

VERBATIM NOTES
OF
COMMISSION OF ENQUIRY INTO CIRCUMSTANCES
THAT LED TO THE COLLAPSE OF THE FINANCIAL INSTITUTIONS
IN THE 1990s

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

ON
THURSDAY, February 4, 2010

PRESENT WERE:

THE COMMISSION

The Hon. Mr. Justice Boyd Carey (Ret'd) - Chairman

Mr. Charles Ross - Member

Mr. Worrick Bogle - Member

COUNSEL TO THE COMMISSION

Hon. R.N.A. Henriques OJ, QC, LL.M.

SECRETARY TO THE COMMISSION

Mr. Fernando DePeralto

MARSHALLING THE EVIDENCE

Mrs. Kelley Wong - Attorney-at-law

REPRESENTING THE BANK OF JAMAICA

Ms. Melissa Weston - Attorney-at-law

REPRESENTING MR. ERROL CAMPBELL

Mr. Lackston Robinson - Attorney-at-law

REPRESENTING FINSAC'd ENTREPRENEURS

Mr. David Wong Ken - Attorney-at-law

REPRESENTING DEBTOR 18

Mr. Anthony Levy - Attorney-at-law

GIVING EVIDENCE

Mr. Errol Campbell - Managing Director FINSAC

1 Thursday, January 4, 2010

2 On resumption at 9:45 a.m. 3

4 CHAIRMAN: This Commission of Enquiry is now in
5 session. Good morning, ladies and
6 gentlemen --T- Mr. Robinson?

7 MR. ROBINSON: May it please you, Mr. Chairman, as
8 promised I was in contact with the
9 attorneys-of-law for JRF yesterday,
10 having left the meeting. I received a
11 letter dated February 2, 2010, from
12 Mr. Gavin Goffe, attorney-at-law, Myers,
13 Fletcher & Gordon in response to our
14 letter of January 29, 2010, regarding
15 our request for information relating to
16 the DEBTOR 18 matter. Maybe
17 Mr. Commissioner, Mr. Campbell could
18 read the letter to the Commission.

19 CHAIRMAN: Let us have him sworn first.

20 **Mr. Campbell Sworn**

21 CHAIRMAN: Yes, Mr. Robinson.

22 MR. ROBINSON: Mr. Campbell, you wrote a letter to JRF
23 on the 29th of January, 2010, requesting
24 information on the DEBTOR 18
25 matter which they in hand, is it not so?

1 A: That is correct, Mr. Robinson.

2 Q: Did you receive a response to that
3 letter?

4 A: I got a response yesterday when I got
5 back to my office, from Myers, Fletcher
6 & Gordon, attorneys representing JRF in
7 the matter.

8 Q: Could you read the contents of that
9 letter?

10 A: Sure, I will. Letter dated February 2,
 2010. It's addressed to -

11 **Mr. Errol Campbell, General Manager,**
12 **FINSAC, 1 Shalimar Avenue, Kingston 3. Dear**
13 **Errol,**

14 **Re: DEBTOR 18 Jamaica Limited.**

15 **We refer to your letter of January 29, 2010,**
16 **to our client, regarding the company at**
17 **caption. Our client has asked us to advise you**
18 **that the captioned company is the subject of**
19 **litigation and all related files are with its**
20 **attorneys. Further, it is seeking **legal****

21 ***advice as to the* appropriateness of public**
22 **discourse of matters subject to litigation.**

23 **They are**

24

25

1 concerning this matter? Have you sought
2 information files from that firm,
3 because I would imagine that that law firm
4 would have to have the information which is
5 being requested, Mr. Campbell? Just one

6 MR. ROBINSON:

moment.

7 CHAIRMAN:

8 A:

9 Mr. Levy, is JRF a party to the suit? There
10 are a series of suit, sir, some by JRF against
11 DEBTOR 18, some by DEBTOR 18 against JRF,
12 but there is a suit at about which this
13 complaint was made but the suit by DEBTOR 18
14 against REFIN Trust and a company wholly
15 owned by the Bank of Jamaica called TPL
16 Limited, that is the suit I am referring to.
17 That's the suit about which the complaint
18 was filed.

18 CHAIRMAN:

And JRF is not a party to that suit? JRF

19 MR. LEVY:

is not a party to that suit.

20 Mr. Campbell, that law firm has given
21 disclosure of a number of documents, some
22 of which I have got under
23 Mr. Campbell's signature, to present to him
24 this morning. So there are papers with
25 REFIN's attorneys concerning the

1 complaint and the subject matter of the
2 complaint. In fact, this is where these
3 should be, because this is the major
4 complaint against REFIN Trust, the only
5 complaint I have against REFIN Trust at
6 the moment.

7 MR. ROBINSON: May it please you, sir. That is why I say
8 we need to have a look at the file because
9 my understanding, as I said yesterday, there
10 are three matters: One is in the Attorney
11 General's chambers, one is with DunnCox and
12 the other matter -- as we understand it, the
13 documents which Mr. Levy is seeking to have
14 is on this file which is with JRF, and that
15 matter is the subject of litigation. That is
16 my understanding, so we are aware of the
17 matter. I said it yesterday that there are
18 three matters; one we have --- one with
19 DunnCox, we have a matter in chambers, I am
20 not sure about it, what its about but I know
21 its a DEBTOR 18 matter. I have a file and
22 I know the file, the file is right in my office
23
24
25

1 and I know there is a matter there,
2 there is one with DunnCox.
3 CHAIRMAN: One thing is clear, regardless of the
4 quarrelling going on, we need all the files
5 wherever they may be and since there is a
6 letter here refusing to supply something, I
7 think we should issue -- give directions that
8 a subpoena duces tecum be issued to JRF
9 or...
10 MR. ROBINSON: That's why I think, Mr. Chairman, it's
11 best if we have all the files. We can
12 produce the ones we have, the ones from
13 DunnCox can also be produced.
14 CHAIRMAN: I don't suppose we need a subpoena to
15 get DunnCox's files.
16 MR. ROBINSON: No, no, that's what I am saying, we can
17 produce all of them and we will need
18 those files too that are in their
19 possession, then Mr. Levy can get
20 whatever information he needs,
21 whichever file it is on.
22 CHAIRMAN: Well, Mr. Levy, how are we going do
23 proceed?
24 MR. LEVY: Mr. Chairman, with due respect, let me
25 try to clarify the situation for learned

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counsel and for Mr. Campbell and for the Commission. The complaint filed by DEBTOR 18 before this Commission deals with a lawsuit filed by DEBTOR 18 against FINSAC, REFIN Trust Limited, for selling the property unlawfully. That is the file where I would expect that the notice, the demand notice under the Registration of Titles Act, any advertisements -- that is what it would be in. That file is with DunnCox. For a short period of time last year or the year before the file was transferred from DunnCox to the Attorney General's Office. Nothing happened in six months. It was transferred back to DunnCox and they have it under their control. To the best of my knowledge that's the only suit DEBTOR 18 has against REFIN Trust. Therefore those papers ought to be under the control and instructions of REFIN Trust, namely DunnCox -- that's the only place they can be or ought to

1 I would like to put to Mr. Campbell,
2 sir...

3 CHAIRMAN: That doesn't seem to be an
4 insurmountable difficulty if they are at
5 DunnCox. Can we arrange to have
6 somebody call DunnCox and see?
7 Mr. Campbell, can you arrange that since
8 you are the REFIN man?

9 A: Can I arrange what, Mr. Chairman?

10 CHAIRMAN: To have DunnCox provide the files , that
11 is the bone of contention.

12 A: Sure, sure, Mr. Chairman.

13 MR. LEVY: Mr. Chairman, I want to clarify...

14 CHAIRMAN: I am not quite clear what this one is
15 about, what is this?

16 MR. ROBINSON: As I am saying, Mr. Chairman, I don't
17 know ---- Mr. Levy, I don't think there is
18 a problem. As I am saying, Mr. Levy is
19 not even aware that we have a file in
20 our chambers involving DEBTOR 18
21 and I am sure there is a file there
22 involving DEBTOR 18. Mr. Levy
23 apparently is not aware of that one.
24 Mr. Campbell is saying to us that the
25 documents which Mr. Levy needs are on

1 that file which is with JRF. Mr. Levy is
2 saying the documents are on the file with
3 DunnCox. My suggestion is that we have both
4 files brought here rather than having...
5 We have now reached a point for direction
6 CHAIRMAN: then. There is a subpoena issued, that
7 order has not been removed and then a
8 subpoena to be issued to Jamaican
9 Redevelopment Foundation and you produce
10 your..
11

12 MR. ROBINSON: Yes, very well, that's my contention.

13 CHAIRMAN: And if you can phone DunnCox.

14 MR. ROBINSON: We will get it, sir. That's not a
15 problem. Getting the DunnCox file and
16 the file in our chambers is not a
17 problem. The other one -- and I am
18 saying that we settle the issue, we'll
19 bring them here, whatever Mr. Levy needs
20 he can get, whichever files we have.

21 CHAIRMAN: If it's subpoenaed it has to be for a
22 day, ask for a day and a time, so we
23 will direct that the subpoena issue for
24 this document to be produced by JRF next
25 Tuesday at 9:30 in the morning. Is it

1 Mrs. Farrow? So we'll go to Mrs.
2 Farrow, she's the expert down there?
3 So Mr. Levy, can we proceed in the
4 absence of that information?

5 MR. LEVY: Mr. Chairman, there are other
6 documents which I would like to
7 introduce into evidence.

8 CHAIRMAN: Very well, very well.

9 MR. LEVY: Mr. Campbell, first I would like to hand
10 you a document which shows the actual
11 date that you were appointed as
12 director. This is a copy of the --
13 returned to the companies of
14 notification of change of ..

15 CHAIRMAN: Was he denying it? Okay, very well.

16 MR. LEVY: Mr. Campbell that document you have
17 before you signed by REFIN Trust Limited
18 presented by Julia Thompson, Director/
19 Secretary of REFIN Trust Limited, which
20 shows that Mr. Errol Campbell and Mr.
21 Martin Gooden have been appointed
22 directors effective May 10, 2002. Is
23 that's correct?

24 A: That's correct.

25 Q: So there is no doubt now the date you

1 were appointed as director?

2 CHAIRMAN: This is EC27?

3 A: This was previously submitted in
4 December; it was in evidence in
5 December.

6 CHAIRMAN: This was in evidence already? He is
7 saying it is in evidence already. EC13.
8 It was put in as exhibit EC13. So that
9 he was appointed from the...

10 MR. LEVY: Mr. Campbell, on the the 28th of June, 2007,
11 you signed on behalf of REFIN Trust Limited
12 in claim #2004HCP2469 where DEBTOR 18 is the
13 claimant, REFIN Trust Limited is the first
14 defendant and TPL Limited is the second
15 defendant -- you find this with a list of
16 documents being disclosed, it's under
17 disclosure.

18 Mr. Chairman, well, I erroneously didn't
19 make copies of this, I just copied one or
20 two. I will give you a copy of mine.
21 Very well. Undertaken to produce copies for
22 the Commissioners.

23 CHAIRMAN: Is that your signature, Mr. Campbell?

24

25 MR. LEVY:

1 A: Yes, it is.

2 Q: Now this is supposed to be a list of all
3 the documents which are already in the
4 physical possession of the defendant
5 other than he has a right for possession
6 of. The defendant had a right to inspect
7 or take copies of on which the
8 defendant relies, intent and it's our
9 intent to rely on these proceedings. Can
10 you look through that list and tell me
11 Mr. Campbell, one -- two questions, you
12 can look for both as we go through.
13 Whether notice under the Registration of
14 Titles Act, the letter of demand is one
15 of the documents listed as an exhibit
16 for disclosure and (2), whether there is
17 an evaluation of the property...

18 CHAIRMAN: He cannot answer it all at once.

19 MR. LEVY: I just wanted as he is looking through
20 to look for both documents at the same
21 time, it would save some time -- whether
22 there was a valuation disclosed as
23 having taken place in respect of the
24 DEBTOR 18 properties.

25 CHAIRMAN: Mr. Levy, while Mr. Campbell searches

1 around, who were the parties in this
2 suit?

3 MR. LEVY: DEBTOR 18 Jamaica Limited is the
4 claimant; REFIN Trust Limited is the
5 first defendant; and TPL Limited which
6 is a subsidiary of the National
7 Investment Bank Jamaica Limited is the
8 second defendant.

9 A: Mr. Levy, in looking through, I don't
10 see any mention of any letter of demand
11 that was made but I saw two references
12 to valuation reports.

13 Q: What was that Mr. Campbell?

14 A: Item #1, valuation report dated
15 September 13, 1994, and item #78,
16 property inspection form for commercial
17 real estate prepared by Allison Pitter,
18 dated February 2001.

19 Q: So those documents should be in your
20 possession?

21 A: With the attorneys.

22 Q: I can simplify it, I have a copy of
23 those documents in the bundles of
24 disclosure that you have made --
25 unlimited relevance?

1 CHAIRMAN: The document that he is looking at, you
2 are tendering that?

3 MR. LEVY: Pardon me, sir?

4 CHAIRMAN: The document that he is examining, are
5 you tendering it?

6 Q: Yes, sir, I will tender it, sir.

7 CHAIRMAN: That will be when you do EC27. What is
8 that document entitled?

9 MR. LEVY: It's First Defendant List of Documents,
10 and it was signed by Mr. Campbell.

11 CHAIRMAN: Yes?

12 MR. LEVY: Mr. Campbell, the first document you
13 referred to is an appraisal, an
14 evaluation -- item # 1 dated September
15 13, 1994?

16 A: That's correct.

17 Q: And the transfer of this property took
18 place in June of 2002?

19 A: That's correct.

20 Q: July of 2002. The transfer is
21 actually -- it has been tendered in
22 evidence before, signed by Patrick
23 Hylton and Julie Thompson, the
24 secretary. Do you consider that -- to
25 the best of your knowledge is that the

1 the only valuation, those two
2 valuations are the only two that you
3 have?

4 A: I would have to assume that they are,
5 Mr. Levy, since these are the documents
6 that are listed and being disclosed
7 here. The last one was done in
8 February, 2001.

9 Q: So at the time of the sale or prior to
10 the sale and prior to the transfer of
11 the property to NIBJ and its nominee TPL
12 Properties, there was no current
13 valuation or would you call 1994 a
14 current valuation in 2002?

15 A: I do not understand the point you are
16 making, Mr. Levy. I mentioned --- item
17 #78 says that a valuation was done in
18 February 2001 and if you look further
19 down item #89, there is an agreement
20 for sale in July 2001, so that is like
21 five months later. So I don't
22 understand why you say there wasn't a
23 current evaluation.

24 Q: Do you have the valuation which was
25 done in June 2001?

1 Q: I would like to tender this document,
2 sir. Mr. Campbell let me go further
3 because the type of paper on which
4 FINSAC Board of Directors made its
5 decision to sell or not to sell, and
6 what to sell for. You recognize the
7 format, is it something you disclosed?
8 A: This is standard format for the
9 submissions to the Board, yes.
10 MR. LEVY: What number would you give this, sir?
11 CHAIRMAN: EC28.
12 MR. LEVY: Mr. Campbell, you recognize the name
13 Valerie Alexander?
14 A: Yes, I do.
15 Q: Was she in-house attorney for FINSAC?
16 A: Yes, she was.
17 Q: Back in 2001?
18 A: Yes, sir.
19 Q: Mr. Campbell, this is December 20, 2001?
20 A: Yes, sir.
21 Q: Board paper to FINSAC for first
22 evaluation? Would you care to read for
23 the Commission, Mr. Campbell, the third
24 and fourth paragraphs of this letter
25 dated December 20, 2001, which will be

1 EC29, I think, Mr. Chairman?

2 MR. LEVY: Yes.

3 Q: The third and fourth paragraphs.

4 CHAIRMAN: Sorry, this is already in evidence
5 EC14.

6 Q: Would you read to the Commission
7 paragraphs three and four?

8 A: Sure. "As your attorneys will advise
9 you, you are the agent for the company
10 of which you are...

11 CHAIRMAN: Sorry.

12 MR. LEVY: This is a letter from Valrie Alexander,
13 attorney for the company, to THE
14 RECEIVER, then Receiver and Manager of
15 DEBTOR 18.

16 CHAIRMAN: Yes, carry on.

17 A: "As your attorneys will advise you, you
18 are the agent of the company for which
19 you are Receiver Manager, REFIN Trust
20 Limited, REFIN is the vendor of the
21 property and the first in line to face
22 the issues of accountability and
23 liabilities of any client in respect of
24 this sale regardless of the reasons
25 bringing about the circumstances of the

1 sale. As the vendor and of power of sale
2 REFIN has inescapable obligations to the
3 proprietor which are quite
4 different from that of a receiver, one
5 of which is to maximize the yield from
6 the property. As mortgagee REFIN ought
7 not only to have control of the sale
8 proceeds but must also be concerned with
9 all deductions from the sale proceeds.
10 Again its legal obligations in this
11 context are not the same as yours and
12 the question of net proceeds realizable
13 as opposed to actualized must be
14 contemplated. Having regard to its own
15 responsibilities REFIN's Board of
16 Directors contemplated the information
17 made available to it and as those in its
18 meeting may confirm we are guided by it
19 and grounded its decision thereby. The
20 proceeds identified were accepted by the
21 members as mortgagee.

22 Q: The transfers, Mr. Campbell were
23 approximately 44 million?

24 A: I don't remember the exact figure.

25 Q: The prices for which the properties were

1 transferred constituted 44 million?

2 A: Yes.

3 Q: Two properties?

4 A: Yes.

5 Q: The valuation by Allison Pitter and
6 Company of May 1992 was approximately
7 44 million- was sold at 44.5 million.

8 Is it reasonable to conclude that the
9 Board relied on a ten year old valuation
10 in determining the price to put on the
11 property?

12 A: I really cannot speak to that, Mr. Levy,
13 I wasn't part of the deliberations and
14 those decisions.

15 Q: Mr. Campbell, you undertook yesterday
16 to do some research of the Board minutes
17 of FINSAC and REFIN Trust Limited and
18 bring to this Commission this morning,
19 copies of relevant information that was
20 in Board minutes dealing with the
21 DEBTOR 18 issue. You have that
22 information with you, Mr. Campbell?

23 A: No, I do not, Mr. Levy.

24 Q: Pardon me, Mr. Campbell.

25 A: No, I do not.

1 Q: Is there a reason why you do not have
2 it, Mr. Campbell?

3 A: I didn't get to find them yesterday but
4 I understand that they have since been
5 presented to my attorney since morning.
6 I haven't had a chance to look at them
7 yet.

8 CHAIRMAN: You got it show him.

9 MR. LEVY: Pardon me?

10 CHAIRMAN: You got it?

11 MR. LEVY: No, I don't have it.

12 Q: Mr. Campbell was asked to extract from
13 the Board minutes and bring to us
14 minutes dealing with the DEBTOR 18
15 sale. You made a statement at that time
16 that the Commissioner had all the
17 minutes but you were asked to extract
18 not three or four years or five years of
19 minutes but from extract specific
20 minutes.

21 CHAIRMAN: That is being tendered now.

22 MR. LEVY: It's being tendered now, sir? You don't
23 have it, Mr. Campbell?

24 A: No, I don't have it.

25 CHAIRMAN: Probably we can all go home and look for

1 it. I can assure you we not going
2 anywhere.

3 MR. LEVY: Is there an explanation for failure to
4 comply, Mr. Campbell?

5 CHAIRMAN: He had a problem because he has given
6 this Commission a whole lot of papers.
7 We got a whole lot of boxes touching the
8 ceiling which we are obliged to look at.

9 MR. ROBINSON: I think we ought to be fair to
10 Mr. Campbell. Mr. Campbell indicated
11 yesterday, Mr. Chairman, that - he has
12 given an undertaking and he has to go
13 through the minutes **and** to find in
14 particular those information that
15 Mr. Levy is seeking, so he has to be
16 given a chance, it was just yesterday he
17 was asked.

18 CHAIRMAN: He had given an idea when this would
19 have been. We have passed that long
20 ago. You have any idea when this would
21 have taken place, Mr. Campbell, when the
22 meeting would have considered the
23 matter, have you?

24 A: The sale agreement was in 2001, so it
25 was some time during that year. The

1 sale agreement was July so it would have
2 been a couple months before that.

3 CHAIRMAN: It shouldn't be difficult to find, you
4 have those still in your archives?
5 Because we got copies -- when I say we
6 got copies, I don't know if that
7 particular...

8 A: I understand. We do have them, Mr.
9 Chairman, time just did not allow us
10 yesterday to go and -- as part of the
11 extensive exercise that we are going to
12 be concentrating on...

13 CHAIRMAN: Listen, we are trying to get going. I
14 am not berating you. Also we are going
15 to see if our personal assistant can
16 look.

17 MR. LEVY: These minutes, Mr. Chairman, should be
18 around at least just before December 7,
19 so the most relevant would be around
20 December 7, when the matter of the value
21 was considered by the Board, I assume it
22 would be just after and in the minutes Mr.
23 Campbell ought to have brought to us.
24 That's what Mr. Deperalto is gone to

25 CHAIRMAN:

1 see, if he could extract from our mass
2 of...

3 MR. LEVY: Mr. Campbell you said OCWEN had done an
4 evaluation on these properties.

5 A: Yes, it seems the one which was done in
6 February 2001 was part of the OCWEN
7 exercise, yes.

8 Q: I am sorry, Mr. Campbell, speak into
9 the microphone for me, please.

10 A: The valuation listed on here, item #78,
11 would have been the valuation done
12 during the OCWEN exercise.

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1 CONT`D 10:15 A.M. 2

3 MR. LEVY: I am asking you about ACWEN now.

4 A OCWEN?

5 Q OCWEN.

6 A Yes.

7 Q That's the valuation you are talking
8 about?

9 A Yes.

10 Q And *where* is that referred to?

11 A **Item #78** on the List of Disclosures.

12 Q That refers to a valuation done by
13 Allison Pitter & Company?

14 A Yes.

15 Q In February 2001?

16 A Yes, it does.

17 Q My question to you was about OCWEN. When
18 did they do a valuation? If so, how much
19 those properties valued at?

20 A I need to get the OCWEN valuation. The
21 point I am making is, OCWEN was
22 consulted by FINSAC to value the loans
23 and in the process of valuing the loans
24 they engaged local valutors who are
25 members of the FINSAC authorised

1 valuation pool to do valuations of the
2 properties. So the actual valuation of
3 the property was not done by OCWEN, it
4 was done by local real estate valutors,
5 it was just that they were engaged and
6 on behalf of OCWEN. And it is that value
7 that OCWEN used in arriving at a value
8 for the loan itself.

9 Q The list of were valuations presented to
10 the Commission, the comprehensive list
11 suppose to be completely comprehensive,
12 did it have a valuation of the
13 properties?

14 A No Mr. Levy, we spoke about that
15 yesterday. Part of the exercise that I
16 will do in coming weeks is to look back
17 through all the files to ensure as best
18 we can that all the properties that have
19 been sold are listed on that complete
20 list that was submitted to the
21 Commission. And of course...

22 Q Can't go any further this morning.
23 Mr. Campbell, you continue to frustrate
24 me and I don't...

25 CHAIRMAN: No man, not all the questions he can

1 answer Mr. Levy, and I take note of
2 that.

3 MR. LEVY: Very well, Mr. Chairman.

4 A Mr. Levy, I was merely trying to explain
5 to you.

6 CHAIRMAN: Mr. Campbell, relax...

7 A Okay, sir.

8 CHAIRMAN: Count to ten.

9 (Laughter)

10 MR. LEVY: I stop counting now, Mr. Chairman.

11 CHAIRMAN: This Enquiry will give all of us a
12 higher blood pressure.

13 MR. LEVY: I can't go any further right now sir,
14 until we get the information.

15 CHAIRMAN: Well we understand that.

16 MR. CAMPBELL: Mr. Chairman, there are two matters I
17 have to present.

18 CHAIRMAN: Oh! yes. Mr. Robinson, your client, Mr.
19 Campbell, was asked yesterday to provide
20 us with some information a diskette
21 and...

22 MR. ROBINSON: Yes.

23 CHAIRMAN: Perhaps you might use this opportunity.

24 MR. ROBINSON: Mr. Campbell, you were asked to provide
25 the CDs?

1 A Yes, Mr. Robinson.

2 Q Do you have them?

3 A Yes I do.

4 Q Where are they?

5 A Could you...

6 (Document passed to Miss Wong)

7 MR. ROBINSON: Those are the CDs of what?

8 A One CD is exhibit (a) which is list of

9 the loans that were sold to Jamaica

10 Redevelopment Foundation and the second

11 one is a copy of the valuation that was

12 down by OCWEN. So it lists all the

13 accounts and the security values, yes.

14 CHAIRMAN: The diskette is here but I can't read it

15 is like that, it has to be printed in

16 some...

17 A Well, Exhibit (A) is like five hundred

18 pages. So I figured it would have been

19 easier for me to give you a soft copy

20 and then you may opt to probably just

21 print certain sections of it as you...

22 CHAIRMAN: Okay.

23 A But in addition to...

24 CHAIRMAN: And what's the other one?

25 MR. ROBINSON: The first CD is what?

1 CHAIRMAN: OCWEN valuation.

2 MR. ROBINSON: And the second is what?

3 A Exhibit (A) which is the list of loans
4 that were sold to Jamaica Redevelopment
5 Foundation.

6 Q Very well. I think Mr. Campbell also has
7 a clarification in respect of some
8 documents yesterday.

9 CHAIRMAN: I have a checklist you know, I always
10 check to see what it is you are asking.

11 MR. ROBINSON: Very well.

12 CHAIRMAN: The first one is to check minutes to
13 verify proof of sale, something like
14 that. And there was an amended list -- I
15 think you promised an amended list of
16 loan-related properties sold prior to...

17 A That was part of what was submitted as
18 21 (a) I think it was yesterday with the
19 list of the valuers.

20 CHAIRMAN: I think it was...

21 A Oh yes, I didn't remember.

22 CHAIRMAN: Yes.

23 A I will get that done.

24 CHAIRMAN: Everybody has a list; I have list.

25 A Yes, I have it listed. We were to put

1 REFIN in the section where Refin is to
2 go, yes.

3 CHAIRMAN: And there is an item on the list why
4 that property was sold and the forced
5 sale value.

6 A All of those are things we are going to
7 find out, when we are looking at the
8 comprehensive list of properties that
9 were sold....

10 CHAIRMAN: I see.

11 A ...and the submissions for the
12 compromises and so on.

13 CHAIRMAN: And there was a list of claims against
14 FINSAC and by FINSAC.

15 A Yes, but in addition to that though, you
16 probably didn't make a note of this,
17 where i was asked to provide all the
18 exhibits with the Loan Sale Agreement. I
19 just want to comment on that.

20 CHAIRMAN: Yes, one second.

21 A Sure.

22 CHAIRMAN: These discs are in evidence as 29 (A)
23 and 29(B). 29(A) is the OCWEN valuation,
24 is that so? 29(A) is list of loans and
25 then (B) will be OCWEN' s valuations.

1 Mr. Secretary, can you put these in our
2 archives, who keeps them?

3 SECRETARY: They have to be read on to the computer.

4 CHAIRMAN: What else?

5 A I was asked about the exhibits for the
6 loan sale agreements, just to ensure
7 that any that I hadn't previously sent I
8 would send now but when I researched I
9 realised that...

10 CHAIRMAN: That was in answer to Mr. Levy?

11 A Not Mr. Levy, Dr. Malcolm. But then the
12 comment was made that I should ensure
13 that I submit all the exhibits.

14 CHAIRMAN: Very well, Dr. Malcolm isn't here.

15 A But I am just saying for the benefit of
16 the Commission, I have in fact
17 submitted all the exhibits, when I went
18 back and checked. The only one I think I
would not have submitted in that format was the one that dealt with
19 the wire instructions from Beal Bank and that
20 is contained in the Agreement, a copy of which
21 you have. So all the exhibits have been
22 submitted to the Commission. So I just wanted
23 confirm that.

24

25

1 CHAIRMAN: Clarify.

2 A Yes.

3 CHAIRMAN: Mr. Wong Ken, you think it is an
4 appropriate time for you?

5 MR. WONG KEN: It is Commissioner, if it is appropriate
6 for the Commission, yes.

7 CHAIRMAN: We have no problem.

8 EXAMINED BY MR. WONG KEN

9 MR. WONG KEN: Morning, Mr. Campbell.

10 A Morning, Mr Wong Ken.

11 Q On Tuesday you gave evidence that for
12 particular debtors certain amounts of
13 money had been written-off, and if I
14 understand the evidence correctly, for
15 one debtor who owed \$000000, \$000000was
16 written-off. For another who owed 325 M,
17 000000 M was written-off. And for yet
18 another who owed 000000, 000000was
19 written-off. You recall that as being
20 your evidence?

21 A Yes.

22 Q Okay, were there other write-offs?

23 A Yes, they were.

24 Q And have you provided that information
25 to the Commission?

1 CHAIRMAN: I see.

2 CHAIRMAN: Well, we had the promises.

3 MR. WONG KEN: Mr. Campbell, can you please inform the
4 Commission who was the debtor that owed
5 the 000000 and for whom 000000 was
6 written-off.

7 CHAIRMAN: One moment. Mr. Robinson, you have any
8 comment?

9 MR. ROBINSON: Chairman, you see....

10 CHAIRMAN: Let me just on behalf of the Commission
11 say that this a public Enquiry, by which
12 I mean it is being held in public so
13 what is said here is in the public
14 domain. Now some of these things
15 related to, can I say private business,
16 which normally would be confidential
17 between the banker and the customer.
18 Yes. Having put that before you, you
19 can tell me how we could hear your
20 views.

21 MR. ROBINSON: I was asking my friend if he really
22 wants to ask that question. And why I
23 said so Mr. Chairman, is that, although
24 it is a public Enquiry there are certain
25 bits and pieces of evidence that would

1 not normally be aired in public because
2 though it is a public Enquiry there are
3 aspects of the Enquiry which you may
4 deem to be -- it may be necessary to
5 have the evidence given in private. I
6 think this piece of the evidence is such
7 that it ought not can disclosed in
8 public.

9 AUDIENCE: Why?

10 MR. ROBINSON: I think I want to endorse...

11 CHAIRMAN: I am sorry. We are not at Ward Theatre
12 you know, so we can't have people here
13 cheering and of course, booing, which is
14 worse. We just can't have any running
15 commentary. You can go outside and make
16 your noise and then come back and sit
17 down inside quietly. Yes, sir.

18 MR. ROBINSON: Yes, sir. This information that we would
19 deem may as privileged information
20 between the bank and client, and I think
21 we ought not to in the circumstances
22 disclose it in public. It will not
23 advance...

24 CHAIRMAN: I must confess that I would like to have
25 an informed view as opposed to our

1 guessing and spelling -- what is the law? What
2 is appropriate? And I believe we should hear
3 from counsel their submissions in a legal
4 format, so to speak, to make a proper ruling.

5 So I invite counsel, if they are willing to

6 7 make submissions,

I suppose -- I see no

8 reasons why the public can't listen to

9 the submissions. So the public can sit

10 down inside and listen quietly but no

11 cheering please, or booing for that

12 matter.

13 MR. WONG KEN:

Thank you, Commissioner. A point, FINSAC

14 is a not a bank and therefore there is

15 no breach of privilege that would exist

16 between a bank and a client.

17 Secondly, FINSAC is a public entity, it

18 is supported by taxpayers dollars to the

19 extent that write-offs have been given

20 that become a burden on the taxpayer. I

21 am paying for that, you are paying for

22 that, all of Jamaica is paying for that

23 and we deserve to know why and to whom

24 these privileges were given.

25 Thirdly, those persons who have lost

1 their businesses, their homes, those
2 properties have gone into public auction.
3 Their business have been made public by
4 FINSAC. I do not see why there should be any
5 sort of protection given to anyone who has
6 benefitted from
7 write-offs
particularly because it's
8 taxpayers money that is footing the
9 bill.
10 AUDIENCE: Hear! hear!
11 CHAIRMAN: I just said there should be no hear,
12 hear, or claps or cheers, otherwise what
13 I will do is just ask you to retire
14 outside and have a drink. We will sit
15 in here quietly, please.
16 MR. ROBINSON: Mr. Chairman...
17 CHAIRMAN: Restrain yourselves, please.
18 MR. ROBINSON: Yes, it's true, FINSAC is not a bank.
19 CHAIRMAN: However, who is entitled to claim the
20 privilege?
21 MR. ROBINSON: Well, the persons are not here.
22 CHAIRMAN: You don't represent them?
23 MR. ROBINSON: I don't represent them, I really don't.
24 But I am saying ..
25 CHAIRMAN: That's why I asked the question: Who is

1 entitled to claim the privilege?

2 MR. ROBINSON: It would be the client.

3 CHAIRMAN: The client?

4 MR. ROBINSON: Yes.

5 CHAIRMAN: And Mr. Campbell is not the client?

6 MR. ROBINSON: No, not the client. As I said, they are

7 not here, they are not here. But I would

8 say, Mr. Chairman, that...

9 CHAIRMAN: Some are here?

10 MR. ROBINSON: Some are here. If you are being

11 incognito...

12 MR. ROBINSON: No.

13 CHAIRMAN: Some are here.

14 MR. ROBINSON: But he was asked the specific question

15 in relation to one account.

16 MR. WONG KEN: No, no.

17 MR. ROBINSON: Yes, he was asked the question, the name

18 of the person whose loan was written-off

19 to the tune of one hundred and something

20 million.

21 MR. WONG KEN: I asked for all...

22 MR. ROBINSON: Yes, but those persons aren't here.

23 CHAIRMAN: But you don't know?

24 MR. ROBINSON: Yes, I know.

25 (Laughter).

1 saying, "this is it, I want the world to
2 know". Maybe the people who want
3 confidentiality to be maintained should
4 come here and claim it. I do not know if
5 the Commission must claim it on their
6 behalf or seek to defend something like
7 that. Our business is to ensure that we
8 appreciate and understand what in fact
9 occurred.

10 MR. ROBINSON: There are two points in response to
11 that, Mr. Chairman. As I said before,
12 the rules which apply in a court are not
13 strictly speaking applicabey here. And I
14 said before that this is entirely within
15 your discretion as to whether or not
16 that evidence is disclosed to the
17 public.

18 CHAIRMAN: No, I follow that. May I say I am
19 looking to see what would be prejudicial
20 in disclosing the name. I look at it
21 from that point of view.

22 MR. ROBINSON: What am I saying...

23 CHAIRMAN: So obviously the Commission have to
24 exercise discretion but in making up our
25 minds we are grateful for any assistance

1 that we may have. So I ask you the
2 question as counsel, what would be
3 prejudicial about allowing the name to
4 be given?

5 MR. ROBINSON: Well...

6 CHAIRMAN: I tell you one thing, I don't suppose
7 there are many people in Jamaica now
8 who do not know that this Enquiry is
9 going on.

10 MR. ROBINSON: That is what I want to address.

11 CHAIRMAN: Everybody in this country -- I drive
12 down the road and I thought I was an
13 unknown man but everybody says, "yes".

14 MR. ROBINSON: It is the person who is affected who has
15 to come and say what is it that is
16 prejudicial. What happens if he chooses
17 to stay home? I am going to say this
18 Mr. Chairman, that, they have not been
19 informed that that information is to be
20 disclosed.

21 CHAIRMAN: They are advised that this is a public
22 Enquiry which would seem to me to
23 suggest that if it is public...

24 MR. ROBINSON: They should be here every day?

25 CHAIRMAN: No.

1 MR. ROBINSON: Well, that's the point.

2 CHAIRMAN: No, that is not the point. They must
3 advise themselves and they can do that
4 by reading all these experts on my
5 right. (Indicating the Press)

6 MR. ROBINSON: Oh, they are very selective in what they
7 report.

8 AUDIENCE: Oh! yes.

9 MR. CAMPBELL: Extremely.

10 CHAIRMAN: No, but they gave enough information so
11 that people who are interested can come
12 and see what is going on and if they are
13 concerned, as one would suppose they
14 ought to be, then they come here and
15 make their voices heard. Well --
16 anyway.

17 MR. ROBINSON: I can't speak on their behalf at this
18 Commission, I am here representing Mr.
19 Campbell, but I was trying to assist you
20 know, certainly in determining what
21 factors should be taken in consideration
22 in determining whether or not that
23 information should be disclosed.

24 CHAIRMAN: All right, thank you very much indeed.

25 MR. CAMPBELL: Mr. Chairman, if you would allow me,

1 there are two little points I would love
2 to make on the issue.

3 CHAIRMAN: You are giving us some legal advice too?

4 A Not legal, certainly not, I am not so
5 qualified. There is an important point I
6 need to make. The list that we have
7 submitted is a list of persons for whom
8 compromises were agreed. It could be
9 that some were not paid, so as a result
10 probably they don't even need to be on
11 the list. And for instance, there could
12 be someone in this room who got a compromise
13 and because the money wasn't paid the loan
14 was subsequently sold to JRF. So should we
15 also disclose that name? So that is something
16 to consider. Another important thing is,
17 since we intend to do a complete review of
18 the files to determine all the ones who were
19 compromised, in that process we will also
20 check to see that in fact whatever the amount
21 that was compromised was in fact paid . so
22 we would only submit the list of the ones who
23 have paid, because if it wasn't paid then
24 effectively there

25

1 was no compromise. So I would want to
2 submit that rather than release a name
3 now, wait until a complete list is
4 prepared. If in fact you then decide to
5 release a...

6 CHAIRMAN: But you see, this Commission will go on
7 for long time.

8 A No, Mr. Chairman, we intend to get you
9 that information very quickly because we
10 want to...

11 CHAIRMAN: If the name comes out now, that person
12 who is not here, he can come down here
13 and register his vote, would he not? The
14 first thing he would do is run down to
15 the Secretariat and see our Secretary
16 and say, "what is this madness going on,
17 I didn't know this?" It would bring him
18 out, if he is not here. if he is here...
19 (Laughter)
20 ...let him speak.

21 A Maybe he will not.

22 CHAIRMAN: And him includes her; I am not gender
23 anything.

24 MR. ROBINSON: Probably, Mr. Chairman with, respect I
25 think what Mr. Campbell is saying, we

1 should have accurate information before
2 we disclose it. The information he has
3 in there is not complete. When he makes
4 the checks, looks at the document...

5 CHAIRMAN: I don't like these confessions you know,
6 because I am being told now that what we
7 have is inaccurate.

8 MR. ROBINSON: No, not inaccurate, complete is the
9 word, complete. Because he is saying
10 that that was the document we called
11 "Window of Opportunity"

12 CHAIRMAN: Whether or not what I have said you
13 don't like it, but it is accurate but
14 incomplete.

15 MR. ROBINSON: No, Mr. Chairman, the document was
16 prepared at a time when the offer was
17 made; whether or not the person has paid
18 or not paid that information is not on
19 that document. So what Mr. Campbell is
20 saying when you we do our research we
21 should...

22 CHAIRMAN: Mr. Robinson?

23 MR. ROBINSON: Yes, sir.

24 CHAIRMAN: I don't want this to be a harsh
25 criticism but if this is accurate but

1 incomplete then we are okay.

2 MR. ROBINSON: I would rather say up to date. It is
3 accurate up to the time it was prepared.

4 CHAIRMAN: I don't want to give you a Thesaurus but
5 there is a vast difference between
6 inaccurate and incomplete because what
7 we are concerned with here is accuracy.

8 MR. LEVY: And the truth.

9 CHAIRMAN: So you are saying, it's accurate?

10 MR. ROBINSON: No, no, the document is accurate at the
11 time it was prepared what transpired
12 after of the document prepared that is
13 also important because that may
14 transform what is in the document. So
15 therefore when it was prepared it was
16 accurate and that is the compromise that was
17 put on the table. The person may have paid;
18 may not have paid. That information is not
19 there, so what Mr. Campbell is saying, let
20 us get that information, put it before you
21 and then when the information is released we
22 have have it as up-to-date.

23 So must I understand you are saying that all
24 CHAIRMAN: the documents we have here may have

25

1 to be updated?

2 MR. ROBINSON: No, sir. We are speaking about this one

3 specifically.

4 CHAIRMAN: No, no.

5 MR. ROBINSON: Not all the documents.

6 CHAIRMAN: Very well. Thank you, Mr. Robinson.

7 Please take five minutes.

8 (10:45 a.m.)

9 PAUSE

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1 CHAIRMAN: We are now resumed. The question before
2 us is whether or not we should allow the
3 names to be disclosed? The simple
4 answer is in the affirmative. The
5 write-offs were done by FINSAC, FINSAC
6 is not a bank. As far as we are
7 concerned there is no confidentiality
8 between FINSAC and the debtors.

9 MR. WONG KEN: Very well.

10 CHAIRMAN: That is our ruling - but it's an
11 appropriate time to take the 15 minute
12 break.

13 MR. WONG KEN: Commissioner, I thought you would have
14 been more considerate of me, I am
15 rearing to go.

16 BREAK TAKEN AT 11:00 A.M.

17 **On resumption at 11:15 a.m.**

18 CHAIRMAN: Ladies and gentlemen, we are now
19 resumed. Mr. Campbell, you are still
20 under oath.

21 MR. CAMPBELL: Yes.

22 MR. WONG KEN: Thank you, Mr. Chairman. I understand,
23 in consideration of the ruling made just
24 before the break, I understand that the
25 list of the debtors who benefitted from

1 the write-off has already been entered
2 into evidence and I wonder if I could
3 have a copy of that?

4 CHAIRMAN: Well you can, or shall I say you may.

5 MR. WONG KEN: So that will be forthcoming. Thank you.
6 In the mean time perhaps...

7 CHAIRMAN: Perhaps you can borrow Mr. Levy's.

8 MR. WONG KEN: Chairman, until your ruling, that list
9 was unavailable to us.

10 CHAIRMAN: Well it was in evidence, I don't know
11 why it was unavailable, it's in
12 evidence, its not at question of -- Mr.
13 Robinson may have one he can lend you.

14 MR. ROBINSON: I have one here.

15 MR. WONG KEN: My goodness. Wow!

16 CHAIRMAN: It's part of EC21A, that is the exhibit.

17 MR. WONG KEN: **Wow!**

18 CHAIRMAN: Yes, wow is the word. We all said wow,
19 including Mr. Campbell.

20 MR. WONG KEN: Mr. Campbell, until I have a chance to
21 digest all of this, perhaps you can
22 tell the Commission who was the
23 beneficiary of the 000000
24 write-off, the one that owed
25 000000?

1 A Before I answer that question let me
2 just reiterate for the benefit of the
3 records, that list of accounts submitted
4 headed 'Window of Opportunity' is a list that
5 was prepared following a 'Window of
6 Opportunity' that was
7 provided by FINSAC in or around
8 March/April 2001, whereby the debtors were
9 given an opportunity to put proposals to
10 FINSAC and FINSAC
11 considered those proposals. So this
12 Window of Opportunity here lists
13 original balances which were the total debt
14 for each debtor, the amount for which
15 consideration was given for write-off and
16 then the amount that they were expected to pay
17 during that particular period of time. So as
18 I said yesterday and the I will say again,
19 again for the record, we will need to check
20 to see whether in fact the amounts that were
21 approved for write-off have in fact been paid.
22 So if they were not paid effectively they were
23 not were not someone for whom I...
24
25

1 Q Can I interrupt you Mr. Campbell?

2 A I just want to make that point, because

3 it is very important.

4 Q Could you tell me now, who, or tell the

5 Commission, I am sorry, who benefitted

6 from the 000000 write-off?

7 CHAIRMAN: Just to get this accurate. This

8 document that was tendered is accurate

9 as at what date?

10 A It was prepared in December 2001, based

11 on a memo that was attached to it.

12 CHAIRMAN: December what?

13 MR. WANG KEN: 2001.

14 CHAIRMAN: So it was correct as at December 5,

15 2001?

16 A Yes, but the point I am still making

17 there, it is just a list of debtors

18 whose accounts were approved for

19 write-off.

20 CHAIRMAN: To that extent it is accurate?

21 A Right, but the approval is key. The

22 question that I was asked by the

23 Commission was: Whose debts were

24 forgiven? Until you have paid it's

25 really not forgiven, and that's why I

1 was suggesting earlier we need to just
2 check the system to see if in fact the
3 payments were. So you could have a
4 number of names on this list that
5 approvals were given for but unless they
6 were paid then it really wasn't
7 forgiven. So that's part of the
8 research we intend to do to come back to
9 the Commission.

10 CHAIRMAN: Very well, thank you.

11 MR. WONG KEN: Mr. Campbell, your evidence earlier when
12 I commenced my examination of you was
13 that there was a debtor who owed a
14 000000 for whom a 000000 was
15 written-off. I am asking you, who was
16 that debtor?

17 A A 000000 was approved for write-off. I
18 need to check if the payment was made.
19 The person...

20 CHAIRMAN: What is his name, let's get on.

21 A I was going to tell you. The person
22 here is DEBTOR A.

23 Q And could you tell the Commission the
24 identity of the debtor who owed
25 000000 for whom 000000 had

1 been written off?

2 A The information on here says DEBTOR B;

3 but there is a note here beside it

4 which says the debt was reverted,

5 meaning the payment was not made so as a

6 result the debt would have been sold to

7 JRF. So these are points I am telling

8 you I need to check.

9 CHAIRMAN: We understand the caveat, yes.

10 MR. WONG KEN: Could you identify the debtor who owed

11 000000for whom 000000 had been

12 written off?

13 A DEBTOR C.

14 Q Do you know the principal of DEBTOR C?

16 A No, I do not.

17 CHAIRMAN: Mister, just to understand, we are

18 required to see, check and ascertain if

19 people were treated fairly, equally

20 even, the word is equally; treated

21 equally. So if there is a decision to

22 do something that is the treatment, it

23 is not, that would be the treatment?

24 A Yes.

25 CHAIRMAN: Yes.

1 A At the end of the day though the
2 question was whether -- the question
3 was: What are the names of persons whose
4 debt were forgiven? Unless they have
5 paid they really were not forgiven
6 because the debt would revert to the
7 original position.

8 MR. WONG KEN: Mr. Campbell, you have indicated...

9 CHAIRMAN: Sorry. You asked that question about
10 forgiven?

11 MR. WONG KEN: No, I didn't.

12 A That was the original question to FINSAC
13 to the Commission.

14 MR. WONG KEN: My questions were really based upon his
15 initial answer to me.

16 CHAIRMAN: I understand perfectly.

17 MR. WONG KEN: Mr. Campbell, you have indicated that
18 the list was accurate as at December 5,
19 2001?

20 A Yes, this is a list we got from that
21 system.

22 Q To the best of the your knowledge, had
23 there been any other write-offs
24 subsequent to that date?

25 A Subsequent, no.

1 Q Would you undertake to make a check of
2 that and provide the information to the
3 Commission?

4 A Certainly, it is part of the
5 comprehensive exercise that we intend to
6 do.

7 MR. WONG KEN: Okay.

8 A Mr. Wong Ken, since you are asking, I am
9 looking on the list and I see for
10 instance, there is an account for Wong
11 Ken and Company on here.

12 CHAIRMAN: Listen, listen, listen.

13 MR. WONG KEN: No, let him go ahead.

14 CHAIRMAN: No, no, no, nothing is going to go like
15 that. The witness is there to answer
16 questions put to him; I don't understand
17 this reversing of roles.

18 MR. WONG KEN: Has there been a write-off of any money
19 to Wong Ken and Company, Mr. Campbell?

20 A I am not aware, and that's the point I
21 am making from the list.

22 Q Are you aware of whether Wong Ken and
23 Company has ever made a proposal to
24 FINSAC for write-off of anything?

25 A I am not aware but the fact that your

1 name is on this list...

2 Q So what's the point of you raising that,
3 Mr. Campbell?

4 A Well, the fact that your name is on this
5 list...

6 CHAIRMAN: We have gone off into frolics.

7 MR. WONG KEN: It's not a frolic, Mr. Chairman.

CHAIRMAN: He sees it.

9 MR. WONG KEN: Let me tell you why.

10 CHAIRMAN: This thing is costing us 40 million a day
and all sorts of things along those lines.

11 13 MR. WONG KEN: Mr. Commissioner?

12 14 CHAIRMAN: Yes.

15 MR. WONG KEN: I would like to clarify the point,
16 personally. The point is...

17 CHAIRMAN: Listen, I am sorry, Mr. Wong Ken, we are
18 not going to engage in all of that at
19 this time.

20 MR. WONG KEN: Very well.

21 CHAIRMAN: I already told Mr. Campbell that his
22 business, his responsibility is to
23 answer questions, nothing more.

24 MR. WONG KEN: I defer to you, Mr. Chairman.

25 CHAIRMAN: Thank you, very much.

1 MR. WONG KEN: Mr. Campbell, you were employed by
2 FINSAC?
3 A Yes, I was.
4 Q And FINSAC is a public entity?
5 A Yes, it is.
6 Q And you have a duty of care to the
7 public as a consequence of that, you
8 understand that?
9 A Yes.
10 Q I notice that you have counsel
11 representing you albeit the AG's
12 Department?
13 CHAIRMAN: Why albeit?
14 MR. WONG KEN: AG's Department. Mr. Campbell, I need
15 this for my own edification, because
16 this will effect how I deal with it.
17 Do you see yourself in an adversarial
18 position to the Commission?
19 A Absolutely not.
20 Q So you understand that you are here
21 working with us, with the Commission, to
22 satisfy the remit of the Commission?
23 A Absolutely.
24 Q And you also understand that the
25 Commission has awesome powers; it can

1 subpoena, it can order you to provide
2 information?

3 A Yes.

4 Q Can you inform the Commission, Mr.
5 Campbell, how would a debtor take
6 advantage of the write-offs; how would
7 that happen?

8 A A proposal is submitted to the officer
9 who manages the account and they do an
10 assessment, it is then submitted to the
11 Board for consideration.

12 Q Don't go any further yet, I just want to
13 explore that one point. You say that a
14 proposal is submitted to FINSAC?

15 A Yes.

16 Q What would inform a debtor that FINSAC
17 was receiving proposals?

18 A z was asked yesterday to just confirm
19 whether an actual advertisement was put
20 in the papers, so I am in the process of
21 checking that but my understanding was
22 that it was general public information
23 at that time. As to how it was
24 communicated, I do not recall.

25 Q Okay. So your understanding it was

1 general public information but you
2 really don't know whether it was made
3 public?

4 A I do not recall the medium by which it
5 was made public.

6 Q Are you sure it was made public?

7 A Yes.

8 Q And it wasn't so much a situation where
9 FINSAC would get in touch with a debtor
10 and say, "Hey, look, you are in an
11 essential industry, we want to keep it,
12 you have to come in and talk to us."
13 Was that the situation?

14 A I really do not recall.

15 Q So it wasn't so much a one on one
16 invitation as much as it was maybe a
17 publication in the newspapers saying
18 FINSAC was ready to talk?

19 A I would expect there would have been
20 some one on one telephone calls or
21 discussions.

22 Q So when you speak about the 'Window of
23 Opportunity' isn't that a little bit
24 generous and self-servicing for FINSAC?

25 A No, I would not say that at all.

1 Q So describe this 'Window of Opportunity'
2 for me, how would this 'Window' be
3 constructed and how was it open to
4 people?

5 A Like I said I don't know the fine
6 details but information was produced,
7 the facility existed and they were to
8 come in and submit proposals for us to
9 review.

10 CHAIRMAN: Sorry, but you don't know how that was
11 achieved?

12 A I don't know how it was communicated,
13 Mr. Chairman.

14 Q The point then is, that there was no
15 criteria or policy that you were aware
16 of that would inform the decision for
17 these write-offs to be made?

18 A I didn't see any.

19 Q I am asking you then, was there a policy
20 or criteria that informed how these
21 write-offs would happen?

22 A I do not know, Mr. Wong Ken.

23 Q You do not know if there was a policy?

24 A Yes.

25 Q Would you undertake to this Commission

1 to determine whether or not there was a
2 policy and provide the Commission with
3 the information?

4 A I will check but one would certainly
5 expect that normal banking - I will
6 check.

7 Q I don't want anything expect that, I
8 want to know whether there was a policy
9 and if there was a policy I would like
10 to know the criteria that informed that
11 policy?

12 A Sure, sure.

13 Q Thank you. If I understand the evidence
14 correctly, you have earlier indicated
15 that at the time that JRF was sold the
16 debt portfolio, FINSAC had no real way
17 of substantiating, of the proving the
18 debt? Is my understanding correct?

19 A Yes.

20 Q So that when somebody made a proposal to
21 FINSAC for write-off, how did FINSAC
22 inform itself as to the accuracy of what
23 was owed and therefore, the justness if
24 you like, the acceptability, if you
25 like, of the offer that was made?

1 A I have suggested previously that the
2 balances would have been submitted to
3 FINSAC from the various entities were
4 accepted as accurate unless there was
5 some challenge by the debtor in which
6 case a review would be made of the file.
7 So if there was no such challenge then
8 the balance we have was the accurate
9 balance which we would seek to work
10 with.

11 Q You are aware, at least now, I am sure,
12 that several debtors, questioned the
13 amount that have been owed, Wong Ken and
14 Company, for instance. Are you aware of
15 that?

16 A No, I am not aware of it.

17 Q Okay. So when a debtor would come in to
18 you, was it a situation where FINSAC
19 would say to the debtor, this is the
20 number we can accept and if you can't
21 pay that we will sell your property. Is
22 that roughly how the thing would have
23 happened?

24 A If you use the word roughly, I could
25 accept.

1 Q When FINSAC examined these proposals,
2 and undoubtedly it would have made some
3 counter-proposals -- accepted?

4 A Yes.

5 Q Has FINSAC done anything to determine
6 the ability of the debtor to service the
7 new dispensation to come up with the
8 money?

9 A Absolutely, that's one of the assessment
10 that is done. They look on the
11 business; they look on the cash-flow,
12 they look on the security that exists
13 and the value of the security that
14 exists and they come up with a figure in
15 conjunction with the debtor.

16 Q You indicated this morning that OCWEN
17 was retained to determine the value of
18 the debt, was that what you had said?

19 A Yes.

20 Q So it was the value of the debt?

21 A Right, because remember we are in the
22 process of trying to sell the debt, so
23 we wanted a value of the debt.

24 Q Okay. I heard you indicate that OCWEN
25 had retained local valuers for the

1 purpose of determining the value of
2 assets?

3 A The value of real estates.

4 Q Who determined the value of the debt,
5 not the assets?

6 A OCWEN applied a formula based on the
7 value of the real estate that they had.

8 Q Don't misunderstand me. Who determined
9 the value of debt, not the security for
10 the debt?

11 A I understand that. I am saying they
12 applied a formula based on the value of
13 the real estate they had, so in other
14 words, you have a real estate that is
15 valued a hundred thousand, you have a
16 debt, regardless of what the figure is,
17 they use a real estate value plus
18 whatever cash-flow they say you have to
19 arrive at a value for the debt.

20 Q Who determined whether the debt was
21 accurate, did OCWEN do that?

22 A I thought we passed that already, Mr.
23 Wong Ken.

24 Q I want to make it very clear.

25 A I am saying the figure that FINSAC got

2 from the institution was accepted as the
3 accurate balance on the debt; that has
4 nothing to do with the value of the
5 debt.

6 Q All right. So there is absolutely no
7 role that OCWEN played in determining
8 the accuracy of the debt; all that OCWEN
9 did, from your evidence, is determine
10 the security, isn't that true?

11 A You say determine the security?

12 Q The value of the security?

13 A Well, the value of security was done by
14 real estate brokers.

15 A Under the auspices of OCWEN?

16 A Yes, but the value of that security was
17 used along with other factors to arrive
18 at a value for the sale of the debt.

19 Q Well, I am not at the sale of debt yet.

20 A Okay.

21 Q So when you suggest to this Commission
22 that OCWEN was retained to value the
23 debt, that's not true? Not saying
24 you're lying, inadvertentence. Is it
25 more accurate to say that OCWEN
determined the value of the assets?

1 A If you are going to classify the asset
2 as the debt then I would say, yes,
3 otherwise I would say OCWEN was required
4 to value the debt.

5 Q I am not equating...

6 A They use the real estate or whatever for
7 the debt.

8 Q I am not equating debt with assets but I
9 think the evidence is clear: OOWEN
10 never determined the accuracy of the
11 debt, it simply ..

12 A I am not suggesting that they determined
13 the accuracy of the debt; I am not
14 suggesting that at all.

15 Q We have to be careful with words, Mr.
16 Campbell...

17 A And I agree with you.

18 Q ...because your transcript will say it,
19 unless I clarify it, your transcript
20 will say it, that OCWEN was retained to
21 value the debt?

22 A Yes.

23 Q And I am suggesting to you that's wrong.

24 A That's your interpretation.

25 Q When you entered into the agreement for

1 sale with Jamaican Redevelopment
2 Foundation, was there any qualification
3 given to them, to Jamaican Redevelopment
4 Foundation, as to the fact that no audit
5 of the debt portfolio had been done?

6 A There is no mention of that in the sale
7 agreement. I don't know if that may
8 have been discussed in the negotiations
9 leading to the agreement.

10 Q Did FINSAC contemplate at the time it
11 sold the debt that there may have been
12 or that there were in fact challenges to
13 the accuracy of the debt that was being
14 sold to Jamaica Redevelopment
15 Foundation?

16 A When you say did they contemplate it,
17 exactly what you mean?

18 Q Was it within their contemplation, were
19 they aware that there were debts that
20 were being challenged by the debtors?

21 A Yes.

22 Q So notwithstanding that, there was no
23 attempt to validate the debt, to
24 quantify the debt, other than taking the
25 bank's say-so; notwithstanding that

1 validity of the debt, FINSAC passed
2 over all the files to Jamaica
3 Redevelopment Foundation. Isn't that
4 true?

5 A Yes.

6 Q And knowing all of this, FINSAC
7 undertook not to deal with any of the
8 debtors. isn't that true?

9 A The debt had now been sold and the JRF
10 would have the right to do so.

11 Q In your capacity as a public official...

12 CHAIRMAN: The fact is, from what I understand, the
13 terms of the agreement, the terms of the
14 agreement now obliged or seemed to
15 oblige you not to give information. At
16 all events from what we understand from
17 the interpretation given by JRF, there
18 was some clause which we were told
19 about. Is that the position?

20 A No.

21 CHAIRMAN: There was some term in the agreement
22 dealing with information?

23 A I seem to recall that the clause that
24 was read suggested that we can give
25 information.

1 CHAIRMAN. Oh.

2 A Despite the fact that JRF seems to

3 interpret it otherwise but that wasn't

4 the question that was just being asked.

5 It was whether FINSAC would continue to

6 deal with the customers. Wasn't that

7 what you asked me, Mr. Wong Ken?

8 Q No, the Commissioner is more accurate in

9 how he has phrased the question to

10 you...

11 A It sounds like two different questions.

12 Q ...*whether* or not you had some

13 obligation that prohibited you from

14 dealing with the FINSAC'd?

15 A When you say dealing with, what do you

16 mean?

17 Q Providing them information with

18 information, negotiating with them?

19 A Oh, negotiating with them.

20 Q Or providing them with information?

21 A Well, that's two different things,

22 that's why I am saying the debt has

23 already been sold so we can no longer be

24 negotiating with them.

25 Q What about providing information?

1 authority and your legal right under the
2 agreement to compel Jamaica
3 Redevelopment Foundation to provide you
4 with the information?

5 CHAIRMAN: I thought he said he would take advice
6 from his counsel.

7 A I was just going to repeat that, Mr.
8 Chairman.

9 CHAIRMAN: I will do it for you.

10 Q You are a public official?

11 A Yes.

12 Q And you have recognized your duty to the
13 public?

14 A Yes.

15 Q And you recognize a specific duty to
16 those persons whose debts have been sold
17 by FINSAC?

18 A (No answer)

19 Q I recommend, only a recommendation,
20 consult with your attorneys regarding
21 misfeasance in public office - only a
22 recommendation.

23 A I will take the advice, Mr. Wong Ken.

24 Q Its good advice. Tell me - sorry, I am
25 inclusionary - tell the Commission, if

1 you correctly, a loans officer would
2 make an assessment of the debt and the
3 security, that secured it. What would
4 then happen with that proposal?

5 A I do not know the details but if you
6 want I could tell you what would
7 normally be expected to happen in a case
8 like that. After the assessment is
9 done, a proposal would then be submitted
10 to the Board and the Board would make a
11 decision on it.

12 Q Tell me, sorry, tell the Commission,
13 tell us, the persons who sat on the
14 Board, say for the period 1999 through,
15 2001, if you don't have the information
16 off hand I will accept an undertaking
17 for you to provide it.

18 A I have already provided that to the
19 Commission, I don't know all the names,
20 I don't remember all the names.

21 MR. WONG KEN: Chairman, would that information be
22 readily available?

23 CHAIRMAN: It's available, I don't know about the
24 adverb.

25 Continued....