

1 MISS CLARKE: I am asking you about 12(a) you know.

2 COMM. BOGLE: You need to look at page 12.

3 A: Okay 12 (a) , I am at 12(a),
4 Mr. Goffe's input, 12(a)?

5 MISS CLARKE: No, Item 12(a).

6 A: 12 (a)we have Lots 4, 5, 12, 21, 22, 35,
7 36, 4X, 41, 42, 23(a) and 37.

8 MISS CLARKE: 12(a) you know, before you get to 12(b),
9 you are looking at page 12 of the
10 Restructure Agreement?

11 COMM. BOGLE: 12(a).

12 A: 12(a), okay, we have six lots there. Ask
13 the question again.

14 (Laughter)

15 MISS CLARKE: I was asking you...

16 A: Don't laugh Mr. Goffe, I am not a
17 lawyer.

18 MISS CLARKE: We are just having a light moment, Mr.
19 Debtor 7. I was asking you when you look
20 at the advertisement there that you have
21 on your right hand....

22 A: This one?

23 COMM. BOGLE: No, no, see the advertisement there.

24 A: This one, okay.

25 MISS CLARKE: Now, look at the properties that are

1
2 advertised there, are any of those
3 properties, those lots listed in Item
4 12(a)?
5 A: 12(a), six lots yes, they are.
6 Q: All of them are listed in the ad as
7 well?
8 A: No.
9 Q: Which ones are in the ad, which lots you see
10 both on the ad and on Item 12(a)? Number 4,
11 23(a), 4X.
12 Q: Well, that's it. So there are three? Yes.
13 A: That were advertised for auction that
14 formed part of Item 12(a)?
15 Yes.
16 A: Okay, thank you. And when you refer at
17 paragraph 41, paragraph 42, I am sorry where
18 you say '**see advertisement**', is this one of
19 the advertisements that you would have
20 wanted to bring to the attention of the
21 Commission?
22 Obviously, yes.
23 A: Now, it is to be marked -- may I also try
24 and extract some evidence relative to the
25 document that seems a little

1 oddly placed. You also say that the
2 properties now falling under JRF's
3 portfolio were advertised for sale by
4 private treaty, this also appeared in
5 the newspaper?

6 A: Yes, in the newspaper.

7 MR. GOFFE: Sorry, where is that?

8 MISS CLARKE: Paragraph 42, private treaty and public
9 auction.

1X MR. GOFFE: Where you see private treaty?

11 COMM. BOGLE: It doesn't say private treaty.
12 MISS CLARKE: Okay. I crave your indulgence, it does
13 appear somewhere. You proceeded to
14 advertise the properties for auction -
15 okay, I will leave that there, perhaps
16 that can come somewhere later. So that
17 is the document. May I with your leave
18 deal with that document now and ask -
19 you want to see it again?

2X MR. GOFFE: I would not mind seeing it again.

21 MISS CLARKE: Could you pass it to Mr. Goffe.

22 (Document passed to Mr. Goffe)

23 You have any objection? I will just ask
24 that this be marked and admitted as
25 Exhibit 41(a).

1 MR. GOFFE: Are we getting copies now, right? We
2 would like a copy please.

3 MISS CLARKE: When it would have been marked 41(a).

4 COMM. BOGLE: Okay, we will accept that as Exhibit
5 41(a). And can you please have that
6 photocopied, Mr. DePeralto.

7 MISS CLARKE: What shall we call it, Advertisement for
8 Auction of Lots, shall we itemize them?
9 How are we going to describe them?

1X COMM. BOGLE: Advertisement of Lots for Auction - does
11 it have a date? It doesn't have a date.
12 May we just call it '**Lots advertised for**
13 **sale under public auction**', **Thursday**
14 **February 8, 2XX7 at 11:XX a.m.**

15 MISS CLARKE: For February 8?

16 COMM. BOGLE: February 8, 2XX7 at 11:XX a.m.

17 MISS CLARKE: Thank you very much. May I proceed
18 while it is being copied?

19 COMM. BOGLE: Sure.

2X MISS CLARKE: We are at paragraph 43 now, Debtor 7.

21 A: I am to continue reading?

22 Q: I think we had gone through already, but
23 I will just read it again just so that
24 the exhibit can be dealt with.
25 Thereafter, my several pleas for

1 generous accommodation from JRF were
2 either expressly rejected or fell on
3 deaf ears (see letter dated June 5, 2XX7
4 from Debtor 7 to Joe Gibson)
5 Could you turn to that now, Debtor 7
6 42, LP42 and read it for us
7 quickly, Debtor 7.

8 MR. GOFFE: All of it?

9 MISS CLARKE: Yes, all of it.

1X A:

11 **Dear Mx. Gibson:**
RE PROPERTY DAIRY - GREENVILLE DISCOVERY

12 **BAY 38 LOTS.**

13 **Please recall our many meetings,**

14 **discussions, letters and pleas for this**

15 **property, over the years.**

16 **You may recall that I had actually**
17 **stopped selling lots, as I told you a**

18 **developer (Can Cara) had joined with us**
19 **to build houses. When that failed,**

2X **there was another company who planned to**

21 **build 12X two bedroom apartments and 6X**

22 **three bedroom town houses. At that time**
23 **all that was needed to settle the**

24 **account was \$32 Million. Then came**

25 **another company that you know of with**

1 the same plan, I am also awaiting on three
2 other sources. All of them or any one of
3 them may materialize, maybe when it is just
4 too late.

5 Therefore, I am wondering? I had
6 stopped selling those lots
7 "individually" for well over twelve
8 years and in all these recent times, it
9 never dawned on me that I should sell the
10 lots **individually**. Mainly, because of my
11 ambitious plans. Now that we have reached
12 this crucial stage I am
13 wondering if you would allow me to pursue
14 this course of selling the individual
15 lots. My thoughts now go like this. I am
16 requesting that you allow me **six** months to
17 sell the lots at X/X% split in your favour
18 until you are paid either from that project
19 or otherwise. Your attorney will do the
20 carriage of sale, meaning all deposits
21 would be handled by you. I would continue
22 to complete the development and get the
23 titles.

24 At this time, each lot values at least
25

1 **US\$6X,XXX.XX.**

2 Q: Each lot valued that?

3 A: Yes, each individual lot, US\$6X,XXX.XX.

4 **They are in demand, especially from**

5 **overseas Jamaicans and I can guarantee**

6 **that if I launch a sale campaign** through

7 **the various overseas media and local**

8 **"open houses" in no time these lots will**

9 **be sold.**

1X So with 34 lots (four lots **have been**

11 **sold) at US\$XX,XXX.XX is US\$XXX,XXX.**

12 **Closing cost X% - \$XXX,XXX.XX.**

13 JRF assuming the same JA\$7X Million

14 **US\$X,XXX.**

15 Infrastructure to complete \$3XX,XXX

16 average.

17 **Balance \$XXX.XX.**

18 If you can allow this I will start my

19 cleaning up and completion of this site,
20 then launch my selling campaign. As you

21 **can** appreciate, I would prefer to remain

22 with the original apartments, town

23 houses plan, but! for the anxiety and

24 the fear of losing out completely. It

25 **may also be possible that I will be able**

1 to pay off a substantial portion of the
2 balance soon.

3 I will be very grateful if you could
4 discuss this with your company and let
5 me know as soon as possible.

6 I was of the opinion that this property
7 would be sold (by you) easily and I am
8 sure you will agree that by keeping it
9 "for sale" is no good for your company.
1X Therefore, I think it should be in your
11 interest to accommodate me even at this
12 eleventh hour.

13 We are still hoping for the settlement
14 of Belvedere lots for our purchasers and
15 Green Glebe Mountain for ourselves.
16 Hopefully we will be able to settle
17 these amicably soon for the benefit of
18 all concerned.

19 Your kindness is appreciated.

2X Yours sincerely.

21 Debtor 7

22 Q: There **is** another letter Debtor 7
23 43 from JRF?

24 **A:** Yes.

25 Q: Dated June 27, 2XX7. That would be in

1 response to your letter that you just
2 read. Could you read that letter please,
3 Debtor 7 43, the letter that was
4 sent to you in response.

5 A: **Re property registered at Volume X**
6 **Folio X - Address St. Ann**
7 **Your letter dated 5th June, 2XX7**
8 **addressed to Mr. Joe Gibson refers.**
9 **We advise that the captioned property is**
1X **currently being offered to the public**
11 **for sale at private treaty under the**
12 **powers of sale contained in the**
13 **mortgage, they having been previously**
14 **offered for sale at public auction. We**
15 **further advise that there is no approval**
16 **or agreement from Jamaican Redevelopment**
17 **Foundation, Inc. for you to sell the**
18 **properties as outlined.**

19 **Yours truly.**
2X **Jamaica Redevelopment Foundation Inc.**
21 **Jamaican Branch.**
22 **Nardia Sinclair.**
23 **Attorney-at-Law**

24 Q: And to the best of your knowledge the
25 property at Address St. Ann with which

1 these letters streamed, was it
2 advertised in the newspaper for sale?

3 A: Yes, it was.

4 Q: I am going to ask you to look at this
5 document. I crave your indulgence sir,
6 because it is not paginated I am
7 somewhat at a disadvantage in terms of
8 the person who bears witness to it.
9 There is a document that comes after
1X your, Exhibit 4X, it is just there.
11 After Exhibit 4X there is a document
12 there, could you find it for me please.
13 It is headed **for Sale by Private Treaty?**

14 A: I think I have it.

15 Q: It comes right after the letter from Mr.
16 Gayle Nelson. May I be allowed to assist
17 him?

18 COMM. BOGLE: Yes.

19 A: Okay here it is.
2X MISS CLARKE: Is that the document on which you rely
21 for your assertion that the property at
22 Dairy St. Ann was put up for sale?

23 A: Yes, and there were several of these
24 that appeared in the paper.

25 Q: And that document refers to a sale of

1 lot 57 Dairy Discovery Bay St. Ann
2 Volume X Folio X as being for sale
3 by private treaty?
4 A: Yes, this is the property.
5 Q: And you see at the bottom of it JRF,
6 Jamaican Redevelopment Foundation Inc.,
7 at the very bottom?
8 A: JRF, Jamaican Redevelopment Foundation
9 Inc., yes and the price is \$X Million.
10 Q: And it was advertised for US\$X.X
11 Million?
12 A: Yes.
13 Q: Based on the evidence of the witness,
14 may that now be tendered and exhibited
15 as Exhibit 41(b), that document that
16 seemed somewhat misplaced, based on the
17 evidence that the properties at Dairy
18 were put up for sale by JRF.
19 COMM. BOGLE: Yes.
20 MISS CLARKE: In relation to your evidence just now -
21 did we read exhibit - I am sorry, sir.
22 COMM. BOGLE: Yes.
23 MISS CLARKE: The letter Exhibit 43 indicates there is
24 a portion of it that says that there was
25 no approval or agreement from Jamaican

1 Redevelopment Foundation for you to sell
2 the properties as outlined.

3 Debtor 7, I am going to refer you back
4 to the Agreement to Restructure Debt,
5 page 12 again, because I would like for
6 you to explain certain portions based on
7 your understanding. That is page 12 of
8 the Agreement to Restructure Debt, page
9 13, I am sorry because we will
1X be looking at Item 12(c) on page 13 of
11 that document.

12 A: Yes.

13 Q: Could you read that and then explain to
14 us, based on your understanding, what it
15 would have meant at the time it was
16 presented to you?

17 A: **The Address property in St. Ann (Volume**
18 **XX Folio XX) will be splintered into 38**
19 **lots and the infrastructure completed at**
2X **Borrowers/Guarantors expense. The lots**
21 **will be sold and the net proceeds will**
22 **be divided X% to JRF and X% to**
23 **Borrowers/Guarantors to facilitate**
24 **completion of the infrastructure.**

25 Q: Okay.

1 not the same property?

2 A: Yes, it is the same property.

3 Q: Did you have any other property at Dairy
4 in St. Ann?

5 A: Not at all, no.

6 Q: Could you, from your personal knowledge,
7 explain therefore why the Volume and
8 Folio number at item 12(c) is different
9 from the Volume and Folio number in this
1X advertisement? If you can't explain,
11 fine but I am just asking you if you can
12 explain.

13 A: I can't explain fully. That's a sort of
14 legal matter that I think JRF had
15 changed the title for their name.

16 Q: Okay.

17 A: I think that is the reason for that.

18 Q: But it is one and the same property.

19 A: It is the same property.

2X Q: I don't know if my friends would permit
21 me to, just by way of general
22 information, to indicate to the
23 Commission that legally, as you have
24 said, it may have been a legal matter.
25 There are many processes by which a

1 title may be surrendered or sent up and to
2 be replaced for different reasons so the
3 Volume and Folio number is changed. So it is
4 for the benefit of the
5 Commission that I am trying to establish that
6 it is one and the same property in the
7 witness's understanding.

8 So back to the Agreement now to Restructure
9 on page 13, that is Exhibit 35, your Exhibit
10 35. On page 13 you were reading it, let me
11 just finish for you Debtor 7.

12 **The Dairy property in St. Ann (Volume XX**
13 **Folio XX) will be splintered into 38 lots and**
14 **the infrastructure completed at**
15 **Borrowers/Guarantors expense. The lots will**
16 **be sold and the net proceeds will be divided**
17 **X% to JRF and X% to Borrowers/Guarantors to**
18 **facilitate completion of the**
19 **infrastructure.** Let me ask you, based on the
20 wording of this, in your mind, when they say
21 titles will be splintered into 38 lots and
22 the lots sold, who would have undertaken this
23 exercise, based on this Agreement?
24

1 A
 I would.

2 Q:
 And at the time of this agreement, who was
3
 holding the title?

4 A:
 JRF, coming down from Horizon to FINSAC.

5 Q
 .
 Okay. Was there ever a time when JRF made the
6
 title available to you so that you could in
7
 your understanding and thinking comply with
8
 this provision that you splinter the title
9
 and sell the lots?

1X
11 A:
 No, they didn't and they wouldn't because
12
 the title wouldn't be going to the lawyers
13
 for the carriage of sale or back to the
14
 Titles Department for splinter titles.
15
 Was it ever sent to the lawyers to know the
16
 carriage of sale?

16 Q:
 No.

17
 To the best of your knowledge?

18 A:
 The lot is still in one.

19 Q:
 The lot is still in one?

2X A:
 Although the approval is there.

21 Q:
 Did you ever, at any time, require or
22
 A:
 request that the lot be released to be
23
 Q:
 splintered and sold to this particular
24
25

1 property?

2 A: Apart from my letter suggesting that 1
3 don't think I have. The lady who lodged
4 a caveat, a gentleman who started
5 Building his house, they have been
6 making requests, but I didn't reach very
7 far in that. Apart from doing the joint
8 venture which I think would be faster
9 and more appropriate for the area right
10 now I didn't have that plan again to
11 subdivide it until finally in the end
12 because of the joint venture agreement
13 that I was trying to...

14 continued

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1 MISS CLARKE: But in your letter -- turn back to your
2 letter at Exhibit 42, Exhibit LP42 and
3 explain in relation to the lot in
4 Discovery Bay at Dairy, St. Ann, what
5 exactly you were enquiring or requesting
6 of JRF?

7 A In view of the fact that JRF would not
8 sell the property which, I think, they
9 had priced at US\$X and there was no
10 takers, I thought it might be prudent,
11 on their part, to allow me to continue
12 with the development and, as I said, I
13 will pay them X percent of the net
14 proceeds until they were paid off, which
15 I think was very wise for them to do as
16 businessmen.

17 May I just add here that in addition to
18 writing I had gone to see Mr. Gibson
19 many times, in and out of the office.

20 We were more like friends, if you like.
21 Q Okay, Debtor 7, could we just continue

22 to read the affidavit, your statement, I
23 am sorry. Could you now read from
24 paragraphs 44 to 56 of your statement?

25 A 44?

1 Q 44 to 56.

2 A **Four lots which sold by JRF....**

3 MISS CLARKE: Debtor 7, one minute. The Commissioner

4 has something to say.

5 COMM ROSS: There are two letters that were not

6 read, 42 and 43. I think he should read

7 those before he reads 44 and 45.

8 MISS CLARKE: **Well**, that was my oversight. Could you

9 just retrace your step a bit,

1X Debtor 7.

11 A Yes, okay.

12 Q Before we move from forty-three, we read

13 two of the letters already but there

14 are, in fact, four letters that you

15 mentioned. There is a letter dated July

16 2, 2XX7, Debtor 7 44. Could you

17 just find it and read it for us please.

18 A Which one is that?

19 MISS CLARKE: Debtor 7 44, letter dated July

2X 2,2XX7 from Debtor 7 to Nardia

21 Sinclair.

22 A **Miss Naudia Sinclair.**

23 **Dear Miss Sinclair.**

24 **Re: PROPERTIES - Address,**

25 **Address., Address & Address**

1 .
2 Address is actually Chancery Hall.

3 Your letter dated 27th **June**, is
4 **acknowledged. However**, it is very
5 pleasing to inform you that within a
6 short time, I am hoping to communicate
7 with Mr. Joe Gibson, to discuss a
8 financial settlement.

9 In the meantime, I must **express** my
10 **disappointment** in the contemptuous
11X manner in which I am being treated
12 concerning the property at Address
13 Avenue. This property belonged to Clear
14 View Eye Clinic, it was only loaned to me
15 to assist with securing the Company
16 Loan.

17 Clear View was owned by my now ex-wife.
18 Needless to say, the result is axiomatic.
19 Therefore, a statement from you - if the
20X property is sold - will help.

21 I am of the opinion that when the
22 principal debt is honoured (i.e.
23 whatever we agree to settle) for the
24
25

1 Address debts, the four lots will be
 2 released to the prospective purchasers. In
 3 addition, I will be making an offer to
 4 reclaim the lot in Address.

5 I do look forward with much hope for the
 6 settlement of the above to the benefit of all
 7 concerned. Hopefully, by the end of July
 8 2XX7.

9 Yours sincerely.

10 Debtor 7

11 12

12 13 MISS CLARKE: And there is a
 14 subsequent letter, LP45

15 where you are writing to Mr. Joe Gibson.
 16 Could you also please read that?

17 A Mr. Joe Gibson

18 Dear Sir

19 RE: LOTS NOS. 4, 21, 23a, 4X & 43

20 Address, Address
 21 AND LOT #Address,
 22 , ST. ANN

23 Having written to you on the 1Xth and
 24 the 18th of March 2XX8 regarding the
 25 above, we would have thought it good
 manners for you to reply, supplying the

1 information sought.
2 As you are fully aware, lots nos. 4, 21, 23A,
3 and 4X were sold and the proceeds paid over
4 to Horizon Merchant Bank, then FINSAC.

5 We inform you also, that the owners of the
6 lots who waited patiently for their titles
7 are now in an irate mood.

8 We are trying our best to appease them and
9 to make compensation, if their lots are not
1X available.

11 According to the Real Estate Board (who have
12 placed caveats on these properties) "these
13 propertiers cannot be sold" and ought to be
14 available for settlement with you so that the
15 "purchasers" can get their titles and
16 reclaim their properties. Therefore we need
17 to be properly informed by you, so that we
18 may proceed accordingly. Your early reply is
19 appreciated.

2X Yours sincerely.

21 Debtor 7.
22 Could you please read from paragraph 44
23 down to paragraph 56. You are going to

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be reading from 44 to 56.

44. **Four lots were sold by JRF between 2XX7 - 2XX9. These would normally be sold by us for between \$XXX,XXX.XX and one million dollars. I have never been shown any statement or given any details as to how the proceeds were applied towards my indebtedness.**

45. Several purchasers sued us to complete the sales to them and furnish them with their titles.

46. In our attempts to settle the suits brought against us and to address the concerns of persons **who** purchased lots from us, we have **made refund** payments of \$X.XM for one of the lots sold by JRF. We are in the process with another person by purchasing a lot for that person for by X.XM. We have to be settling with these persons at present market value. Our purchasers are not at fault and we are very conscious of their sufferings.

47. However, there is a very big

1 problem and I believe that JRF is dealing
2 with it in a very hostile and draconian
3 manner, especially in light of the hugh
4 concessions which I gather have been
5 granted to other debtors.

6 48. In light of my very frank and
7 cooperative stance with the JRF, I have
8 approached that body with a problem I
9 have been having with two of the lots
10 which, through no fault or omission on our
11 part, have no titles. Both appeared on
12 the subdivision plan as approved lots but
13 there were no titles for them. *We would*
14 *not* know this because as the titles were
15 splintered they would be sent directly to
16 the bank - our mortgagees. This discovery
17 was made after we sold them and as the
18 purchasers waited patiently for their
19 titles.

20 49. When we applied for the subdivision
21 the process went through and was
22 approved by lawyers, our *surveyor* and
23 about 26 government agencies, right up to
24 final approval.

And may I add lastly the Real Estate
Board.

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50. The lots numbered 6 and 31 adjoined and encroached on other properties. The lots we sold were on average about 12,XXX square feet. Lots 6 and 31 each encroached on two lots belonging to 3rd parties by about 4XXX square feet per lot. In other words, both lots 6 and 31 took up about two thirds of two adjoining lots.

51. The purchaser for lot 6 could not get a title so we made a refund costing us \$2M. The purchaser of lot 31 went ahead and built a lovely house (valued at about \$3XM) on his lot.

52. We obtained title for another portion of land and settled with one of the persons on whose lot the said two lots encroached.

53. The owner of the lot 31 who built his house has had me in court for failing to produce his title.

54. I, along with my surveyors have taken and am taking active steps to have

1 the title rectified so that I can furnish the
2 claimant who has me in court with his title.

3 We have made
4 significant progress.

5 55. I brought this problem to the attention
6 of Mr. Joe Gibson, (JRF's sales consultant)
7 and enquired of him whether JRF would be
8 prepared to release this title to us for the
9 purpose of completing the correction and
10 providing the claimant with his title. Mr.
11 Gibson calmly asked me to furnish him with the
12 full information and diagrams. I diligently
13 put the data together and took it to him. To
14 my utmost disappointment, when I left the
15 information with Mr. Gibson he sent me two
16 letters dated March 25, 2XX9 -"Debtor 7 46"
17 stating that JRF would not release or
18 entertain any discussions with me unless the
19 full debt has been paid.

20 Could you pause right there so that we could
21 refer to Exhibit LP46. Perhaps for a sense
22 of tidiness we would want to
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1 call them 46(a) and 46(b). Both are
2 dated March 25, 2XX9. The first letter
3 reads thus:

4 **"We are in receipt of your letter dated**
5 **February 18, 2XX9. JRF will not release**
6 **its mortgage without payment in full".**

7 And then there is another letter:

8 **"We are in receipt of your letter dated**
9 **February 18, 2XX9, your proposal**
10 **contained therein is rejected.**

11 **Sincerely.**

12 **John Doe"**

13 Could you continue now with paragraph
14 55, Debtor 7, the sentence beginning
15 'As of then'.

16 A Okay. **As of then I was told that my**
17 **indebtedness was in the region of \$X**
18 **million. (This I was told verbally) I am**
19 **not in a position to pay this sum.**
20 **Suffice it to say that I have no idea as**
21 **to how the sum has been arrived at. JRF**
22 **has never provided me with any account**
23 **relative to the lots which were sold by**
24 **FINSAC/JRF. I have never received a**
25 **statement showing how the funds which**

1 were being sent to Horizon from the sale of
2 lots were applied and how my debt was thus
3 impacted. I have no idea as to how our
4 indebtedness has ballooned to that
5 sum, especially in circumstances where our
6 properties were sold and are still being
7 sold.

8 56. I went and had a meeting with Mr. John
9 Doe. He has insisted that I should settle
10 the debt in full. It must be noted that in
11 the meantime, JRF has continued to sell
12 lots in the subdivision.

13 That is, individually when they could not
14 release those.

15 57. The owner of lot 31 has successfully
16 sued me and brought contempt proceedings
17 against me for failing to produce his title.
18 In these circumstances, I will never be able
19 to produce his title. I must now await my fate
20 in light of the order that I be committed to
21 prison. I am 74, a diabetic and hypertensive.

22 58. On December 23, 2X1X I was arrested by
23 the bailiff and -- sorry... (crying)

1 MISS CLARKE : Would you like to take a few minutes,
2 Debtor 7?

3 A I am just remembering, you know.
4 Let me ask you though before you read
5 paragraph 58. Significantly at paragraph
6 57, you are basically saying..

7 A (crying)

8 Q Perhaps you could take five minutes.

9 A It is okay. I am okay now.

1X Q You are basically saying, let me see if
11 I am getting you right, at paragraph 57
12 that you would never be able to satisfy
13 this claim for the production of title
14 in circumstances where JRF is refusing
15 to release the individual titles until
16 you pay up the entire debt?

17 A That is right.

18 Q Because you would need for that title to
19 be released in order for you to satisfy
2X the judgement under that claim.

21 A Meaning the \$XM that Mr. Joe Gibson...

22 Q You would have to pay that?

23 A To get back the package, that is Ocho
24 Rios, Address property and eight
25 acres. I don't think he meant the lots

1 that were sold.

2 Q But they would need all of that before
3 releasing one title.

4 A That is correct. And I think that was
5 punitive because at that time they are
6 selling individual lots and I had to get
7 very very personal in view of the
8 relation that I thought that I had with
9 Mr. Joe Gibson.

1X Q Would you like for me to read paragraph
11 fifty-eight?

12 A I am okay now.

13 **On December 23, 2X1X I was arrested by**
14 **the bailiff and taken to Trench Town**
15 **Police Station. (not even Cross Roads,**
16 **Trench Town) I was told that I was to be**
17 **taken to St. Catherine District Prison.**
18 **I become ill and had to be admitted to**
19 **hospital. I was released from hospital**
2X **on Christmas Day and ordered to remain**
21 **in bed.**

22 **59. On account of New World's debts JRF**
23 **has taken/sold five properties in**
24 **Belvedere - four lots with a value of**
25 **about \$XM and 8 acres with a value of**

1 **about \$XM. These have all been**
2 **transferred into JRF's name. The four**
3 **lots have been sold by JRF. They have**
4 **advertised for auction 12 acres in**
5 **Address for \$USXM. (Today's**
6 **market value would be about \$JXXM)**

7 Q You want to pause there? That would be
8 your evidence, what you would want to
9 represent before the Commission in
1X relation to your dealings with these
11 institutions by yourself and for/and on
12 behalf of New World Development Company
13 Limited?

14 A Yes.

15 Q And you have spoken about
16 Development Corporation Limited but you
17 also want to present certain details in
18 respect to Company Limited?

19 A That is correct.

2X Q I am just going to ask you now, if you
21 will, if you would prefer me to read and
22 take you through the evidence you may so
23 indicate. But if you wish you may now
24 proceed to read?

25 COMM. BOGLE: I just want to ask, we were shown that

1 mortgages exist on property,
2 but we have not, I don't recall you
3 mentioning mortgages registered on other
4 properties,

5 .

6 A Yes, that is very beautiful. They were
7 globalized, in that, all the equities
8 went out of Address , so they
9 globalized Address and that is why
1X I was not allowed to settle that
11 privately because there were only \$4M
12 owed on that but by that time Belvedere
13 was going for about \$XM. So they held
14 on to that property and I was not
15 allowed to deal with it. So in the end
16 they asked me to globalize that property
17 because that property, it didn't belong
18 to the company, it belonged privately to
19 my wife and myself. And I was asked to
2X sign over that property, I preferred for
21 it to be globalized with the Belvedere
22 property because the equity had gone out
23 by the time the lots were finished. That
24 is the reason why. Hence we have this
25 restructured agreement.

1 MISS CLARKE: Was there a mortgage? Are you asking,
2 sir, if there were mortgages actually
3 registered against the property at
4 Discovery Bay?

5 COMM ROSS: Yes.

6 Q Was there a mortgage on that title, Mr.
7 Debtor 7?

8 A We had a loan, a development loan with
9 Citizen Bank.

10 Q And that loan was endorsed on the title
11 to Address?

12 A Yes, but they were separate.

13 Q Was there also any mortgage or were
14 there any mortgage or mortgages endorsed
15 to the property in the Green Glebe
16 properties?

17 A That is correct. That was for
18 Farms, one-and-a-half acres in the
19 Address. That one was for
20 Company.

21 Q Is that the same place known as Address
22 as well?

23 A Yes, Address.

24 Q So when you referred in your statement
25 to the one-and-a-half acre which you

1 pledged and you said you would come back
2 to it, it is the same place?

3 A It is the same place. We developers we
4 give places names as we go along for
5 whatever reason.

6 Q But it was you who gave it the name?

7 A No. That was the original name, Company
8 but it is a part of the adjoining
9 Address so we just give it that
10 name. It is the same like Address, we
11 call it Address, we call it
12 that, it was a dairy and we call it
13 Company , et cetera.

14 COMM ROSS: To which institution was the mortgage on
15 Address, the St. Ann property given?

16 A It was Citizens Bank and address was
17 Horizon but FINSAC had all two banks and
18 they sold them.

19 COMM ROSS: So the Citizens Bank mortgage on the St.
20 Ann's property was passed to FINSAC and
21 then to JRF?

22 A That is correct, sir, they had both.
23 MISS CLARKE: May I proceed sir? In relation to Company
24 Limited now, could you read from
25 paragraph sixty to seventy-two of the

1 Afifivadit?

2 A 6X. In 1993, I, along with three other
3 persons leased 4XX acreas of land in
4 Address (which is St. Thomas) from
5 the **Government** for banana production.
6 **We** borrowed **\$USXX,XXX.XX** from Horizon
7 Merchant **Bank** to start up **the** project
8 which **we** named Company Ltd..

9 61. Property at **Address (one** and a
10 half acre) owned **by** myself and my wife
11 were **used** to secure the loan along with
12 our property at Address Avenue.
13 (commercial building)

14 62. We (the partners in Company)
15 planted about 16X acreas (from the 4XX
16 acres) and started exporting after about
17 a **year**.

18 63. We employed about 12X persons - farm
19 manager, foremen, field workers. The
20 undertaking was off to a good start.

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

1 65. I gave the bank title to property at
2 Address, Kingston 5 registered in the name
3 of Clear View Eye Clinic to offset the loan.

4 66. The other partners put up properties
5 which have also been taken over by FINSAC or
6 its affiliates.

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

12 68. Political activists took control of
13 the land and squatters have now taken it
14 over. Having gone there some time after, my
15 life was threatened at gun point. I have
16 ceased going to the property. So while
17 still paying the yearly lease, there has
18 been no farming activity on the land for
19 several years now.

20 And I must add here that the Minister of
21 Agriculture is threatening to take it over.
22 Maybe it has gone already, I don't know.

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1 **Ltd. is US\$XXXX with**
2 **interest accruing at X% per annum**
3 **compounding monthly.**

4 A U.S.

5 MISS CLARKE: You want to continue reading?

6 A Yes.

7 7X. At the time of the sale, the property
8 at Address was valued at no less than \$XM.

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

15 72. The **property at Address** was also
16 sold, I think it was sold for about \$XM
17 in 2XX8. I did not receive this information
18 from JRF or any of its affiliates.

19 73. My then wife and I lost a commercial
20 building at Address valued at \$XM, a
21 property in **Address** that was earmarked for
22 multi-family development. Its present
23 value would

24

25

1 now be in the region of \$3XM.

2 Please go on.

3 Summary:

4 74. I and my companies have already paid
5 the banks in excess of \$XXM from three loans
6 of just over \$XM and \$XM from Horizon and
7 \$XM from Citizens Bank.

8 75. JRF is still contending that I owe
9 \$XM. This has been conveyed to me
10 verbally. I do not know how the
11 proceeds of the properties sold by them
12 have been applied. I do not know how my
13 current indebtedness has been computed or
14 arrived at.

15 76. From 9X agents and staff in Company
16 Ltd and 12X in Company Ltd., I am down to
17 one agent and two employees.

18 77. My sojourn with the financial
19 institutions, FINSAC and its affiliates
20 from the 199Xs to date has been very
21 demoralizing and devastating and I am
22 left with prospect of facing
23 imprisonment because I have been and may be
24 found to be in disobedience of court orders
25 with which I simply cannot comply

1 as my compliance remains contingent upon
2 the release of the titles by JRF. I may
3 say, they don't have the title, there is
4 no title to the property but it is just
5 for them to give me the okay for me to
6 get it, whatever they want to charge.
7 The ever present fear of being
8 imprisoned has taken and is taking a
9 toll on my health.

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

14 **Finally:**
15 **I CERTIFY THAT THE FACTS IN THIS**
16 **STATEMENT ARE TRUE TO THE BEST OF MY**
17 **KNOWLEDGE, RECKONING AND BELIEF**
18 **DATED THE 1ST DAY OF FEBRUARY 2X11.**

19 Debtor 7.

20 Q Debtor 7, is there anything in
21 relation to this Enquiry which you would
22 like to say, that is relevant to the
23 proceedings?

24 A Everything is relevant. I would not be
25 able to leave here if I start, only that

1 in view of what I have suffered I am being
2 kept alive by a U.K. pension which is not much
3 because I was self-employed in UK and my
4 family and I remain for the love of Jamaica.
5 I really love Jamaica. I would not want to
6 leave again. I lost my wife and children.
7 That was very painful and devastating and
8 there is no honour in defeat because when I
9 was making money I was Brother Debtor 7,
10 Uncle Debtor 7, Cousin Debtor 7 and Family
11 Debtor 7.

12 But you know what happen to me over the
13 Christmas, it was very painful. When my wife
14 left it was very very painful, but if I had
15 gone to X Prison, not even X Prison, I do not
16 think that I would be here today, I would be
17 dead. I do not think that I would be able to
18 take that. I cannot see that happening.

19 You know something else happened and it is
20 because of the same FINSAC. A niece of mine
21 died. My eldest daughter followed her
22 mother's footsteps and she
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is an X and I was going, getting ready to go to the wedding in Address and they called me, "Don't come", because I would be a disgrace to my daughter. I have failed and there is no honour in failing.

(Continue...)

1 DEBTOR 7: If I was not a practicing X I would
2 kill myself, I would jump off some
3 building. Even now it is still painful.
4 And I thought that would be the end of
5 that but two weeks ago a niece of mine
6 last year a brother, December my brother
7 died and I was the nearest person and I
8 rally around and I make preparation for
9 the funeral and all the relatives came
1X down. They were in Europe, America all
11 over and they came down.
12 And two weeks ago I was going home one
13 morning, early Sunday morning. My
14 brother called that my nice died. I
15 said, 'How could that be?'. I said,
16 'What happened? He said he don't know. I
17 say I am not far away I'll go up and see
18 and when I went up the Police stopped me
19 from going inside. Finally they let me
2X in. I went in - she lived in an
21 apartment. I picked up the key. She was
22 there very have dead about the 12 hours.
23 But to make it very simple; picked up
24 her keys, and I picked up her cell phone
25 Blackberry and when the hearse came

1 about two hours after that they gave me a gold
2 chain because I gave report that I was the
3 next in line family member, and then going
4 upstairs to put down her bag- I had never been
5 upstairs before - somebody in the crowd
6 called down to me and said I can't go up
7 there, where you coming from? I said, 'Who
8 are you?' 'Sir, I am her sister', I said, 'Oh!
9 I never knew about you.' So I left and I went
10 outside. I was eavesdropping with the Police
11 and she was telling the Police that she's an
12 adopted sister. I said how come because I am
13 her uncle. She said, 'No, you can't be. You
14 are not qualified to represent her.' That's
15 my dead niece. So when I get a little bit of
16 strength I said, 'Is only
17 vultures that fight over dead bodies. Why are
18 you behaving like this?' And do you know that,
19 that was conveyed to other relatives? And
20 they are here now, this very day and they have
21 not called me but a message came to me that
22 I should not show up at the funeral
23
24
25

1 because they will destroy me for good because
2 I should be left to go to prison that
3 boo-boo-man - meaning
4 homosexual... I am saying that to say this,
5 that it came about, as I said before, there
6 is no honour in defeat because losing my
7 position in society from a business point of
8 view people think that I am a failure
9 especially in my own family.
10 Thank you for listening to that part of
11
12 it.

13 MS. CLARKE: Thank you, Debtor
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14 If the Commission has no questions of
15 this witness that will be his evidence.

16 COMM. EOGLE: Okay. Okay Mr. Goffe, I see you are
17 rearing to go.

18 (Cross-examination by Mr. Goffe)

19 MR. GOFFE: Debtor 7?

20 A: Yes, Mr. Goffe, sir.

21 MS. CLARKE: May the witness be somewhat apprised as
22 to exactly what is to happen from here
23 on in terms of the relationship with
24 Debtor 7. If I may, I would just want
25 to indicate to him that he is going to

1 be asked certain questions by way of
2 cross-examination having regard to the
3 evidence he has given.

4 So you are now going to be
5 cross-examined by the attorney Mr.
6 Goffe.

7 MR. GOFFE: Debtor 7, how many developments, prior
8 to the ones you have mentioned in your
9 witness statement, did you complete in
10 Jamaica?

11 A: Two.

12 Q: So when did you actually start in the
13 development business, actually start
14 doing development; not in the business
15 but when you actually started doing
16 development?

17 A: I can't remember the year now but it
18 could be about 199X.

19 Q: So when you first approached Horizon
20 Merchant Bank you had been in the
21 business about five years then?

22 A: Yes, because I wasn't borrowing money
23 before. About 1993. Not five years,
24 about three years.

25 Q: About three years?

1 A: Yes.

2 Q: Do you remember how much money in total
3 you borrowed from Horizon Merchant Bank?

4 A: I can only go by what is written on the
5 agreement, Mr. Goffe.

6 Q: Okay, but I actually have a copy of the
7 agreement here.

8 A: Okay.

9 (Document handed to witness)

1X Q: Debtor 7, the document that was handed
11 to you, would you recognise the
12 signature that appears on page 11 of
13 that document?

14 A: Yes.

15 Q: Can you identify whose signature it is?

16 A: Well, one was myself and the other one
17 was my wife.

18 Q: Would this then be the loan agreement
19 you referred to in your witness
20 statement that you couldn't locate a
21 copy of?

22 A: Yes, I didn't see this one in recent
23 times, first I am seeing this one since
24 I am searching. I didn't have this one
25 in my file.

1 Q: You did not have this document in mind?

2 A: No, I am saying I did not find it in the
3 file. Quite likely it was there but I
4 did not find it.

5 Q: But this is the document you referred to
6 as being the loan agreement you were
7 unable to locate?

8 A: Yes. I saw others, but the restructured
9 agreements.

1X Q: Do you accept that instead of \$9.8
11 million as you asserted, it was actually
12 \$X million?

13 A: Yes. Well I think we made reference to
14 that in other things, my attorney did,
15 Miss Clarke.

16 MS. CLARKE: If I may, in fairness to the witness,
17 indicate something to this Commission
18 before my friend continues this line of
19 questioning. There is a document which
2X is being put to the witness which is
21 dated 19th January 1996. You will note
22 based on the endorsements on the title
23 that the loans from Horizon Merchant
24 Bank were registered between the periods
25 1994 to 1996. This document is in fact

1 dated 19th January 1996.

2 MR. GOFFE: If we could actually go through the
3 document first and have it entered in
4 evidence.
5 A: But Mr. Goffe...

6 MR. GOFFE: Before I ask another question of
7 Debtor 7 Mr. Chairman, could I ask
8 that this document be admitted as LP -
9 you would have to assist me please.

1X A: But, Mr. Goffe, can I say something
11 else, sir?
12 MR. GOFFE: One second.

13 COMM. BOGLE: The practice we have here is to continue
14 so it will actually be 48, LP48.

15 MR. GOFFE: Loan Agreement dated 19th January, 1996.
16 MS. CLARKE: I am assuming the source of it is from
17 JRF.

18 COMM. BOGLE: Yes.

19 DEBTOR 7: Mr. Goffe, I want to say something, sir.

2X MR. GOFFE: Before you say something Debtor 7, you
21 will see that the document refers to a
22 commitment letter.

23 MS. CLARKE: What portion are you referring to? I
24 believe before you can cross-examine
25 from the substance of the document, and

1 this is not just being legalistic, we need
2 to establish it has been admitted
3 substantively and then put the
4 substance. So we are not going to be
5 asking him, I don't think we are
6 going....

7 MR. GOFFE: I think he already acknowledged.

8 DEBTOR 7: Commissioners and Miss Clarke, I had
9 said here that ..

1X COMM. BOGLE: Just a minute.

11 We did admit that.
12 This is very important, what I want to say.

12 A:

13 Debtor 7, you are being questioned. It is

14 COMM. BOGLE: about the same thing.

15 A: You are being questioned, you are not the

16 COMM. BOGLE: questioner. Please allow Mr. Goffe to ask
17 the questions.

18 Just to clarify that this document Loan
19 Agreement dated 19th day of January 1996
2X between Corporation Limited and Horizon
21 Merchant Limited and Horizon Building
22 Societies has been entered as LP48.

23

24

25

1 MS. CLARKE: I realize that now, but did the witness,
2 apart from saying that he saw his
3 signature on a portion of it, did the
4 witness indicate that this is the
5 document he signed? I might have missed
6 that.

7 COMM. BOGLE: In relation to that, Mr. Goffe is going
8 ahead with the document. Can we allow
9 him to go through it and ask the
10 questions of the witness.

11 MS. CLARKE: The problem I am having is as to, on
12 what basis it would be admitted if the
13 witness has not properly identified
14 himself with it. So this is why I am
15 trying to determine whether I have
16 missed that part of the evidence where
17 the witness associated himself with it
18 and therefore it is admissible through
19 him or is it that he has not properly
20 associated himself with it to the extent
21 that he has simply said I see my
22 signature on it. Has he gone as far as
23 to say this is my document because then
24 it would now be properly in evidence.
25 COMM. BOGLE: My understanding is that Mr. Goffe has

1 started to establish the document and he has
2 asked him questions so far to identify his
3 signature on Page 11, whether it is his
4 signature or not and I would imagine ...

6 MS. CLARKE: Respectfully, sir,
in which case it

7 would not be admitted as an exhibit
8 until he has completed his establishing
9 the document in terms its connectivity
1X to the witness. So probably we ought
11 not to mark it as admitted until it has
12 been properly established as a document
13 of the witness.

14 DEBTOR 7: I want to say something very important.

15 COMM. BOGLE: The thing is that Mr. Goffe enquired of
16 Debtor 7 if he recognized and accepted
17 the signature, and he said he has
18 associated himself with it, am I
19 incorrect?

2X MS. CLARKE: I would want to have a different view.

21 Seeing your signature on a multi-page
22 document doesn't necessarily
23 automatically lead to a conclusion that
24 the document is yours because you may
25 have signed a page.

1 COMM. BOGLE: Objection noted, can we move on.

2 DEBTOR 7: Commissioner, I need to clear up

3 something before we go on and it is

4 about me.

5 I distinctly recall that my wife left

6 for her homeland Barbados on the 1Xth of

7 October 1994.

8 MR. GOFFE: Sorry, Mr. Chairman...

9 A: It is relevant, Mr. Goffe.

1X Q: I understand it is relevant and there is

11 a time for it. I am just simply saying

12 I don't believe the time is now. You

13 gave your attorney or Miss Clarke all

14 the information which you propose to

15 give now and you will have an

16 opportunity to explain whatever

17 discrepancies there may be.

18 A: But this is not the original.

19 MR. GOFFE: As it relates to this document which you

2X have already acknowledged you have

21 signed and your wife has signed.

22 MS. CLARKE: The witness did not say he and his wife

23 signed the document.

24 MR. GOFFE: He absolutely did. He said he and his

25 wife signed the document.

1 MS. CLARKE: He recognized a page where he saw he and his
2 wife's signature.
3 COMM. BOGLE: For the benefit of this and as we have been
4 going heretofore, we have a document here
5 which is made up of a number of pages and
6 we will, for the benefit of the Enquiry and
7 our proceedings, we will take the fact that
8 Debtor 7 has acknowledged the signatures on
9 Page 11 as his signature and his wife's
10 signature.
11 My signature, but on second look, it
12 MR. POYSER: looks like hers.
13 You have already answered.
14 COMM. BOGLE: I was wrong. I don't think it is her
15 A: signature.
16 Are you now saying that the signature here
17 COMM. BOGLE: is not your wife's signature? It may not
18 be her signature.
19 A: No, no, is it her signature or it is not her
20 COMM. BOGLE: signature?
21 No.
22 A: It is not her signature?
23 COMM. BOGLE: No.
24 A:
25

1 which he referred to in his own witness
2 statement and therefore once Counsel
3 made certain remarks his memory was
4 jogged it seems and he started to doubt
5 it. I think we have already - I think
6 at the very least the record will
7 reflect that.
8 COMM. BOGLE: The thing is that this document has been
9 accepted in evidence, it has been
10 accepted as LP48. At the same time it
11 is on the table and therefore it is
12 available for use in the
13 cross-examination.
14 MR. GOFFE: Obligated.

15 MS. CLARKE: And the document is going to be
16 recognized as Nation Loan Agreement
17 dated 19th January 1996 between...

18 COMM. BOGLE: Between New World Corporation Limited
19 and Horizon Merchant Bank Limited and
20 Horizon Building Society which I stated
21 previously.
22 Can you go ahead Mr. Goffe.

23 MR. GOFFE: Thank you, very much, Mr. Chairman.
24 Debtor 7, could you turn over to Page
25 2 of the document and look at paragraph

1 3. Do you see that? It states there
2 that as of the date of this agreement
3 you were already indebted to Horizon
4 Merchant Bank and/or Horizon Building
5 Society in the aggregate principal
6 amount of \$XX,XXX.XX which is
7 referred to as the initial loan.

8 A: Paragraph what, Mr. Goffe?

9 Q: Paragraph 3. Can you just read
1X paragraph 3 and confirm whether that is
11 accurate. On Page 2 sir, at the top of
12 Page 2. Top of Page number 3. Don't
13 read it out loud. Could you read the
14 paragraph and indicate whether it is a
15 correct statement.

16 A: Before I can answer that, Mr. Goffe, can
17 I get something clear before I can
18 answer that.

19 Q: Could you answer the question.

2X A: No, sir, I refuse to answer.

21 Q: No, Debtor 7.

22 A: I totally refuse to answer. Unless I
23 can get something clear what I am
24 answering, my lips are sealed.

25 COMM. BOGLE: You are being asked whether you agree

1 with the statement. It is either you
2 agree, you don't know or you disagree.

3 DEBTOR 7: Commissioner, with respect, Mr. Goffe is
4 asking me this question and for me to
5 answer that question properly I need for
6 Mr. Goffe to understand certain things
7 which he refused to do and I am not
8 going to answer this question any
9 further until I can establish certain
1X things in my own understanding.

11 MR. GOFFE: I think, Mr. chairman, the Commission
12 can draw it's own inference from his
13 refusal to answer. I don't need for him
14 to answer.

15 COMM. BOGLE: When Mr. Goffe is questioning, whatever
16 information that you have that you would
17 like the Commission to be aware of you
18 can discuss this with your lawyer. The
19 lawyer is at liberty to ask the
2X questions to clarify or do so but in
21 order for us to have an orderly Enquiry
22 Mr. Goffe is at the moment asking you
23 questions.

24 A: It is a simple thing I want to clear up
25 and Mr. Goffe can do that. All I am

1 trying to say, this is additional, what
2 is called in law addendum to the
3 original contract, this one came in
4 after.

5 MR. GOFFE: Commissioner, if I could get the answer
6 to the question or if you can have it
7 noted that he has refused to answer the
8 question. I think he has completely
9 ignored the instructions you just gave
1X him which is that he should answer the
11 question and I believe by now we can
12 move on with the notation being made of
13 his refusal.

14 COMM. BOGLE: I would tend to go along with that.

15 MR. GOFFE: Grateful, sir.
16 Could you turn over to page 4 of the
17 document sir, and do you see in Roman
18 numeral at the top of the page -- you
19 could read that paragraph for me and
2X confirm that you agreed that a third
21 legal mortgage would be registered on
22 your property to cover, to secure the
23 sum of \$XX million.

24 A: (No answer)

25 Q: Debtor 7, you are going to answer this

1 question?

2 A: You see because I am discombobulated in
3 you not lending me aid with my
4 understanding in the beginning it is
5 very difficult for me to continue from
6 here now because what I want to say is
7 something very simple, sir.

8 Q: It is either yes or no.

9 A: No, sir.

10 Q: You don't agree?

11 A: I am not saying I am not agreeing. I
12 would like to read the whole thing
13 through if necessary but since you are
14 there, it is just for you to assist me,
15 for you to say this is not the original.

16 Q: So this is a refusal to answer this
17 question?

18 A: Yes, you are right, this is a refusal to
19 answer until I understand what it is I
20 am agreeing to.

21 MS. CLARKE: If I may intervene.

22 MR. GOFFE: Are you objecting to a question I am
23 asking.

24 MS. CLARKE: Yes, I am objecting to a question you
25 are asking.

1 MR. GOFFE: But I haven't asked the question yet.

2 MS. CLARKE: The line of questioning as it has
3 proceeded so far. It appears to me in
4 fairness to this process, this
5 Commission, the Enquiry, that the
6 witness is indicating that the document
7 having been just put in his hand he is
8 somewhat unfamiliar in terms of what is
9 now put in his hand to the extent that
1X he is not comfortable with answering
11 questions on the details of that
12 document without having been given an
13 opportunity to really visit and to
14 establish to his own satisfaction that
15 the substance is such that he can assert
16 one way or the other and I believe this
17 is the discomfort the witness is trying
18 to bring to the attention of Counsel and
19 to the Commission and I think that it is
2X quite fair because it is not that the
21 document is his document. It is now
22 being put in his hand, it is now being
23 put to him that it his document. He
24 sees something resembling his signature
25 on it but in truth and in fact his

1 signature doesn't speak with substance
2 and the witness is indicating that he
3 has a difficulty answering any questions
4 relative to its substance having regard
5 to the fact that he has not been given
6 sufficient opportunity to assess the
7 substance of it in terms of looking at
8 it so that he can answer the questions
9 from an informed position and I think it
1X is a fair posture.

11 COMM. BOGLE: This document is in evidence. The
12 witness's attention is brought to a
13 particular paragraph. The witness is
14 asked to read the paragraph and to say
15 whether or not he agrees with the
16 paragraph. He therefore has the time to
17 read the paragraph. He therefore can
18 come to the conclusion as to whether or
19 not he agrees with the paragraph or he
2X does not agree with the paragraph. I do
21 not see the necessity for the witness to
22 have this document over night, for one
23 hour, for one day, to understand a
24 paragraph that he is being given time to
25 read.

1 MS. CLARKE: I don't believe the witness is asking to
2 hold the document overnight, sir.
3 Respectfully, if the Commission has
4 ruled I am guided by the ruling, I will
5 abide the ruling, but the witness is
6 indicating that the document having just
7 been put in his hand -- he has not asked
8 for an hour; he has not asked for any
9 time overnight; what he is indicating
10X though, contextually I am having a
11 problem with your picking a paragraph
12 from this thing and asking me is it
13 this, is it that, because I have not
14 looked at the document in its totality
15 to basically see if this ties in with
16 all that my account adds up to; with my
17 situation as I know it.

18 COMM. BOGLE: Ms. Clarke, does your witness need five
19 minutes to look at it?

20X MS. CLARKE: I have not had an opportunity to confer
21 with him as to exactly how much time,
22 but certainly I believe that it would
23 benefit him. I don't know if five
24 minutes would be sufficient, that might
25 be put to him, but certainly some time,

1 having regard to the fact that it was
2 just now put in his hand and he is at
3 the same time being asked to speak to
4 its substance. I am not sure from where
5 I sit how much time.

6 MR. GOFFE: Commissioner, Debtor 7 has already
7 refused to answer two of the questions.
8 I can move on. I don't need to repeat
9 the question for him to be given a third
1X opportunity for him to answer it. I am
11 prepared to ask the next question.

12 COMM. BOGLE: Are you going to be asking further
13 questions regarding this document?

14 MR. GOFFE: I think in the interest of time I'll

15 leave this document alone as it is
16 already in evidence and he has accepted
17 it as his signature. I don't think I
18 need to go any further with this
19 particular document.

2X Debtor 7 do you remember signing
21 three Promissory Notes in relation to
22 your indebtedness to Horizon Merchant
23 Bank and Horizon Building Society?

24 A: Not out of my head.

25 Continued

1
2 Q: Do you recognize the signatures that appear
3 on each of these three documents? Yes.
4 A: Could you identify whose signatures they
5 are?
6 Q:
7 A: They are my signature, but Mr. Goffe you are
8 going a little bit too fast, there is
9 something you are missing out. No, Debtor 7
10 we have gone over this before.
11 Q:
12 A: Not you and I, I need for you to explain
13 certain things.
14 Q: No, Debtor 7, I am not the one doing the
15 explanation.
16 A: If you are going to say if they are my
17 signatures, yes, those are my
18 signatures.
19 A: Do you recognize the signatures of your
20 ex-wife.
21 Q: (no answer)
22 Debtor 7?
23 A: Not too sure about that signature right now.
24 Q: Do you recognize the seal of Company Ltd.?
25 A:

1 A: Yes.

2 Q: That is the seal that appears on all
3 three of the documents?

4 A: Yes.

5 Q: I am not suggesting Debtor 7 that
6 these are cumulative, that you borrowed
7 \$X, \$X and \$X Million?

8 A: Explain to me what you are saying.

9 Q: I am not suggesting that these are
10 cumulative, I am just making you aware
11 of that in case you thought that **is** what
12 I was doing.

13 A: Tell me, because maybe that is the
14 problem. Mr. Goffe, I am a salesman,
15 you must speak so I can understand, you
16 are a lawyer, I know nothing about law,
17 speak so I can understand, what do you
18 mean by that, sir?

19 Q: I am not saying you borrowed \$X
20 Million and then you borrowed \$X and
21 then you borrowed \$X?

22 A: That is the problem.

23 Q: I am trying to explain, I am not
24 suggesting that that is what took place,
25 I am suggesting, sir, that you borrowed

1 \$X million and that in essence one,
2 the latest, the most recent document
3 comprises the aggregate indebtedness
4 that Company Ltd. had with
5 Horizon Merchant Bank and Horizon
6 Building Society. Do you accept that
7 statement?

8 A: Are you saying that it is compounded,
9 the interest and the principal?

10 Q: I am not saying anything about the
11 compounding of the interest and
12 principal, I am not saying that, I am
13 simply asking you if as at October 1995
14 your total indebtedness was X million
15 Jamaican dollars, that is all?

16 A: Okay, but that is what I was trying to
17 explain to you that we started in
18 1993....

19 Q: Perhaps if you give me a chance we
20 wouldn't have these arguments.

21 A: We are not having any argument.

22 Q: Could you answer my question now?

23 A: Now that you are understanding some of
24 what I want...

25 Q: I understand very well. Can you answer

1 my question?

2 A: Go on let me see what I can understand.

3 Q: So that we have the sequence correct,
4 you borrowed \$X million first and then
5 you borrowed another \$X and then
6 finally you borrowed \$X bringing the
7 total to \$X?

8 A: Why don't you call the borrowing and the
9 interest that was placed on....

10 Q: I am not getting into the principal and
11 interest at all. I am asking you if
12 there were three separate borrowings, \$X
13 million, then \$X and then \$X
14 bringing you up to a total of \$X?

15 A: For your understanding, you are pretty
16 young, but what the banks did in those
17 days....

18 Q: Answer the question first.

19 A: I am telling you, sir...

20 Q: It's a simple question, I understand
21 that you might have an explanation but
22 before you give the explanation, if you
23 could actually....

24 MISS CLARKE: I am objecting to the approach taken by
25 counsel. I do not believe, inasmuch as

1 he wishes to canvass certain questions
2 and elicits the answers in a certain
3 form, I don't believe there should be
4 any attempt to fetter the witness in
5 terms of how he chooses to answer the
6 question. If it is that he may take a
7 round-about route to answer the
8 question, he is perfectly within his
9 right to do so.

1X COMM. BOGLE: If he is doing it in a round-about way,
11 that is not bad but is when he starts to
12 question counsel.

13 MISS CLARKE: That is a different thing but in terms
14 of saying I asked a simple question,
15 answer the question, in terms of that.

16 COMM. BOGLE: I still think it's a simple question,
17 however, we have three promissory notes
18 in front of us and the latest one is
19 27/1X/95 and my understanding is the
2X question to Debtor 7 is whether or not
21 he accepts that as of that date his
22 total indebtedness was \$X
23 MISS CLARKE: And he is not answering in terms of a
24 yes or no because .

25 MR. GOFFE: He already answered that question, thank

1 you.

2 MISS CLARKE: And he is going on to further answer the
3 question.

4 COMM. BOGLE: Mr. Goffe, what is the latest question?

5 MR. GOFFE: The latest question I had was how we
6 arrived at \$X, was it simply a \$X
7 million, then \$X and then \$X as is
8 already shown on the title. He has not
9 answered the question.

1X MISS CLARKE: He is in the process of answering the
11 question.

12 MR. GOFFE: I am fighting on all all sides here.

13 A: Mr. Goffe it is very very simple. Let
14 us agree what you call borrowed, it was
15 not actually borrowed, it was the
16 interest that I signed to, I call it
17 compound for want of a better word.
18 They add the principal and interest
19 together and I signed it off, because at
2X that time, as I was trying to say to you
21 earlier, Bank of Jamaica and Mr. John
22 Doe, a very good friend, we just
23 signed the thing.

24 Q: Mr. Chairman?

25 COMM. BOGLE: I think we would have to refer back to

1 the title, let us look back on the title
2 and if you look back on the title you
3 will probably move forward.

4 A: Before we do that, can I get two
5 minutes, I will be back.

6 COMM. BOGLE: Okay.

7 MR. GOFFE: Perhaps in the meanwhile we could number
8 the exhibits. 49a, b and c, the
9 promissory notes; 49A being the one
10X dated October 1995, LP49B being May 12
11 1995 and LP 49C being, it's undated but
12 it is for the \$X million demand.

13 COMM. BOGLE: Yes, Mr. Goffe.

14 MR. GOFFE: I think we were trying to go back to the
15 title, sirs?

16 COMM. BOGLE: Oh yes. Exhibit LP1.

17 MR. GOFFE: Debtor 7 could you look at LP1 for us
18 please. Now, you recall that we went
19 through these three endorsements on this
20X title and you will also note that these
21 three endorsements show that there was
22 registered on the title a mortgage for
23 \$X million, a mortgage for \$X million
24 dollars and then lastly a mortgage for
25 \$X million. Now having looked at that

1 and having seen the promissory notes, do
2 you now recall that that is how you
3 arrived at the debt of \$X million
4 which you accepted was outstanding as at
5 the 27th of October 1995?
6 MISS CLARKE: I am just seeking intervention, did the
7 witness indicate in his evidence that he
8 accepted that \$X million was
9 outstanding as at 27th of October, 1995.
1X COMM. BOGLE: Yes he did.
11 A: According to the statement sent to me,
12 put it this way I was not as meticulous
13 as now to look into these things, I just
14 flowed along with the tide. Now I am
15 much wiser now, yes. Ask me the
16 question again, I know you are asking me
17 if I agree to these and since they are
18 on the title, but I am trying to let you
19 understand that when the developments or
2X the development was done, we were not
21 paying on the loan until the properties,
22 the lots were sold, hence there was a
23 backlog with accumulated interest. So
24 what I discovered that the banks did at
25 the time, that bank in particular was to

1 globalize, using that word now, all the
2 loans outstanding, the interest and the
3 principal and stamped it again, who am I
4 to tell them not to do that when you owe
5 them money; I am much wiser to that now.
6 MR. GOFFE: Debtor 7, would you agree with me that
7 under your Agreement with Horizon
8 Merchant Bank and Horizon Building
9 Society you would pay interest monthly?
1X A: My understanding, whatever I signed and
11 I repeat whatever I signed was that the
12 proceeds would come from the sale of the
13 lots because there was no other income
14 as such to pay for that, that was the
15 understanding.
16 Q: So no payments were made on a monthly
17 basis towards servicing the interest?
18 A: Not necessarily, maybe we had paid some,
19 but I would say the interest was paid
2X from the sale of lots.
21 Q: Wherever that took place?
22 A: That is correct, yes.
23 Q: So then you accept that you could have
24 been in breach of your agreement with
25 Horizon Merchant Bank if you were not

1 paying interest payments every month?

2 A: I would say after 1994 when there was a
3 downturn in my own system.

4 Q: That you could have been in breach?

5 A: Yes, but may I add something. As a
6 salesman I did something there that I
7 was given commendation for. I gave Brian
8 Lara the cricketer a lot and the sales
9 went through the roof, I am telling you
10 about salesmanship, so at that point in
11 time the lots went like wild fire, that
12 is very very relevant.

13 Q: Let me ask this question then
14 Debtor 7. You recall the interest
15 rate that you first negotiated with
16 Horizon Merchant Bank?

17 A: No.

18 Q: Would you be surprised if I told you it
19 was X percent per annum?

20 A: Even if it was seventy percent I was not
21 going at interest rate and I don't think
22 it was seventy percent.

23 Q: You don't think so?

24 A: No.

25 Q: Because if you had borrowed at seventy

1 percent it would have made the project
2 unfeasible?

3 A: I know at some places it went to sixty
4 percent and maybe seventy but not when I
5 borrowed, no.

6 Q: And you would not have borrowed at
7 seventy percent?

8 A: I can't tell you from a decade ago or
9 more than that to now what I would do
10 then to now because I am much wiser and
11 if I can help it I wouldn't borrow none
12 at all.

13 Q: Now, did you do a cash flow projection
14 or a business plan to obtain the loan?

15 A: Yes, our Accountant and Quantity
16 Surveyor did all of that and it looked
17 very feasible at the end of the day.

18 Q: You do not remember the interest rate
19 you could have calculated in that
20 feasibility study?

21 A: I know we would have come out of it and
22 make about, if my memory serves me
23 right, \$X Million which was very good
24 money in those days.

25 Q: But you don't remember how much interest

1 that assumed you would have to pay?

2 A: No, not the interest going up, no.

3 Q: Debtor 7, do you recognize the

4 signatures that appear on Pages 6 and 7

5 and the page that follows on the

6 document that was just handed to you?

7 A: Yes, sir. I recognize my signature but I

8 am saying again that I am not too sure

9 of my wife's, ex wife's signature.

1X Q: And do you recognize the seal of New

11 World Development Corporation Limited?

12 A: Yes, that is our seal.

13 Q: Do you accept that this is a document

14 which was signed on behalf of New World

15 Corporation Limited?

16 A: Yes.

17 Q: Could I ask that this document be

18 entered as LP5X being a mortgage dated

19 the 12th of August 1994 given to Horizon

2X Merchant Bank Limited to secure the sum

21 of \$5 million Jamaican dollars with

22 interest at 7X% per annum?

23 A: Wow, yes here it is.

24 COMM. BOGLE: Mr. Goffe.

25 MR. GOFFE: Debtor 7, do you recognize the

1 signature that appears on page 7 and
2 page 9 yes Debtor 7 you recognize
3 the signatures?

4 A: Yes, but I am saying it's a little while
5 now and I wouldn't be able to tell you
6 if that signature was my wife's.

7 Q: But certainly you recognize your own?

8 A: Yes.

9 Q: You accept that this is a mortgage
10 signed on behalf of New World
11 Development Corporation Limited?

12 A: Yes, but you know sir, we don't have
13 these, I don't know how that happened,
14 it's the first I am seeing these, can
15 you believe it but it is true.

16 Q: Could I be asked that it be entered as
17 LP51 being a mortgage given by New World
18 Development Corporation Limited to
19 Horizon Merchant Bank Limited and
20 Horizon Building Society to cover \$X
21 million secured by properties at
22 Address?

23 COMM. BOGLE: So entered LP51.

24 MR. GOFFE: Sorry, and dated January 1996.
25 Debtor 7, do you recognize the

1 signature that appears on page 4 of the
2 document that was just handed to you?

3 A: Yes.

4 Q: Is that your signature?

5 A: Yes.

6 Q: What about the seal that appears on that
7 page, is this the seal of New World
8 Development Corporation Limited?

9 A: Can't make this one out clearly.

10 Q: It appears that it is?

11 A: Yes, it appears so, yes.

12 Q: Do you accept that this was a letter
13 which was accepted on the 27th of
14 October 1995 on behalf of
15 Corporation Limited by you?

16 A: Accepted by...

17 Q: Accepted by you on behalf of the
18 company?

19 A: That is what it says here, it is a pity
20 that we did not sign all the pages but
21 the end one I signed it, whatever went
22 before.

23 Q: Could I ask that this be entered as LP
24 52, this is actually a commitment letter
25 dated October 26, 1995 for a demand loan

1 of \$X million at 5X% interest per
2 annum.

3 Q: Debtor 7, the loan agreement LP48
4 makes reference to a commitment letter
5 dated October 26, 1995. If you look at
6 LP48, it's on the first page, paragraph
7 number two, this document, sir, it
8 should be on your right hand side.

9 MRS. PHILLIPS: I don't believe his documents are
10 numbered so it is difficult for him to
11 recognise them.

12 Q: It's called Loan Agreement.

13 A: Loan Agreement, yes. What date? 19th of
14 January?

15 Q: That is the one.

16 A: I have it.

17 Q: If you look at the bottom of the page,
18 sir, you will see reference is made to a
19 letter of commitment dated October 26,
20 1995, do you see that?

21 A: The bottom of this page?

22 Q: Paragraph two.

23 A: Reference to a letter, a copy of which
24 is obtained hereto as Annex A, is that
25 what you are referring to?

1 Q: That is right. Having looked at
2 October 26 letter, would you confirm
3 that the October 26, 1995 letter which
4 was just handed to you is the letter
5 that was referred to in the Loan
6 Agreement?

7 A: Mr. Goffe, with respect, sir, I would
8 need time to assimilate these and get
9 the essence to see what's going on, I am
1X sorry that this is so but believe me,
11 none of these are on my files, I have
12 never seen them.

13 Q: How many commitment letters would you
14 have signed on October 26, 1995?

15 A: Totally impossible to remember all of
16 that just now.

17 Q: You could have signed more than one on
18 October 26, 1995?

19 A: Maybe up to about three, but I am
2X telling you, sir, the confusion there
21 and the problem there is that when they
22 add the interest to the...

23 COMM. BOGLE: Debtor 7, the commitment letter that
24 you said earlier, just awhile ago that
25 you did sign and that commitment letter

1 is dated October 26, 1995, LP52, which
2 you accepted that you had signed.

3 A: In the interest of the court, you know,
4 I am just saying yes, but I need to
5 study these to see what I can recall
6 from my memory together with the files
7 that I have there, whatever I can pick
8 up from it, so you know to readily and
9 easily agree with you that this is so or
10 not so, I don't want to be disrespectful
11 to you or to the court, but you know...

12 COMM. BOGLE: The point you know Debtor 7, you have
13 signed, your signature is here and the
14 question is whether you accepted that
15 yes, you did sign this document.

16 A: It would appear to be my signature.

17

18 continued....

19

20

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25

1 of.

2 A: That's true.

3 COMM. BOGLE: But again the thing is that you have
4 signed them and your signature is there.

5 A: But Commissioner, as you can appreciate
6 I have never really questioned the
7 amount asked at any time for me to pay,
8 all I was trying to do is to ask for a
9 reduction and to pay up what I can.

1X COMM. BOGLE: Yes, we understand that. The question
11 here is really that we are trying to
12 establish certain sequence of events and
13 as I said before you have said that you
14 did sign the commitment letter and there
15 are two documents, one a loan agreement
16 and the commitment letter. And the
17 question is simply whether or not
18 paragraph 2 in your opinion refers to
19 the commitment letter of 26th
2X October 1995?

21 MISS CLARKE: And if I may, I believe the witness
22 again is really urging the Commission
23 that he is somewhat at a disadvantage in
24 terms of contextualizing so that he
25 cannot, having regard to the fact that

1 he has identified that his signature occurs
2 on the last page, he is saying I am not, as
3 of now, sufficiently familiar with the
4 document in its entirety so I will be able to
5 give you an informed answer relative to any
6 portion of the substance except to say that
7 I see my signature on it. From where I am now,
8
9 given what is put
in my hand now, I am

10
11 not in a position, in fairness to myself
12 or to the Commission, to basically
13 divide and analyze and give any meaning
14 to any particular portion of it because
15 I need time to look at it to really
16 inform myself relative to my
17 recollection and as to my understanding
18 as to - because he had actually said
19 some of these documents I am seeing for
the first time. In fairness to him.

20
21
22
23
24
25

2X MR. GOFFE: No, no, he said he signed the document
so he could not be seeing it for the
first time.

MISS CLARKE: He said he recognizes his signature on
it and to the extent that he sees his
signature this is what I say. Because I

1 have heard the witness say "well, the
2 last page, but the rest of the document"
3 - I don't know if the records indicate
4 that. I heard the witness say...
5 MRS. PHILLIPS: Desperation.
6 MISS CLARKE: To be fair to the witness.
7 A: Commissioner, Mr. Goffe, a man can only
8 operate on the level of his awareness.
9 I am not aware of some of these things
1X and so I would like a little time to
11 understand. None of my letters
12 complained about the high interest rates
13 or what was owed. I was just trying to
14 ask for a reduction. I didn't want to
15 say some thing, but can I just say
16 something else here which I don't know
17 if I am going to get myself in trouble
18 by saying it. I had an overdraft at
19 NCB...
2X COMM. BOGLE: Is that germane to this now?
21 A: It is, very much so in my understanding.
22 COMM. BOGLE: No Debtor 7, I have to rule on that.
23 A: All right.
24 COMM. BOGLE: I think I have allowed you a whole lot
25 of latitude?

1 was on your loan?

2 A: No.

3 Q: Would you be surprised if I told you it
4 was over \$6XX,XXX.XX a month?

5 A: I would be.

6 Q: You would be?

7 A: I would be.

8 Q: It could not be as high as that?

9 A: That was the price of one lot. Well, I
10 am not saying -- what I am saying I am
11 surprised because we were not looking at
12 it that way, we were trying to just
13 clear off the balance. And you may
14 recall that I mentioned that, although
15 it is not written that Mr....

16 Q: I also recall that you said you have a
17 little arithmetical skills. So I invite
18 you to do the Maths, but by my
19 accounting it was over \$6XX,XXX.XX a
20 month would have been the interest rate.

21 A: That's a new one on me. But you recall
22 we did so well because Mr. Best, and
23 that is a fact, was giving us back money
24 that we had overpaid from the monthly
25 payment.

1 Q: Would you also remember, sir, do you
2 acknowledge that payments which are made
3 which are deposits on sale agreements, that
4 they are held in trust until the agreement
5 is completed?
6 A: Yes.
7 Q: And therefore deposits which are made would
8 not be applied immediately to the debt since
9 they are trust money, is that correct?
10X You mean pay to the bank?
11 A: Right. The bank wouldn't be able to reduce
12 Q: the indebtedness based on trust monies.
13 I have no knowledge in banking.
14 But you have knowledge in real estate
15 A: though, in development?
16 Q: Yes.
17 So when a deposit was made, isn't it the
18 A: practice in real estate or isn't it the
19 Q: practice that these deposits must be held
20X in trust?
21 Yes.
22 Okay.
23 A: But I think the bank would do the same
24 Q:
25 A:

1 thing.
2 Q: I don't know. Let me ask you a question. Look
3 at your document here LP3, your witness
4 statement. Look at LP3. Are you with me sir,
5 it is a letter dated October 24, 1996.
6 Yes.
7 A: And you see that this speaks to a
8 Q: deposit of \$4XX,XXX.XX being paid?
9 Okay, yes?
10 A: So you accept that this deposit would have
11 Q: been held in trust until completion?
12 Held in trust by who?
13 Sorry?
14 A: By who?
15 Q: Well, where would it be held in trust? It
16 A: would be sent to the bank, it would be the
17 Q: bank's money, the bank wouldn't be holding
18 A: it in trust for the
19 prospective purchaser. If the lawyer
20 sends that to the bank, that is the bank's
21 money.
22 So which monies are held in trust? The
23 deposits.
24 Q:
25 A:

1 Q: The deposits?
2 A: The deposits.
3 Q: So in this letter, isn't this not a
4 deposit?
5 A: No.
6 Q: Oh so...
7 A: It is safe.
8 Q: So this was on completion of the
9 agreement?
10 A: That is correct. And the purchaser would have
11 received his title or his attorney. Turn over
12 Q: the page to LP4. You see where it says a
13 \$71,XXX.XX payment? Yes, sir.
14 A: Would that have been a deposit?
15 Q: No, it would be payment or part payment
16 A: somehow.
17 But this wasn't on completion though? I
18 Q: can't say. It would be - all the monies
19 A: sent to the bank would be the bank's
20 payment in this case for Lot number 8.
21 Okay, so this is not a deposit then? It was
22 payment to the bank for payment for Lot 8.
23 Q:
24 A:
25

1 Q: This was not a deposit then?

2 A: I am saying again all the payments to
3 Horizon would be payment on that lot, it
4 wouldn't be a deposit. Deposits would
5 remain with the lawyer. As you know
6 what happens to your firm also.

7 Q: Turn the page to LP5. You see that the
8 same lot, a cheque is being sent for
9 \$X.XX?

10 A: The same lot.

11 Q: Are you now seeing that this is the net
12 proceeds of sale?

13 A: I didn't read it in detail, but this
14 must be the balance, the same Lot 8 and
15 so therefore...

16 Q: So therefore LP4 is a deposit?

17 A: It would not be a deposit, it would be a
18 payment, it would be deposit on the
19 balance to come,

20 COMM. BOGLE: The thing is that the attorney receives
21 the money and they can keep it in escrow
22 or whatever it is. Once they release it
23 to the bank, then it is now the bank's
24 money to use.

25 A: Exactly.

1 nature it is money that the bank can
2 use.
3 MISS CLARKE: As you are on the subject of what is the
4 law, it may very well have been the
5 case, and it would not be unlawful where
6 the particular purchasers would have
7 given directions and authorization
8 relative to the forwarding of the
9 deposits.
1X COMM. BOGLE: That is done as well.
11 A: Mr. Goffe, here it is, sir. Can I read
12 from the same letter here:
13 Herewith is our cheque in the amount of
14 **Seventy-one Thousand Dollars**
15 **(\$71,XXX.XX) being part payment of the**
16 **net proceeds of sale.**
17 **As soon as the mortgage proceeds are in**
18 **hand we will send you the remaining net**
19 **proceeds due on this transaction.**
2X It speaks for itself.
21 MR. GOFFE: I think it does. I think it says it is
22 a deposit.
23 A: Deposit on the amount that should be
24 sent.
25 Q: Okay.

1 A: But not a deposit to be held in escrow.

2 Q: But your evidence, sir ...

3 MISS CLARKE: Is counsel arguing with the witness or

4 is he putting the questions at this

5 time?

6 MR. GOFFE: No Miss Clarke, I am reminding the

7 witness of his evidence. And unless you

8 are objecting to the question if I could

9 be allowed to continue.

1X MISS CLARKE: What I am objecting to is a posture

11 where an argument developed between

12 counsel and witness.

13 COMM. BOGLE: Mr. Goffe, please continue.

14 MR. GOFFE: Thank you, sir.

15 You remember your evidence being though

16 that the deposits would have been held

17 on trust, that was your evidence?

18 A: By the purchaser/attorney, as you do in

19 your Conveyance Department in your firm.

2X Q: I see sir.

21 COMM. BOGLE: On that note may we adjourn this

22 sitting. We will be back next week

23 Tuesday. However, I understand that

24 Debtor 7 actually returns on

25 February 16.

1 So Debtor 7, you will have a lot of
2 time to go through the documents you
3 have received.

4 A: Yes.

5 COMM. BOGLE: As you will return on February 16, but
6 the Enquiry...

7 MISS CLARKE: Sorry, sir, the date has taken me so
8 much by surprise.

9 COMM. BOGLE: Well, this is the information I received
10 from the office.

11 MISS CLARKE: I have somewhat of a difficulty on that
12 date.

13 COMM. BOGLE: Well, could you please clarify that with
14 the office. However, the Commission
15 continues next week Tuesday. So, although
16 Debtor 7 may not be the witness next
17 week Tuesday we will continue.

18 Therefore, this sitting is now adjourned
19 until next week Tuesday at 9:30 a.m.

20 Have a good afternoon everyone.

21 MISS CLARKE: Thank you very much sir.

22

23

ADJOURNMENT

24

25