMENT

9 This enquiry is now back in session.

10 Debtor 7 please remember that you are  
11 still on oath.

12 Q: Debtor 7 I believe when we broke for  
13 lunch we were at paragraph 4X of the  
14 statement.

15 A: I should continue from there.

16 Q: Let me just put the substance of that  
17 paragraph to you. At paragraph 4X you  
18 say:

19 **My attorney subsequently wrote to JRF by**  
20 **letter dated September 11, 2XX6 advising**  
21 **that I would not be able to provide the**  
22 **requisite undertaking in the time**  
23 **stipulated because the title which I**  
24 **intended to use as security in securing**  
25 **the undertaking was encumbered with a**

1                   caveat lodged by one of the purchasers.  
2                   I would have to be able to satisfy her  
3                   claim under my agreement with her before  
4                   the title would be released.

5                   *There is* a letter, you referred to an  
6                   exhibit, Debtor 7 4X which is a  
7                   copy letter from your attorney, could  
8                   you please turn to it.

9    COMM. BOGLE:           Debtor 7 4X. If I may, sirs,  
1X                   may I read it.

11   HER LADYSHIP:         Yes.

12            Q:             It a letter dated 11th September 2XX6  
13                   addressed to Jamaican Redevelopment  
14                   Foundation from Mr. Gayle Nelson.  
15                   Attention Mr. Joe Gibson and/or Miss  
16                   Gordon.  
17                   The caption refers to land registered at  
18                   Volume 1375 Folio 638 of the Register  
19                   book of Titles.

2X                   **In accordance with the telephone**  
21                   **discussion on Friday 8th instance, Gayle**  
22                   **Nelson attorney-at-law/Miss Gordon, we**  
23                   **wish to confirm that we were aware of**  
24                   **the deadline of Friday the 8th instance**  
25                   **for the Debtor 7s to provide a commitment**

letter in respect of their indebtedness  
secured by the title at the land at  
caption.

Also we thank you for your telephone call  
from the United States of America (Joe  
Gibson to Gayle Nelson) late on Friday  
8th instance. In that latter telephone  
conversation we had requested a period of  
ten days within which to provide the  
letter of commitment. However we have  
since spoken to the financiers who  
require a period of fourteen days.

In the circumstances, we humbly request a  
period of fourteen days within which to  
provide the said letter of commitment.

As promised, we enclose herewith a copy  
of the relevant Joint Venture Agreement.

You will note that it is signed by both  
Debtor 7 and Mrs. Debtor 7 as well as the  
developers but that it is not yet signed

by the financiers for the reasons  
indicated above.

You will also recall that in your said

1 telephone call from the United States of  
2 America we advised you that a caveat placed  
3 on the property by Mrs. Jane Doe (who had  
4 paid a deposit to Debtor 7 on one of the lots)  
5 had to be lifted. Debtor 7 now proposes to  
6 let her have a unit in the development for  
7 x million of x million dollars; and on this  
8 basis is negotiating with her to have the  
9 caveat lifted (See copy herewith of letter  
10 from Mrs. Doe to Debtor 7 dated the 6th  
11 instance). This is very important because  
12 the lifting of the caveat is another  
13 requirement which the financiers need to be  
14 met before they provide the letter of  
15 commitment and the fourteen day period is  
16 also important in order to allow the  
17 arrangement with Mrs. Doe to be completed for  
18 that purpose.

19 We thank you in advance for your kind  
20 co-operation.

21 That is letter exhibited at paragraph 4X.

22  
23  
24  
25 At paragraph 41 Debtor 7 you indicated

1 that you were not able to provide the  
2 financing to secure that undertaking.  
3 Is that correct?

4 A: Yes, because that joint venture prospect  
5 backed out also.

6 Q: Was the caveat lifted, did you secure  
7 the permission?

8 A: No.

9 Q: And you indicated that by letter dated  
10X September 25, 2006 JRF informed you that  
11 your debt was now \$7X,xxx,xxx.9X with  
12 interest accruing at \$xxx.X2 per day  
13 and by that letter you indicated that  
14 you were required to settle that debt,  
15 the X million plus and the  
16 interest accrued within ten days?

17 A: Yes.

18 Q: Could we have a look at that exhibit  
19 please, that is Exhibit 41 and that is a  
20X letter from Jamaican Redevelopment  
21 Foundation to Debtor 7  
22 and Jane Doe-Debtor 7.

23 COMM. BOGLE: There is an attachment after LP4X and  
24 just before LP 41, can you state the  
25 significance of this if you wish to?

1           Q:           I do not wish to state it at this time  
2                           save to say I believe that exhibit is  
3                           somewhat misplaced and I am hoping  
4                           during the course of the evidence its  
5                           significance will become apparent and  
6                           its placement will be determined at that  
7                           point.

8    COMM. BOGLE:        So this is not an exhibit?

9    MS CLARKE:         It is not at the correct place but it is  
1X                       in fact an exhibit based on my  
11                       instruction.

12   COMM. BOGLE:        It has not got an exhibit number?

13           Q:           I crave your indulgence, may we be  
14                        allowed to return to this with a view to  
15                        determining whether, on the evidence, it  
16                        ought to be omitted and if not, where it  
17                        ought properly to be placed.

18                        Exhibit LP41. It reads -- this is a  
19                        letter from JRF to Mr. and Mrs. Debtor 7  
2X                        under the pen of Mr. Joe Gibson.

21                        **Re: Your indebtedness to Jamaican**  
22                        **Redevelopment Foundation.**

23                        **I write on behalf of Jamaican**

24                        **Redevelopment Foundation Inc.**

25                        **Jamaican Redevelopment Foundation Inc**



1 having acquired the non-performing loan  
2 portfolio from Financial Institutions  
3 Services Limited, Workers Savings and  
4 Loan Bank and Refin Trust Limited, has now  
5 assumed conduct of this matter. The  
6 captioned debt forms part of the  
7 aforementioned portfolio.

8 As of today's date your indebtedness  
9 amounts to x million, X thousand ninety  
10 three Jamaican dollars and X cents with  
11 interest accruing at the rate of thirty  
12 percent per annum as set out hereunder.  
13 Total balance as of September 25, 20XX6 **x**  
14 **million** and X thousand X cents plus daily  
15 **accrual of** and seventeen dollars and two  
16 cents.

17 I hereby make formal demand upon you for the  
18 payment of X million, X thousand Dollars  
19  
20  
21  
22  
23  
24  
25

1                   **within ten days of the date hereof.**

2                   **In the event of your failure *to* comply, we**  
3                   **shall have no alternative but to refer the**  
4                   **matter to our Attorneys-at-law for the**  
5                   **recovery of the debt without further**  
6                   **reference to you.**

7                   Exhibit LP41. Paragraph 43, Debtor 7, **that**  
8                   **my several pleas for generous accommodation**  
9                   **from JRF were either expressly rejected or**  
1X                  **fell on deaf ears.** And you referred to some  
11                  further exhibits. First of all there is a  
12                  letter dated June 5, 2XX7, Debtor 7 42, could  
13                  you find that letter and read it please.  
14                  You do not intend to deal with paragraph

15

16

17                  MR. GAFFE:

18

42.

19

Q:

Z am sorry, my friend is pointing out to  
2X                  me that I omitted to read 42. Debtor 7  
21                  could you refer back to your statement  
22                  please, T am sorry about that, could you  
23                  read paragraph 42?

24

A:

**In any event, despite my payments**  
25                  **pursuant to the agreement, JRF would not**

1  
2  
3  
4  
5  
6  
7  
~  
X  
11  
12  
13  
14  
15  
16  
17  
18  
19  
2X  
21  
22  
23  
24  
25

release the titles. In fact they have sold  
some of the lots listed in Item 12. Further,  
JRF has completely disregarded item 12(b)  
and (c) of the Agreement in that they would  
not release the titles so that I could  
subdivide and develop the lots.

continued.....

9  
1

1

2 MISS CLARKE: May I ask the question, could you turn  
3 to the Agreement, the Agreement to  
4 Restructure, I believe it is Exhibit 35.  
5 For the purpose of your document now,  
6 page 12 of the Restructure Agreement,  
7 page 12.

8 DEBTOR 7: No, page 13.

9 Q: Hold on a minute. Turn to page 12  
10 first. You had said earlier in relation  
11 to 12(a) that the titles to these lots  
12 listed under 12(a) were released, and  
13 that is so, the lots in 12(a).

14 A: (No answer).

15 Q: Did you indicate before lunch that these  
16 titles were released and sold?

17 A: Okay, we got back 12 and the purchasers  
18 got the others and I think 22 was sold  
19 and JRF received their portion. Under  
20 number five the purchasers paid that on  
21 their own. I will be getting the  
22 evidence for that.

23 Q: Okay, let's just try and shorten the  
24 proceedings somewhat. In relation to  
25 Item 12(a), were all of these titles

1 released?

2 A: By JRF?

3 Q: By JRF?

4 A: No. Number 4, 23(a) and 21 which is not  
5 here and 4X were sold by JRF.

6 Q: And the titles were not released?

7 A: No.

8 Q: You said 21 is not there?

9 A: No.

10 Q: So number 4, 23(a) and 21 you say which  
11 is not on the list?

12 A: It is not on this list, it was sold by  
13 JRF. You could see here where they  
14 advertised 21 for sale, not 22, yes, 22  
15 had been sold by then.

16 Q: I would ask that the Secretary retains  
17 that to the extent that it doesn't seem  
18 to fall to be dealt with at this point,  
19 not having regard to the listing with  
20 the evidence in the statement. So to the  
21 extent that the document accords with  
22 the witness' evidence as of now that it  
23 represents some data relative to lot 21,  
24 if it is riot relevant to what is now  
25 being put, I would just ask that it

1 be put in.

2 That document that you passed up, does  
3 it refer to any of the lots in Item  
4 12(a), any of the numbers?

5 A: Yes.

6 Q: Which one of them?

7 A: 4, 5, 12, 23(a), 22 and 4X.

8 Q: Okay.

9 A: So they added to it 21, it was not on  
10 the list and 21 was advertised for sale.  
11 That is what I am showing there.

12 Q: I think I am now seeing the difficulty  
13 relative to the attachment because the  
14 Affidavit between paragraphs 41 and 42  
15 both refer to Exhibit 41. And there are  
16 really two separate documents, the  
17 advertisements that really should have  
18 been numbered Exhibit 42 are referred to  
19 in paragraph 42, see advertisement  
20 Debtor 7 41 and there are in  
21 fact I believe, based on my  
22 instructions, to be two advertisements,  
23 one an advertisement for sale by private  
24 treaty and one an advertisement with  
25 respect to a public auction. Based on my

1 instructions, I am not saying based on  
2 the evidence, but it would seem that the  
3 exhibits relative to the sales of  
4 properties, the private treaty and the  
5 public auction would fall somewhere  
6 there. So I would want at this point  
7 which is to continue to go through the  
8 Affidavits and refer to them at some  
9 point.

1X MR. GOFFE: Sir, I am not very clear as to what is  
11 happening here. It doesn't seem to me...

12 MISS CLARKE: Could you show to Mr. Goffe the document  
13 that was just put in your hand,  
14 Mr. DePeralto, by Debtor 7.

15 MR. DePERALTO: Do you have any other documents?

16 A: Not right now unless it is asked for.

17 MR. DePERALTO: No, no, do you have any other documents  
18 with you for photocopying?

19 MISS CLARKE: No, we are just showing it for the time  
2X being.

21 (Document shown to Mr. Goffe)

22 All right, I am going to use it. Before  
23 you continue to explain that Item 12,  
24 when you said they proceeded to  
25 advertise the property for sale by

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

private treaty and public auction, are you basing this assertion by you on any documents that you have?

A:

Yes, what I have shown you.

Q:

Which documents are?

A:

The advertisements in the...

Q:

...the paper?

A:

Yes. And may I say that the Association also went on one of the auctioneers and we

actually demonstrated and blocked that

sale. It wasn't reported in the Press, but we successfully did that. Okay. Is that one

Q:

of the documents that you - the one that Mr.

DePeralto just put on the table, what is that?

A:

This is just the advertisement.

Q:

For what?

A:

D.C. Tavares and FINSAC advertising the sale of these properties.

Q:

Which properties?

A:

Lots 4, 21, 23(a), 4X, 42.

Q:

4X, 42, and some of those lots are

actually itemized in Item 12 of the

Restructure Agreement, would you say? You

could have a look at it, it is at



1 page 12?

2 A: Yes it has 4, 5, 12, 21, 22, 35, 36 4X,  
3 41,42, 23(a) and 37. Those are...

4 Q: And those are also noted and itemized?

5 A: No, they were not. I tell you what was  
6 sold. Number 5 was settled, 12 was  
7 settled, 22 was settled, 35, 36, 41, 42  
8 and 37, all those were settled in the  
9 favour of JRF.

1X Q: Look at the Advertisement for me please,  
11 Debtor 7. Are there any lots  
12 mentioned in that advertisement that are  
13 also listed in Item 12 of the  
14 Restructure Agreement?

15 A: Yes, there are others.

16 Q: Do you see in Item 12 of the Restructure  
17 Agreement lot 35?

18 A: All right, these were...

19 Q: Do you see in Item 12 of the Restructure  
2X Agreement lot 35?

21 A: 35, yes.

22 Q: Item 12(a), do you see lot 35?

23 A: Yes, lot 35, Volume 13, 24 Folio 694.

24 Q: Okay.

25 COMM. BOGLE: You are actually looking at 12(b).