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

TUESDAY, JULY 12, 2011

PRESENT WERE:

COMMISSIONERS

Mr. Charles Ross
Mr. Worrick Bogle

COUNSEL FOR THE COMMISSION

Hon. Justice Henderson Downer (Retired)

SECRETARY TO THE COMMISSION

Mr. Fernando DePeralto

MARSHALLING EVIDENCE FOR THE COMMISSION

Ms. Judith Clarke - Attorney -at-Law

REPRESENTING JAMAICAN REDEVELOPMENT FOUNDATION

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

REPRESENTING MR PATRICK HYLTON

Mr. Dave Garcia - Attorney-at-Law

REPRESENTING FINSAC LIMITED

Mr. Brian Moodie - Attorney-at-Law

REPRESENTING DEBTOR1, DEBTOR1COMPANY
DONOVAN CRAWFORD, DEBTOR6, DEBTOR15

Mr. Anthony Levy - Attorney-at-Law

REPRESENTING FINSAC

Mr. Brian Moodie - Attorney -at-Law
Miss Danielle Chai - Attorney-at-Law

GIVING EVIDENCE

Mr. Errol Campbell

Tuesday 12th **July** 2011

COMMENCEMENT : 2:05

COMM. BOGLE: Good afternoon ladies and gentlemen. This Enquiry is now in session. I would like to apologize for the accommodation this afternoon, however this is the only place we could have gotten at this time. We know that usually persons present in this room would be having other types of meetings, but this afternoon we will be having the Enquiry.
As per usual for the record, may we have the names of the attorneys present.

MR. LEVY: My name is Anthony Levy, instructed by G Anthony Levy and Company, representing Don Crawford, DEBTOR1, DEBTOR1COMPANY, Claudine Crawford, Alma Crawford, DEBTOR6, myself, justice and truth.

COMM. BOGLE: Next attorney.

MR. MOODIE: Brian Moodie and Danielle Chai, instructed by the firm of Samuda and Johnson, representing FINSAC.

MRS. PHILLIPS: Sandra Minott-Phillips, instructed by Myers Fletcher & Gordon, representing

Jamaican Redevelopment Foundation Inc.

COMM. BOGLE: Thank you very much. This afternoon we are supposed to be having the continuation of testimony from Mr. Errol Campbell and therefore, I would ask that he be sworn in at this time.

MR. ERROL CAMPBELL CALLED AND SWORN.

Thank you very much.
Mr. Moodie?

MR. MOODIE: Thank you, Chairman. I think the record will show that when we adjourned on the last occasion we were in the midst of going through FINSAC's response in relation to the allegations and complaints made by DEBTOR15.
Before we proceed with DEBTOR15, with your permission Chairman, I would ask that we be given permission to go back to DEBTOR2. I think when Mr. Campbell was giving evidence, a valuation report was requested by the Commission and we have that valuation report which we would now like to put

into evidence and that is the valuation report in respect of FP Apartment, St. Ann.

Do you have a copy of that valuation now, Commissioners?

COMM. BOGLE: Yes, we do.

MR. MOODIE: Could we just give it an exhibit number? I don't propose to go through it, it is in support of the evidence FINSAC gave in respect of DEBTOR2.

COMM. BOGLE: We could give it EC 40/11.

MR. MOODIE: Grateful, Chairman.

You had also requested, well, the Commission had also requested some information in respect of Sierra Associates Limited which on Mr. Campbell's evidence was the company that did the valuation of DEBTOR3IBS. We have that information and we will provide copies to the Commission. I am not sure you would want to enter it in evidence, it is a matter for you, but we have copies which we can give out. This is just a brief indication of who Sierra Associates is. They are experienced in terms of business valuations, et cetera for your guidance.

COMM. BOGLE: I recognize you, Mr. Garcia, your name for the record.

MR. GARCIA: Sorry for the late arrival, sir. Dave Garcia, representing Patrick Hylton.

COMM. BOGLE: Thank you.

MR. MOODIE: So if we could pick up now Chairman, with the evidence of FINSAC in relation to DEBTOR15.

COMM. BOGLE: Yes.

MR. MOODIE: On the last occasion just before we adjourned we had gone through several letters and those letters were entered into evidence. These are letters written by DEBTOR15's attorneys to FINSAC and letters to DEBTOR15 and to his attorneys from FINSAC.

So Mr. Campbell, I would ask you to please proceed to indicate what FINSAC's records have shown in relation to DEBTOR15's complaint and I would ask you to start with the FINSAC Credit Committee Report, dated May 6, 1999.

MR. CAMPBELL: Thank you, sir. This is a submission to the Credit Committee in relation to DEBTOR15ADC. And I will just read what is here on the minutes of the meeting. **This case was previously presented in November 1998.**

COMM. BOGLE: Excuse me, have we got copies of that?

MR. MOODIE: Copies were previously handed out, so you should have that with you, Commissioners, the Credit Committee dated May 6, 1999.

COMM. BOGLE: Yes. Mr. Campbell, it is May 6, 1999 you are reading from?

A: That's correct, Mr. Chairman. I will start again. This case was previously presented in November 1998 and MER of $1X MILLION was accepted by the Committee. The debtors were granted loan facilities of $7XXK in 1993 and additional loans totaling $2XM in 1997, from MSB/NCB. The case is being resubmitted for recommendation and acceptance of a new MER of $XM. The new MER is as a result of applying the unit's standard discount factors for security. The Workout Officer stated he has been

trying to get DEBTOR15 to provide a suitable proposal, but has met with no result.
Option #1: Workout Officer's Proposal
1. Replace previous MER of $1XM with new MER of $XM.
2. Make demand on debtor and guarantors.
3. If debt is not settled within thirty (30)day's proceed to dispose of properties by Public Auction/Private Treaty.
4. Sue debtor for balance.
Mr. Hylton stated that it would be difficult to sell the residential property at Marl Road due to its location.
And we have what is called the securities. Do I need to go through that?
MR. MOODIE: Yes, please do.
A: Security held is (a) 1st mortgage over residential property at XX Marl Road, Market Value $XM Forced Sale Value, $XM discounted by 50% to Realizable Collateral Value of $XM.

(b) 1st and 2nd mortgages over townhouse at KINGSTON 8. Market Value $XM, Forced Sale Value $X discounted by 30% to Realizable Collateral Value $XM.

(c) 2nd - 7th mortgages over residential property at KINGSTON 8, Market Value $1XM, forced sale value $1XM discounted by 30% to Realizable Collateral Value $XM.

So the total Realizable Collateral Value is $1XM.

Contract Rating: 100%.

Character Rating 70%.

Minimum Expected Recovery.

(Conservative): $XM.

Minimum Expected Recovery (Aggressive) $XM.

Resolution:

1. Workout Officer's proposal to dispose of the assets and sue for balance was accepted by the committee.

2. The Aggressive Valuation of $XM was accepted as the Minimum Expected Recovery.

Q: And if I may summarize them for you, this Credit Committee Report dated May 6, 1999 indicates in respect of Mr. Baker that the loan Workout Officer was unable to get a suitable proposal from DEBTOR15 in respect of the outstanding balance of his loan and it was determined by the Credit Committee of FINSAC to make a 30-day demand and if that demand was not met they would then dispose of the assets and sue for the balance.

A: Yes.

MR. MOODIE: Might I ask Chairman....

A: One very important thing that I have omitted. At the top right hand corner we have a Purchase Price and the Outstanding Balance. I should have mentioned those, the Purchase Price $2X Million and Outstanding Balance at the time was $4XM, and of course, we mentioned the MER already.

COMM ROSS: Sorry. Mr. Campbell, can you just explain what is meant by 'sue debtor for balance'. What balance they would be suing for?

A: It says dispose of the assets and having disposed of the assets if that does not liquidate the entire debt then whatever balance is left they would be sued for. So the total debt is $4X Million based on Realizable Collateral Value of $1XM. So if we were to get that it is the difference of almost $34 Million that would be what they would be sued for.

COMM ROSS: So there was no proposal here for any sort of debt forgiveness or debt reduction, essentially the option is seeking to recover the full value of the debt?

A: That's correct.

MR. MOODIE: May we give this one Mr. Chairman, an exhibit number EC 41/11 I presume.

COMM. BOGLE: EC 41/11, yes.

MR. MOODIE: Mr. Campbell, could you kindly go on to the Credit Committee Report dated June, 2000.

A: Minutes of the Credit Committee held on June 27, 2000 and case 6 was DEBTOR15ADC

Limited. Purchase Price: $2XM, Outstanding Balance $5XM.

Directors DEBTOR15 & WIFE received a loan of $7XXK in 1993 to provide working capital for the business. Further loans totaling $2XM were disbursed in 1997 from MSB and NCB. Debtors had frequent cash flow problems and were unable to service the debt. The company is still in operation but operates on a small scale.

The case was presented six (6) months ago and the committee accepted the officer's proposal to liquidate the security and sue debtors for the balance.

DEBTOR15 has obtained the services of Attorney-at-Law Jennifer Messado and has submitted the following proposal for repayment of the debt:

1. Accept immediate lump-sum payment of $XM, in exchange for the titles to the KINGSTON 8 and KINGSTON 8 properties.
2. Assignment of proceeds of the

arbitration (less arbitration fee).
3. Release his elderly mother from her personal guarantee.

COMM. BOGLE: Just a minute, Mr. Campbell, that means you are going on to page 16?

A: Yes.

COMM. BOGLE: I stop at page 15.

MR. MOODIE: I will ask Mr. Campbell to make his copy available to the Commission and we enter that into evidence because it seems the additional copies are also deficient.

COMM. BOGLE: All right, go ahead.

A: **3. Release his elderly mother from her personal guarantee.**
4. Release the Marl Road property since it will be impossible to sell.
5. Debtor will stand by his personal guarantee and requests three (3) years to pay the principal balance of the remaining debt after application of the arbitration proceeds.
The officer said the debtor's proposal is rubbish and proposed that we reject his request to pay principal debt over a three (3) year period. The officer is

recommending that we proceed immediately to liquidate the securities and file suit to recover the residual balance.

MR. MOODIE: Please continue.

A: And there is a list of the securities that I was mentioning in the previous paper; I need not repeat that.

The Resolution:

1. Debtor's proposal was rejected by the Committee.

2. The Committee accepted the Officer's recommendation to liquidate the securities and file suit to recover the shortfall.

MR. MOODIE: Thank you. Could we, for the purpose of the record, give that one an exhibit number and then enter it?

COMM. BOGIE: EC 42/11. And that is the Credit Committee Meeting Minutes June 27, 2000, entered.

MR. MOODIE: Thank you. Mr. Campbell, might I ask you now to go on to the Credit Committee Minutes, dated July 11, subject to questions from the Commissioners.

COMM ROSS: Just one quick question, Mr. Campbell.

Can you shed any light on why in the preceding six months no action was taken on the previous position?

A: I am really not sure. It may have been correspondence between the parties during the time and as it says in this submission that DEBTOR15 has obtained the services of an Attorney. So it could be over that period of time that they were corresponding which culminated in the submission of a new proposal.

MR. MOODIE: I think Mr. Campbell's explanation must be borne out by the letters which we already went through and exhibited between FINSAC and DEEBTOR15's attorneys.

If you could now, Mr. Campbell, move on to July 2000 Credit Committee Meeting Minutes.

A: Credit Committee Meeting Minutes of July 11, 2000 - I don't have the complete thing.

Q: Page 31, do you have page 31?

A: Yes, but I noticed it says continued.

Q: Mr. DePeralto, may I ask you to copy

this. Mr. Campbell is going to read it through and then copies can be facilitated.

A: Minutes of the Credit Committee meeting on July 11, 2000 and this particular matter relates **to DEBTOR15ADC Limited Purchase Price: $2XM, Outstanding Balance $5XM. DEBTOR15 and WIFE, directors of DEBTOR15ADC LIMITED, were granted loan of $7XXK in 1993 through MSB/NCB to provide working capital for the business; additional loans totaling $2XM were disbursed up to 1997.**

Debtors experienced frequent cash flow problems, which resulted in regular debt servicing. The company continues to operate but on a smaller scale with the main source of income being the leasing of equipment.

The case was recently submitted to the Committee for approval of the following proposal.

1. Accept $XM in exchange for the Titles to townhouse in Acadia and

property at Grosvenor Terrace.
2. Assignment of proceeds of an Arbitration.

COMM. BOGLE: 3. Release his mother from her personal guarantee and release property at Marl Road.

4. Allow three (3) years to **repay the principal balance of the remaining debt after application of the Arbitration** proceeds.

The Committee had rejected debtor's **proposal and instructed the officer** based on his recommendation to dispose of the properties and file suit to **recover the shortfall. Subsequently, the** debtor met with us **and proposed that we accept payment of $X MILLION in exchange for** the release of both properties. Debtor **also requested that we accept** Arbitration proceeds.

The officer told debtor there **was no way** we could accept the proposal, as we could not determine how much the amount would be. Since then debtors **have** volunteered to place the Barbican Road

property on the market and asked that we give more time in which to sell.

The case is therefore being presented as the officer is seeking the authorization of the Committee to allow debtor to sell the two-bedroom townhouse in

Barbican for $XM. A valuation of the townhouse was done in June 1999 and a Market Value of $XM and forced sale of $XM were assigned. Debtor is being represented by the Attorneys Jennifer Messado & Company.

The officer is also asking that we hold the sale of the Grosvenor property in abeyance for three (3) months to allow time to settle the residual balance. Mrs. Robinson said she would grant debtors the additional time of three months to dispose of the property. However, if debtor is not able to sell we will undertake the sale of the property as she does not want another proposal.

We have a **list** of the securities with the same amount as was previously

mentioned and the Resolution:
1. The Committee agreed to accept the offer for $XM for sale of the property and.
2 It was also agreed to hold sale of the Grosvenor property in abeyance for three (3) months ending October 15, 2000 whether or not we get the arbitration funds.

Q: Might I ask Chairman, that this document be tendered in evidence as well.
Just for the record Mr. Campbell, these documents were among the records at FINSAC in DEBROR15's file as well, they were seen previously by you?

A: Yes, they were. And copies have already been submitted to the Commission.

Q: Thank you. I have asked Mr. DePeralto to provide a full complete copy of the minutes dated July 11, 2000 in relation to DEBTOR15 and WIFE.

COMM. BOGLE: Exhibits EC 43/11.

MR. MOODIE: Unless there are any questions from you Commissioners, in relation to the evidence just given by Mr. Campbell, we would wish to move on to the complaints made by DEBTOR6.

COMM. BOGLE: Mr. Campbell, in the case of DEBTOR15 and DEBTOR15ADC the properties were disposed of?

A: I really could not answer that question at this time.

COMM. BOGLE: Was it one of those that sold to JRF?

A: The debt was sold to JRF, but I am not sure if the property was sold prior to that.

COMM. BOGLE: As far as you are concerned FINSAC sold the debt and whatever went with it to JRF?

A: That's correct.

MR. MOODIE: Mr. Chairman, we move on now to the complaints of DEBTOR6.

COMM ROSS: I have one last question. So Mr. Campbell, this last Minute that you read to us, is that the last reference to this debt on the FINSAC file, am 1 to understand?

A: I really did not check to determine that Mr. Commissioner. However, this is July 2000 and we didn't sell the debt until January 2002 and so I would imagine there must be some other.

MR. MOODIE: Might I ask Mr. Campbell, are you aware of any other decision made subsequent to the decision reflected in the last minutes, to your recollection?

A: To my recollection, no.

Q: Thank you. I move on now, Chairman, to the complaints of DEBTOR6 and the transcript references are December 2, 2010 and January 20, 2011. DEBTOR6 complained that he failed to receive an accounting in relation to the sale of certain properties. He also complained that FINSAC did not hand over security documents to NDB and therefore he could not take advantage of a facility being offered to him at that time. He complained that FINSAC rejected his proposal to sell his securities leaving him with the assets of DEBTOR6AC Limited and to forgive the remainder of his debt which then was in excess of $1XXM. I think his proposal was in the range of $1XXM. He alleges that FINSAC sold his Barbican property for an undervalue and said that at the time FINSAC took over Horizon Merchant Bank, who was his bankers, he was not in default of his loan obligations. He said generally he was treated unfairly by FINSAC and alleges that he didn't get the write-off like other persons he alleges got.

Mr. Campbell, could you please indicate FINSAC's response to these allegations based on your review of the records. Before you do so, might I just indicate Commissioners, that in DEBTOR6's cross-examination he admitted that FINSAC sent statements to him but he did not know how they arrived at their figures. And the references to where those can be found in the transcripts have already been provided to you. He also admitted on cross-examination to receiving letters from FINSAC dated August 30, 1999 and November 23rd 1999, and the references are also quoted for you and that FINSAC sent him receipts of

payment received.
Could you, Mr. Campbell, go on to indicate FINSAC's response to the other allegations which were not addressed directly.
A: The approvals which were previously granted to DEBTOR6 from Horizon, FINSAC continued to extend a facility to him so that he could clear some vehicles and that had to be done in the name of Accurate Concrete. In addition to that...
Q: Could you indicate, if possible, the amount of that facility?
A: The total facility approved was 2X Million Dollars.
Q: Yes, please go ahead.
A: Other than from the sale of properties no other payments were made to the account by DEBTOR6 and this loan which was paid was from a property sale and the moneys were sent to us by National Commercial Bank.
Q: In respect of the allegations that DEBTOR6 failed to get an accounting

in relation to certain of his properties, are you able to provide a response to that?
A: In researching the file we saw where DEBTOR6 had written to FINSAC for copies of the Sale Agreements to be sent to him and by letter dated September 15, 1999 copies of those letters were sent.
Q: And I think that letter, Commissioners, was already tendered as an Exhibit during DEBTOR6's evidence. I think the exhibit number would be TD9. Might I refer you now, Mr. Campbell to FINSAC Credit Committee Minutes dated September 17, 1999. Have you seen those Minutes before?
A: Yes, I have.
Q: You have a copy with you now?
A: Yes.
Q: And those minutes were among DEBTOR6's file at FINSAC?
A: That's correct.
Q: Mr. Deperalto, your assistance.
A: This is an extract from the Minutes of the Credit Committee held September 17,

1999 in relation to the case for DEBTOR6 and WIFE.

Purchase Price $2XX Million.

Outstanding Balance $3XX Million. Debt originated at Horizon Merchant Bank. An arrangement was in place at Horizon Merchant Bank where

authorization of $2X million was granted to debtors to purchase equipment for DEBTOR6AC LIMITED (in St. Catherine) and to complete start-up operations. The account was later transferred to FINSAC who disbursed approximately $1X million of the approved facility and the balance was used to cover stamp duty and other related costs associated with the Bill of Sale over the equipment.

Over the past ten months, Mrs. Robinson, Miss Davis and the Workout Officer have met with debtors and their consultants. Life of Jamaica was commissioned to do the valuations on the properties and equipment which were valued for $1XX Million. There was disparity with the

present valuations and that was done previously by Easton Douglas for $1XX Million.

A proposal was made by debtors to accept all securing properties as full and final settlement of the debt. The Workout Officer stated that should we accept the DEBTOR6's proposal for $1XX Million net proceeds from sale of all their assets (properties) held as security, except the Debenture over Fixed and Floating Assets of Accurate Concrete, we would have to write-off approximately $2XX Million. The Officer is therefore proposing that we sell the properties as well as other assets.

No payments are being made towards the debt. The only payment received to date, is sale proceeds totaling $X Million from a property sold by NCB. It was suggested that where the specialized equipment are stored due consideration should be taken to remove them as soon as possible before they are removed

piece by piece.

Realizable Collateral Value: $1XXM

Contract Rating: 100% Character Rating: 50% Minimum Expected Recovery (Conservative): $6XM

Minimum Expected Recovery (Aggressive); 9XM

Resolution:

Sell properties and sue directors for balance.

Q: May we enter this as EC44\11. Mr. Campbell might I refer you to a Case Summary Form dated November 30, 1998, do you have that form with you?

A: Yes, I do.

And was that form also among the FINSAC files in relation to DEBTOR6?

A: Yes, it was.

Q: Could you kindly describe what's on that form and the attachments thereto just very briefly for the Commission. I am going to ask that this be entered in evidence, subject to any questions the Commissioners may have.

A: This is the general format of presentations to the Committee which sets out a summary of each case and as you look through you get an idea of the type of information that is normally provided, the name of the debtor, directors, if any, the type of the business they are in, their balances and the institution from which the debt originated. That's on page 1 and it gives you a synopsis as to the history of the loan whether there are people who are paying, that sort of things.
Q: Are there any questions arising? We would just wish to put that form...
A: I would just turn to page 2.
Please do.
A: At the top it says **4C's Framework for Case: DEBTOR6 GROUP.** These are usually the areas that are looked at in assisting the officers to arrive at a position in relation to each case. The 4C's being Cash Flow, Collateral, Contract and Character. Cash Flow naturally tells you whether the debtor

is paying yes or no, the Collateral, you list the collateral; contract tells you whether all the related collaterals are properly signed and that sort of thing, and the Character will tell you that these are persons who are co-operating, they are making an effort or they don't care less. Those are the 4C's.
The next page gives you the Realizable Value of Collateral. So it lists the collateral and it tells you...

COMM. BOGLE: Can you enlighten us on the headings of the columns on the third page?

A: The first one would be the current market value, the second one is forced sale value, the third one would be the Stamp to cover the amount, normally you abbreviate that as STC, stamp to cover, and the fourth one is the net realizable value. And the net realizable value is usually a function of - the amount the security is stamped for and the officer's assessment as to whether how saleable they view the asset to be.

Q: Would you describe what is found on the third page?

A: Which one?

COMM ROSS: Sorry. Mr. Campbell, can you just explain a little bit for us about the stamp to cover, would that stamp to cover figure seem way in excess of the market value of the properties; you have any explanation for that?

A: There might be a typo here, but it could be sir, that the $98 Million is the three properties combined.

COMM ROSS: Oh, I see.

A: The first three combined, so probably it should only have the $98M once.

MR. MOODIE: Are there any other questions from the Commissioners arising from this document?

A: And if you look back at the previous page under the 4C's under DEBTOR6TM LIMITED, it says 1st Debenture over assets STC $98M supported by 2nd mortgage 1 acre lot at Montrose Road. So it is the debenture and those mortgages that are collaterals.

COMM. BOGLE: Mr. Campbell, the fifth page I just want you to take us through the fifth page, the Outstanding Loans.

A: Outstanding Loans, as you see they are under five bold headings: DEBTOR6AC Limited, DEBTOR6TM Limited, DEBTOR6RCF Limited, DEBTOR6, DEBTOR6WIFE.
So these are the five debts that are connected to the group and separately you have Principal balances, Interest balances and the Total for each. So for each loan you have a principal balance and an interest balance and then the total balance. And then for each company you have the total that they own as well.

Q: You have under DEBTOR6AC Limited Horizon Re: New Project J$3X MILLION and Interest $2X MILLION making it approximately $6X MILLION and then you have Horizon Add Loan $2X MILLION, no interest.

A: I believe that is the $2X MILLION that FINSAC advanced as we mentioned earlier in the evidence. So we didn't charge any interest. And Horizon is just

telling you the entity from which the loan originated.
Q: And the three last ones would have been loans in the amount of $X,000,000 each that would come over from Horizon?
A: That's correct. And there is also a $X,000,000 to DEBTOR6AC Limited. So these are four loans granted to purchase apartments up at Waterloo.
Q: Commissioner, are there any further questions on this document?
A: So as I said, the total debt, there is $3xx MILLION and his proposal was for us to accept $1XXM, accept the value of the collateral in settlement and based on our net realizable profit calculation there was only $1XXM, so we would be writing off over $2XX,000,000 as acceptable.
MR. MOODIE: Could we enter this document into evidence, Mr. Chairman?
COMM. BOGLE: EC45.
COMM ROSS: Mr. Campbell, both DEBTOR6 and DEBTOR15 complained that they were not offered this window of opportunity. Can you shed any light on that, and is there

any particular reason for that?

A: If they mean they were not specifically written to, to be told about it, perhaps that was the case, but the window of opportunity was in the public domain. I would not agree that they were not offered.

COMM ROSS: There is certainly no evidence here that you made such an offer.

A: I did not research the entire files on all of those matters. I researched primarily in relation to the claims that were being made. And I am saying I would not agree that they were not offered the window of opportunity.

MR. MOODIE: Mr. Chairman, it would appear though in respect to Mr. Ross' query that these properties were residential properties.

COMM ROSS: The window of opportunity then referred to was not the one that had to do with residential properties. Okay.

MR. MOODIE: You are speaking about the first window of opportunity?

COMM. BOGLE: Correct.

MR. MOODIE: And I think that there is more evidence

coming.
Might I ask you, Mr. Campbell, to move on to the Credit Committee Minutes dated April 1, 1999.

A: Credit Committee Minutes, April 1, 1999 and the extract relates to DEBTOR6 Group.

Purchase price, $2XXMillion; outstanding balance, $4X Million. Debt is on HMB facility with a Realizable Collateral Value of $1XXM which was based on unit and equipment being held in storage on the wharf. At the time the loan was granted, it was not clear whether or not the Bill of Sale or Debenture documents were registered; hence the MER was approved.

The company DEBTOR6AC Limited is not up and running and there is some uncertainty when it will be operational. However, the Workout Officer is to ensure that the documents are registered. Debtor had approached NIBJ who are unable to assist with funding at this time. Neither will their proposal

be granted by NDB.

A current draw-down of $2XM was approved with an outstanding amount of $XM. Debtors had convened a meeting on March 30, 1999 requesting the $XM be given to them to import five additional trucks and other related costs. They claim that this would enable the company to commence generating income to service their debts. A verbal commitment has been received from Gore Tuca Limited, the company presently engaged in a two year housing project in the Portmore area to purchase concrete from DEBTOR6AC who would be sub-contractors in the business.

Debtors were recently advised that we have received an assessment of the security documents and the approximate cost for stamping would be over $3M. In view of the foregoing, the company is unable to find these funds and the undisbursed sum will assist in defraying these costs.

Realizable Collateral Value $1XXM

Contract Rating 100%.
Character Rating 50%.
Minimum Expected Recovery (Conservative) $6XM).
Minimum Expected Recovery (Aggressive): $9XM.
Resolution:
1. Documents must be registered/stamped to ensure that our position is fully secured.
2. The undisbursed amount of $XM will be retained to assist in defraying costs associated with the registration of security documentation.

Q: Chairman, with your permission might we label this one EC46\11.
And finally, Mr. Campbell, might I ask you to go through Minutes dated September 19, 2000.

A: The Minutes of the Credit Committee Meeting, September 19, 2000.
Case: DEBTOR6TM Limited, DEBTOR6AC Limited, DEBTOR6RCF Limited, DEBTOR6 & **WIFE**

Purchase price $2XXM.

Outstanding Balance $5XXM.

The facility originated at Horizon Merchant Bank. DEBTOR6 developed several housing projects. In October 1997 loans were restructured to DEBTOR6TM totaling $1XXM. Mortgage loans were granted to group companies to purchase apartments in the WATERLOO development. Based upon agreement with NDB a loan of $4XM was granted to start DEBTOR6AC Limited, a ready concrete mixing operation. Additional funds of $2XM were approved in July 1998 to complete the project.

In March 2000 the Credit Committee agreed that all the properties held as security were to be sold and the companies' Directors sued for the balance.

Part of the security package held ought to have included a Bill of Sale over machinery, equipment and trucks for Accurate Concrete Limited. However, although stamped, the Bill of Sale has

not yet been recorded at the Registrar of Companies office - the documents were returned for amendments to be made. DEBTOR6WIFE has since written to advise that **she** has procured a purchaser for three trucks for $600,000 each. She noted that quite a bit of the equipment has been stolen.

Of significant note is the fact that when the equipment, machinery and trucks were imported, the company was granted a waiver of Customs Duty and General Consumption Tax. This was granted, provided that the goods would not be sold or transferred or commercially exchanged or otherwise disposed of locally within a period of three years without the prior approval of the Commissioner of Customs and the GCT Department; the applicable Customs Duty per truck was $600,000.

Security held:

Total realization security $620,000.

Mrs. Robinson mentioned that when the loan was transferred Finsac was still facilitating a draw-down.

Mr. Hylton felt that maybe Finsac should try to sell the equipment. Ms. Alexander wondered if the transfer caveat could be waived and suggested that the act be checked. In response Mrs. Robinson suggested that a meeting be convened with the Commissioner of Customs to see what concession Finsac could get.

Mr. Hylton suggested that the trucks be valued as is and that with this the Commissioner would be approached. The situation with the location of the trucks was discussed and Ms. Campbell suggested that the Police be asked to assist when the valuation is being done. She further stated that the perfecting of the **Bill** of Sale will have to be completed before the trucks are valued and then the Commissioner of Customs is approached. She suggested that maybe all the equipment should be valued at the same time.

The Committee agreed that all the

equipment and machinery be valued. Miss Davis questioned the possibility of relocating the equipment, for example, to the Ministry of Works.

RESOLUTION:

1. See the perfecting of the Bill of Sale.

2. Commission valuation on the equipment and machinery.

3. Approach the Commission of Custom regarding the waiving of related duties on the sale of the agreement.

Q: With your permission, Mr. Chairman, might we enter this document in evidence as EC47/11.

COMM. BOGLE: EC47/11.

Q: And that would be Credit Committee Meeting Minutes, dated April 1, 1999. Are there any questions arising for Mr. Campbell from any of the documents submitted? If there are none...

COMM ROSS: Mr. Campbell, could you just tell us in what interest rate or what interest rate was being applied to these loans? We notice that the outstanding balance keeps climbing.

A: The normal rates are 30%. It may have been that the mortgages were a little less than that. I just need to double check and tell you. Thirty was the maximum rate.

COMM. BOGLE: Look at the presentation summary work-out sheet and it states basic loan balance, interest rate 30%.

A: I see that. I am sure that was not the rate but I will check. I will check and when next I come back I will present the information. I will copy some of the information to show you.

MR. MOODIE: With your permission, Mr. Chairman, we now wish to move on to the complaint of DEBTOR16. This company is DEBTOR16BRC Limited and DEBTOR16MFC Limited.

The transcript reference would be January 18 and February 18, 2011.

in essence, in reviewing most of the transcripts for Mr. Rose, most of his complaints were in relation to the matter that he eventually brought in court against a former Director who he

alleged withdrew funds exceeding $12M from the account of DEBTOR16BR for his personal use. I think the record shows that this matter is still awaiting Judgment.
Mr. Campbell, might I ask you to indicate - awaiting trial - might I ask you, Mr. Campbell, to indicate whether there were any Board minutes in relation to DEBTOR16 which may assist the Commission in relation to DEBTOR16's complaint?
A: Yes, there are.
Q: Could you give the date of those minutes and read them into the record before we ask for them to be admitted please.
A: Board Meeting of FINSAC and FIS held on June 5, 2009. And I have an extract of the Minutes here.
Q: Please proceed, Mr. Campbell.
A: **Minutes of the meeting of Board of Directors of FINSAC Limited and Financial Institutions Services Limited held on June 5, 2009 at 10:00 a.m. at the Ministry of Finance & Public Service 30**

National Heroes Circle, Kingston 4. And it lists the directors who were in attendance. I have an extract of the Minutes here and the Extract as it relates to DEBTOR16BR *et al* versus **Workers Savings and Loan Bank et al** reads.

The Board considered the update provided by the Solicitor General (SG) on the matter. The possibility of an out-of-court settlement was posited by the SG particularly as approximately J$1XXM was said by the claimant's attorney to have been deposited by the Workers' Bank at the Bank of Jamaica pending the outcome of this suit.

Mr. Campbell was asked to verify whether in fact the sum of J$1XX M was deposited and if so, its current status. The Board decided that the Solicitor General should be instructed to await the decision of the Court of Appeal on the matter of the striking out of a significant portion of the Claimant's evidence.

Q: Do you have with you Mr. Campbell, Matter for Approval for Board Update, June 5, 2009?

A: Yes, I do.

Q: Could I ask you to read it now into the record.

Chairman, might I ask before Mr Campbell is asked to read that one that we give this extract from the Minutes an exhibit number?

COMM BOGLE: EC 48/11.

MR. MOODIE: Grateful Chairman. I think this document that Mr. Campbell is going to go on to will certainly explain the extract in detail. Perhaps we should have asked him to read it first but I apologise if there is any mix up. Mr. Campbell please go ahead with the Board presentation, the Matter for Approval.

A: FINSAC/FIS Limited.

Matter for Board Update, June 5, 2009.

Issue: DEBTOR16BRC Limited, DEBTOR16MFC Limited & **DEBTOR16**

versus Workers Savings & **Loan Bank**

& DIRECTOR2.

There are four suits involving these parties, which relate to accounts formerly operated at the Workers Savings & Loan Bank (Workers Bank) by DEBTOR16 in the name of his companies, DEBTOR16BRC Limited and DEBTOR16MFC Limited.

DIRECTOR2 is a former branch manager of the Workers Bank and he was authorised by DEBTOR16 to sign on the companies' accounts, with cheques above $XK requiring two signatures. The records reflect that DIRECTOR2 signed cheques alone for amounts above $XK and was able to negotiate them at the Bank.

DEBTOR16 through his companies sued the Bank and DIRECTOR2 for these wrongful debits to the accounts, since the funds were paid from the accounts without the proper authority, seeking to recover the funds.

The matter has not yet gone to trial but the former attorneys for Workers' Bank

(Myers Fletcher & Gordon) have applied to strike out some of the evidence put forward by DEBTOR16 or on his behalf and this decision was made in favour of the Bank, to which DEBTOR16 has appealed. This appeal was heard but the decision has been pending for over two years. (DIRECTOR16 and co-accused JANE DOE-MT have been convicted for fraud in a similar matter brought against them and CIBC Jamaica Limited).

Armed with this decision in his favour, DEBTOR16 through his attorney while waiting on the Court of Appeal, has commenced settlement negotiations with the Attorney General's Chambers (AGC), which now has conduct of the matter on behalf of Workers' Bank.

Please see attached copy letter from the Solicitor General seeking some directive from us how to proceed with the present negotiations, for which we now seek directive.

There is a letter from the Attorney General's Chambers dated May 28, 2009,

addressed to FINSAC Limited. Two suits.
Q: Sorry what's the date of that letter?
A: May 27, 2009.
Suit C.L. 1996/BBBB.
DEBTOR16BRC Limited v Workers' Savings and Loan Bank and
Suit No. C.L.1995/BBBB.
DEBTOR16BRC Limited & DEBTOR16 v DIRECTOR2.
I refer to above captioned matter and our telephone conversation on Tuesday May 12, 2009 on the same.
This is to formally advise you that I have been having discussions with Mr. Gayle Nelson, Attorney-at-Law for and on behalf of the claimants in the above mentioned suits, with a view to ascertaining how we could arrive at an amicable settlement of the outstanding issues in both suits.
As you are no know doubt aware, there is before the Court of Appeal, an appeal in respect of both suits from an interlocutory order of Mr. Justice Campbell. The parties are still

awaiting the outcome of the pronouncements and agreements presented before the Court of Appeal, which has reserved judgment in the matter.

This letter is seeking your instructions on two fronts. First, as regards the outcome of the appeal against Mr. Justice Campbell's order aforesaid, Mr. Gayle Nelson had suggested that we should continue our settlement negotiations without regard to the judgment, regardless of the outcome in the Court of Appeal. This is an option for FINSAC, but in my view, it would be better to await the outcome of the Court of Appeal's judgment, as it is very likely that the Court of Appeal will uphold Mr. Justice Campbell's order. If that eventuality should arise, then in my view, it would give the defendant (Workers' Bank) considerable leverage in negotiating a settlement, and in any settlement to be negotiated in such circumstances would be one in which Workers' Bank (now FINSAC) would have a

clear advantage.

On the contrary, if the appeal were to go in favour of the claimant, then it would give him considerable advantage in the negotiations. The matter is therefore one for FINSAC and if the Board of FINSAC is of the view that considerable time and effort could be saved now, if negotiations were to commence and conclude before the judgment, then I would ask that we be formally instructed to continue the pursuit of these negotiations. If however the Board is of the view that it would be better to await the outcome of this appeal before concluding any negotiations, then in the circumstances, it would be better to await the ruling of the Court of Appeal.

Mr. Nelson has also suggested that on an interim basis, the parties could be accommodative of each other, and he would be willing to seriously entertain settlement in the sums belonging to the defendant, and which are now deposited

in the Bank of Jamaica pending the outcome of this litigation? I am made to understand from Mr. Nelson that these are substantial sums in excess of $J121M, which was deposited by the former Workers Bank pending the outcome of this suit. If put to him now, the claimant would seriously consider this, in his words, an interim settlement. It is my view that if such a sum exists and were actually put aside by the company, pending the outcome of the litigation, then on our part, we could seriously persuade the claimant to accept this sum and abandon this litigation all together. I therefore write for confirmation as to whether this sum exists, as if it does, the existence of the same would have a very positive impact on the outcome of these negotiations. I therefore await your instructions on the matter.

If there are any further queries, please do not hesitate to contact me.

Yours faithfully.

Douglas Leys.
Solicitor General.

MR. MOODIE: Chairman, could we enter this document into evidence please?

COMM BOGLE: 49/11.

MR. MOODIE: EC 49/11. Grateful, Chairman.
There is one more document we would wish to enter, there are two more. The first I would ask would be Credit Committee Minutes dated October 17, 2000. The purpose of these minutes would be to indicate the security held. We certainly think that the documents which were just read to you, give a synopsis closer to today's date than these minutes dated October 17, 2000, just to illustrate the securities held by FINSAC.
Mr. Campbell, could I ask you to refer to those Minutes and to just go through the securities held in respect of this account?

A: Sure. The securities held are recited on page 20 of this document.
1. PROPERTY1 Waterloo, Market Value

$XM, Forced Sale Value $XK.

2. PROPERTY2 Keystone, Market value $XM, Forced Sale Value $6XXK.

3. PROPERTY2 Resthaven, Market Value $8XXK, Forced Sale Value $6XXK.

4. PROPERTY4 Northern Est, St. James. Market Value $3M, Forced Sale Value $XM.

5. PROPERTY5 Norbrook, Kingston, Market Value $XM, forced Sale Value $XM.

6. PROPERTY6 Greenwich Pen, Market Value $3M, Forced Sale Value $2M.

7. PROPERTY7 Palm Beach, MoBay, Market value $XM, Forced Sale Value $XM.

8. PROPERTY8 Marie Avenue, Portmore Market Value $XM, Forced Sale Value $XM.

9. PROPERTY 9 HWT Road. Market Value $XXM, Forced Sale Value $X8M.

Thank you. Might we enter that into evidence as EC 50/11, Mr. Chairman?

COMM BOGLE: Yes, 50/11.

Q: The final document would be the Case Summary Form attached which is the 4 C's Framework which indicates the securities, the collateral held which

Mr. Campbell just went through that I would ask you to enter into evidence as well. Unless there is anything you would wish to highlight and ask questions from this, I just ask that the document be admitted.

COMM BOGLE: Mr. Moodie, we will take this into exhibit, EC 51/11.

MR. MOODIE: May I just indicate, Chairman, as you have indicated yourself before, if there are any questions arising, Mr. Campbell will be returning and so we would ask that those questions be submitted to us that Mr. Campbell could do the relevant research necessary.

COMM ROSS: Mr. Campbell, the MER at the top of the page on the right-hand side, is that correct?

A: On the Case Summary Form, Mr. Ross?

COMM ROSS: Yes, on the last document that you presented?

A: It seems a little low. I would need to check Mr. Commissioner. As you saw me leafing through, I was looking to the page that had the total realizable for the collateral which is almost 44 million. So it would seem a little unusual for the MER to be only two million. I'll check.

COMM BOGLE: Yes, Mr. Moodie?

MR. MOODIE: Thank you, Chairman. We move on to the complaint of DEBTOR11, DEBTOR11NWD Limited. The transcript reference is February 24, 2011 and also his Witness Statement. I make specific reference to Paragraphs 16, 22 and paragraphs 23 to 77 of his Witness Statement.

DEBTOR11 alleges that he was not in arrears at the time his debt was taken over by FINSAC. He said after FINSAC got involved his business spiraled downwards and interest rose and compounded on him. He alleges he had an arrangement with his bankers that he would only make payments on his loans as he sold units. He also alleges that between 2001 and 2003, he made tireless efforts to negotiate with FINSAC but FINSAC's posture was either failure to reply or outright rejection without an explanation. His difficulties thereafter, are mostly, to be fair, with the Jamaican Redevelopment Foundation but we have sought to address those issues he has raised regarding FINSAC. The first thing we wish to note is having gone through the cross-examination, he was thoroughly cross-examined by Counsel for the Jamaican Redevelopment Foundation. in that cross-examination DEBTOR11 admitted to borrowing money for DEBTOR11NWD from as far back as July, 1994 at 70 percent interest. He admitted that he had agreed in that borrowing relationship to make interest payments monthly.

He admitted further that he got another loan sometime in 1995 at 45 percent and in 1997 a further loan from Horizon Merchant Bank with interest at 60 percent. That loan from Horizon Merchant, payment was to commence ninety days from disbursement but he admitted in cross-examination that he made

absolutely no payments.
In his evidence, I think he had exhibited a letter from FINSAC which evidenced a lowering of his interest rate to 38 percent in 1986. That would be Exhibit LP 56.
Mr. Campbell, are you able to say in relation to interest rate charged by FINSAC whether there was any further movement in DEBTOR11's interest rate?
A: Yes, I am. When I researched the accounting records we have, the rate that was being charged on his loan was actually thirty percent (30%) by FINSAC.
Q: Thank you. Do you have the Case Summary dated May 17, 1999, Mr. Campbell?
A: Yes, I do.
Q: That Case Summary would have been with DEBTOR11's files at FINSAC and you would have seen it before?
A: Yes.
Q: Could I ask you to go through the Case Summary with particular reference to Cash flow, Collateral, Contract and Character, the analysis done on

DEBTOR11 by FINSAC?

A: Will do. Cash flow for DEBTOR11NWD Limited/DEBTOR11.
Since December '98 there has been no payment to the account.
And this Case Summary form is dated May 17, 1999. So it is like roughly six months later, no payment to the account.
DEBTOR11 explains that there had been no sale of any of the properties.
Since July 1998 there has been no payment to the account. DEBTOR11 explains that there has been no new sale of any of the properties.
If you look on page 1, under Basic Loan Data, you will see that the last payment was 17 December 1998 and it is $1M. In fact interest rate is thirty percent.
Under Collateral, the first legal mortgage over PROPERTY1,
St. Andrew,
subdivided into lots, and there are 17 unsold with an estimated value of $1XM.
Personal Guarantee of: DEBTOR11.

And there is a guarantee of
DEBTOR11WIFE supported by first legal
mortgage on real estate at PROPERTY2,
St. Ann,
and it is stamped to cover $2.5M

Under Contract. Promissory Note dated
27 October, 1995 for $1XM. There is a
Loan agreement dated 19th January 1996
for $1XM, and a Personal unlimited
guarantee of DEBTOR11 dated 12th August,
1994.
There is a mortgage document dated 6th
October, 1993, and it's stamped to cover
$4XXK.
There is also a mortgage document dated
26 January, 1996 stamped to cover $XM.

MR. MOODIE: Are there any questions from the
Commission arising from this document,
Case Summary Form dated May 17, 1999?

COMM BOGLE: Mr. Campbell, this covers all of the
indebtedness of DEBTOR11 at that time?

A: Yes, and you will probably notice on
page 2.19 that there was an additional
debt that was just being transferred,

the approval was $XM. That was
included in the figure.

COMM BOGLE: The only reason I ask is, I see
Recommendation: Advertise and sell
lots. As at that time the outstanding
balance seemed to be approximately $3XM
while our realizable value was
approximately $2XM. Presumably if you
were able to sell at that time then the
situation would be pretty close.

A: I agree with you.

MR. MOODIE: I think for completeness might I ask Mr.
Campbell to go to page 2.18, in terms of
some of the considerations which FINSAC
might have taken into consideration.

A: Option #1 says: Advertise and sell lots
Sue principal for any outstanding
balance.
Pro's: A larger potential market to be
reached using other real state
companies. Greater control over sale
negotiation. Customer may be holding
out for higher price. Principal can be
sued in personal capacity.
Con's: Forced sales may not generate

sufficient funds to clear debt. Principal may not have sufficient personal resources to cover any shortfall.

COMM BOGLE: You see one of the concerns I have is something that I note in a lot of cases where the decision is made to sell but a year after we still have not sold while the interest is mounting and mounting and mounting. So I was just wondering whether or not we really made enough effort to dispose of the properties when the net realizable value might be closer to the amount outstanding because what we find it seems as if the net realizable value continues to go down as time went on while the outstanding balance continued to grow because the interest continued to roll. So it is more a matter that when I look at most of these I find that there is a long period between realizing the property and the actual decision; from meeting to meeting, Committee Meeting to Committee Meeting, this decision is - and even

when it goes to the Board the decision
is to sell.

MR. LEVY: Sell and sue, sir.

COMM BOGLE: Sell and sue. The point is if sales were able to be made quickly then the sue part might be minimal while the longer we hold, the more the sue part grows.

A: My comment would be Mr. Chairman, that invariably after the decision is made to sell, the debtors really don't want their property to be sold and they continue some sort of negotiations and invariably you want to accommodate them as best you can and I suspect that, that could be some, if not the sort of situation that happens quite often where as a result the decision is made but it takes some months later before the actual sale takes place.

MR. MOODIE: In fact, Chairman, if I can, to be fair, I think the Minutes sometimes bear out Mr. Campbell's evidence, Minutes which have already been presented. So where sometimes there is a vast period of time between the decision and the actual attempt to sell or the actual sale, the Minutes have bourne out that sometimes further proposals come and discussions are held; so far the Minutes that have been put in. I think we may finally understand this as we go forward.

A: And of course you need to get valuations and you don't want get too early and the negotiations continuing and a year passes and those valuations are determined to be too old. So there are all those factors and it takes time.

Q: Might I refer you, Mr. Campbell, to the Minutes of the Credit Committee Minutes Meeting dated October 19, 1999.

COMM BOGLE: We will mark this EC 52/11.

MR. MOODIE: Grateful, Chairman.

A: **Credit Committee Minutes of October 9, 1999 DEBTOR11NWD Limited.**
Purchase Price: $2XM.
Outstanding Balance: XM.
Cc Approved MER: $1XM.
Originating banks HBL and CBL.

COMM BOGLE: Just a minute. Go ahead!

A: This is an extract from the Credit Committee Minutes of October 9, 1999 as it relates to DEBTOR11NWD Limited. Case #12.

Purchase Price: $2XM.

CC Approved MER: $1XM.

Originating banks Horizon, I am not sure, Mr. Chairman but it says HBL and CBL.

Loans facilities were granted to debtor for real estate development. Due to the softening of the real estate market, sales of the properties were protracted hence this scenario coupled with prolonged non-payment has significantly increased the amount owed.

A new facility was recently received from CBL. The new balance now stands at $3XM as a result the MER has been increased from $1XM to $2XM.

We are holding as security: (a) Guarantee of DEBTOR11WIFE supported by first legal mortgage over PROPERTY1, St. Ann. Market Value $2XM. Forced Sale Value $2XM, Stamped

to Cover $XM. The Forced Sale Value was discounted by 30% to a Realizable Collateral Value of $1XM. (b) first legal mortgage over PROPERTY2, St. Andrew (with 17 subdivided lots). Market Value $1XM, Stamped to Cover $1XM. A discount of 30 percent was applied resulting in Realizable Collateral Value of $1XM. A discussion ensued regarding the demand made on debtor. A member of the Committee stated that an arrangement was made and a contract was actually in place. It was further stated that from the recent contract made it was uncertain who the debtor was and it does not allude to the fact that debtor does work for us and that 50 percent of the commission made would be put towards his debt. It was revealed that both contracts were dated in October and another member of the Committee is of the opinion that it should not preclude us from selling the properties.

The Chairman suggested that before

entering into contractual arrangements with individuals to be careful how information is communicated to avoid misconstrued conceptions by our debtors. It was further suggested that we forget the drafted contract we have with debtor since it is not yet signed.

Realizable Collateral Value: $2XM.
***Character* Rating: 100%.**

Minimum Expected Recovery (Conservative): $2XM
Minimum Expected (Aggressive): $2XM.
Resolution:
1. The Minimum Expected Recovery of $2XM *was* approved.
2. *The Workout* Officer is *to* proceed *with* sale of the properties.

MR. MOODIE: Thank you.
Chairman, could we enter this into evidence with the appropriate exhibit number?

COMM. BOGLE: EC53/11.

MR. MOODIE: Thank you Chairman.
We looked at the complaint - we are

moving on to DEBTOR17 now. The transcript reference would be February 16, 17 and 22, 2011. We looked at DEBTOR17's complaint which was that he alleges he borrowed only $X Million and after repaying over $2X million to his borrowing bank his debt ballooned to over $1 billion. He denies that he took a further loan amounting to $1X million and says he signed several blank documents in his lawyer's office. His property was placed in receivership in 2007, he says, under the powers of mortgage and he alleges that he was never given the opportunity by FINSAC to redeem his mortgaged property by paying only, what he proposed, as 20% of his loan. In evidence, from DEBTOR17 was mortgage securing that $1X million loan which he denied taking, that loan came from Eagle and was purportedly signed by DEBTOR17, that document has already been submitted in evidence and I think his claims were the subject of a suit which finally went to the Court of Appeal and the ruling was that there was no serious issue to be tried based on his allegations.

Could you indicate Mr. Campbell, what happened in respect of DEBTOR17's debt?

A: DEBTOR17's debt is among the debts that FINSAC sold to the Jamaican Redevelopment Foundation.

Q: With your permission, Chairman, we would move on, therefore, to the complaint of DEBTOR4 and the transcript references would be February 22 and February 24, 2011. I am looking at the complaint of DEBTOR4 and he alleges that he could not get any accounting from FINSAC and what accounts he did receive he said they were incorrect. He alleges most materially his property was sold at an undervalue for US $X million. He said, he alleged he offered to buy back his debt from FINSAC for thirty-five cents in the dollar but this was rejected.

Mr. Campbell, could you kindly indicate what the records of FINSAC reveal in

relation to DEBTOR4 proprietor of DEBTOR4HE Ltd and DEBTOR4RM Ltd?
A: Yes, those entities operated loans with the former Workers Saving and Loans Bank. They were not properly serviced so in or around October 1997 an agreement was reached between Workers Bank and those companies to cap the debt at J$7xx million. Some properties were taken in partial reduction including this property that DEBTOR4 is alleging that was sold by FINSAC at undervalue.
Q: Was a valuation ever commissioned by FINSAC in relation to that property?
A: Yes, a valuation was done in March 2003 on this particular property, and at the time the property was really belonging to Workers Bank since it was taken by Workers Bank in part settlement of the debts for these two entities.
Q: What did the valuation indicate as the current market value at that time?
A: The value acknowledged that there were squatters on the land and the value of the property was J$8X million which at

that time was equivalent to US$X million.

Q: Yes, could you go on to indicate whether FINSAC's records have revealed any more information in relation to proposals made by DEBTOR4 in respect to his debt?

A: Yes. After the debt was transferred to FINSAC and as I said it would have been substantially reduced by the value of these properties that were taken in partial settlement, a further submission was made to FINSAC seeking to arrive at a compromise at the time when the debt was $1XX million but FINSAC would accept $2X million in full and final settlement. This of course was rejected by the Credit Committee.

Q: Might I refer you to Credit Committee Minutes dated 21st of March 2001?

COMM. BOGLE: Before you go on, could we enter the valuation as EC54/11.

MR. MOODIE: Grateful Mr. Chairman.
Yes, Mr. Campbell?

A: We have an extract of the Credit Committee Minutes of March 21, 2001 and we are dealing with DEBTOR4HE Limited and DEBTOR3BM Limited whose directors are DIRECTOR1 and DIRECTOR2. Purchase price $2XX million and the outstanding balance $3XX MILLION. The debtors obtained overdraft facilities, guarantees and other facilities to fund the purchase of DEBTOR4HE to provide working capital and inventory financing. The account was not serviced satisfactorily from the outset as income derived from the business was insufficient to meet the monthly payments. The bank met with debtors on numerous occasions, which culminated in the bank appointing a Receiver in October 1997. The receivership was terminated in November 1997. An agreement was reached to cap the debt at $7XX million to be liquidated in accordance with the Deed of Assignment. Payments of $X Million per month were being made in accordance with the Deed of Assignment. These payments have since been reduced to $X million per month.

By letter dated October 28, 1998 the company requested a further compromise of the debt at $1XX million with the inclusion of real estate in full and final settlement of the debt. The company is now proposing to pay $2X million in full and final settlement of the debt. The Officer recommended that we reject the debtor's proposal.

And the security is debenture of fixed and floating assets valued at $6XX million as at Balance Sheet dated

June 1990 something, and it is stamped to cover, I am not so sure what that figure is. In the absence of any up-to-date accounts, since the return of the Receiver, the Stamp to Cover Value was extended, which is $7X million. So cash flow is $4X million; Realizable Collateral Value $7X Million; Contract Rating 70%, Character Rating 70%, Minimum Expected Recovery (Conservative) $5X million; Maximum Expected Recovery (aggressive) $8x million.

Resolution -- The Committee accepted Officer's proposal to reject debtor's offer in settlement of the debt

MR. MOODIE: Chairman, we wish to enter these minutes into evidence.

COMM. BOGLE: EC 55/11.

MR. MOODIE: Grateful. We move on, unless there are any questions.

COMM. ROSS: Mr. Campbell, was there any policy in place with regards to debt write off, in other words, was there any set amount of either principal or interest that FINSAC was prepared to write off in these negotiations?

A: No, there wasn't.

COMM. ROSS: So on what basis were some people given write-offs and others not?

A: All matters were taken on a case by case basis, but...

COMM. ROSS: That doesn't answer the question, why would one person be given a write off and another person not, or another entity not?

A: All of that was dependent on the individual circumstances at the time, whatever collateral, whatever cash flow there was and the cooperation of the person, all those factors were taken into account and those are the matters that were looked at when the submission is made.

COMM. ROSS: In none of the cases that you have presented so far, responded to, was there excess of assets over obligations, so, certainly all of them had that in common, there is no question that you would be able to recover the full amount from the sale of securities?

A: Invariably it would be an assessment of the entire situation, as I am saying, it could be as in a case where the debtor is asking us to accept thirty-five cents in the dollar in settlement of his debt and the Officer and the members of the Committee were of the view that the man was in a position to pay more and as a result they would want him to pay more.

COMM. ROSS: But a counter offer wasn't made, FINSAC didn't say pay me seventy cents in the dollar.

A: Well, maybe in this particular case there was no counter offer, but there have been others especially during the window of opportunity time when a position was put to the Committee and the Committee said, no, we will not accept that but in the interest of time, ask the person to pay this amount, which would be probably principal plus fifty percent of the interest. They had initially offered principal only, so there are cases when counter offers were put forward.

COMM. ROSS: It just seems rather a strange way to operate especially when you are dealing with thousands of loans. If you have one or two I can understand a case by case but it's a little difficult to understand where you have thousands of loans dealing with and you don't have some sort of policy with regard to compromises on the debt.

MR. MOODIE: The only thing I would offer, Chairman, not giving evidence but I think financial institutions face those issues every day and they can only make the decision on a case by case basis dependent on the realized security of each borrower and other factors.

COMM. ROSS: I beg to differ to that position.

MR. MOODIE: Guided Chairman, it's a matter for you.

COMM. ROSS: The average financial institution has thousands and thousands of debts, loans going bad at the same, if they do, trust me, they could never approach it on a case by case basis.

A: You recognize, Chairman, in a number of cases there would have been unsecured facilities, and if it is that we were going to say principal and fifty percent of interest across the board, it would be difficult with our collecting that amount from somebody whose debt is totally unsecured.

COMM. ROSS: As I understand it the unsecured debts were disposed of earlier in the game, at minimal return.

A: No, those primarily that you speak of are credit cards but there were a lot of other unsecured debts and significant amounts too, either unsecured or woefully under secured and those were retained, some were eventually sold to Jamaican Redevelopment Foundation, and that would be part of the reason too, like some of the debtors are now saying they offered FINSAC to pay twenty percent on the dollar for their debt and FINSAC refused. That is one of the considerations because there are some that are under-secured or unsecured and whereas with the man who is fully secured, if we were to take twenty percent, at the end of the day the overall picture would be that you would end up earning less.

COMM. ROSS: I don't know about that, Mr. Campbell, I think when you look at the actual realization of the sale to JRF, probably it won't work out to be much more than that in terms of your actual.

MR. MOODIE: Might I direct you Commissioners, to Exhibit PH5 given by Mr. Hylton during the course of his evidence which was a document setting out FINSAC's standard policy for non-performing loan work-outs which I think might assist you in answering some of the questions you are posing to Mr. Campbell.

With your permission, Mr. Chairman, we move on to the complaint of DEBTOR9, the transcript reference being March 16 and 31, 2011 and April 13, 2011.

DEBTOR9 alleged that he borrowed $X million from NCB in 1995 at an interest rate of 53% secured by property and that his debt rose to some $X million in 1998. He alleges that of the amount borrowed he did not receive some $X million of that amount and he complained that FINSAC ought to have taken this into consideration and also to have given him further extensions because he alleged that he had sales lined up for his properties.

Mr. Campbell, might I ask you to indicate FINSAC's position from the records in relation to these allegations.

A: Yes. FINSAC wrote to DEBTOR9 in March, by letter dated March 28, 2001 advising that his proposal for the debt which stood at $X million to be capped at $X million, would be accepted if the full amount was paid by July 31, 2001, which is like four months down the road and that his title would be released in order to facilitate the obtaining of splinter titles and subdivision of the property for sale and that date was further extended to December 31, 2001 at his request. But the debt was not repaid during that period of time and as a result we sold his debt to the Jamaican Redevelopment Foundation.

Q: Could you indicate the interest rate that FINSAC had quoted to DEBTOR9 at the time it was seeking to negotiate the payments?

A: The rate that FINSAC charged him was twenty-five percent.

Q: And I just wish to point out, Chairman that all the documents which Mr. Campbell referred to were already entered into evidence while DEBTOR9 was giving evidence and being cross-examined.

COMM. BOGLE: Mr. Campbell, DEBTOR9, I think it was one case where there was a lot of land that was being used by a school and he was in negotiation with the Ministry of Education for them to buy the land and this was sort of held up between the ministries, and DEBTOR9 feels that some consideration should have been given considering that he was not at fault for the delay but it was a matter that the Government, because the Ministry of Finance, I think, at one time approved it, and the discussion was that the Ministry offered to pay the amount directly to FINSAC to reduce the debt of DEBTOR9 but from what I can remember there seemed to have been very little regard for that.

A: I really can't speak to those specifics, Mr. Chairman.

COMM. BOGLE: Before you return, can you just see if you can have a look back on this one for me.

MR. MOODIE: Certainly. Mr. Campbell has given his undertaking that he will do so but, I think from my review, these issues would have continued with when the debt was sold to Jamaican Redevelopment Foundation. I am just saying that to say that there may be only so much information that Mr. Campbell can give.

COMM. BOGLE: You see, I sort of feel that if FINSAC, a government agency, basically owned by Government and there is this debtor, and the debtor is selling a piece of land to a school to reduce his debt and the Ministry of Education says, yes we will buy, the valuation and the amount was agreed and communication was available between the ministries and FINSAC, I find it really unreasonable, surely, for a debt like that to have been sold to JRF because I would have expected more consideration to be given, considering that DEBTOR9 had been negotiating for quite awhile and the delay of over a year was between the ministries, not

DEBTOR9, and I think as a Government company really, more consideration could have and should have been given to DEBTOR9.

MR. MOODIE: Well, I think the evidence from Mr. Campbell just now, at the very least, indicated that FINSAC accommodated him in terms of giving him a deadline from March 28, 2001 straight to December 31, 2001.

COMM. BOGLE: He could do nothing about that. If you look at the exhibits surely, that came to the Commission, ministries and persons in the ministries wrote to FINSAC explaining to them, so it wasn't any fault of DEBTOR9 and so I think under those circumstances it was unreasonable to have sold a debt like that because as I said it was not DEBTOR9's fault, he did all he could and many of his promises that he made, if I remember rightly, emanated from the fact that the ministries, it was between Ministry of Education, Ministry of Finance, Commissioner of

Land, all of them communicated saying
yes, we will buy, the amount of $XM I
think was agreed and I think that a case
like this, surely, FINSAC was
unreasonable, my opinion, to have sold a
debt like this to JRF.
MR. MOODIE: While we certainly will look for any
document to substantiate the
communication between ministries,
certainly once we put those before the
Commission, we then await your
conclusion in relation to that aspect
Chairman, but I am guided by your
comment.
Finally, Chairman, we would wish to move
on the complaint of DEBTOR13;
the transcript references would be April
27 and May 3, 2011. DEBTOR13 alleged
that CNB made up a fictitious debt claim
even after his loans were paid and his
account was actually in credit. He
alleges he actually over paid the debt
which was secured by a promissory note
by over $7XXK due to a lack of proper
statements. He says at the time of the

take over by FINSAC CNB actually owed him in excess of $1 million and he alleges of course that FINSAC continues to demand this fictitious debt after the take-over and failed to respond to his attorney's letter on the issue.
Mr. Campbell could you kindly indicate what FINSAC's records reveal in relation to these allegations?

A: Sure. FINSAC sent DEBTOR13's concerns to Century's lawyer to be addressed and informed them of this fact and by letter dated July 1, 1992 and this is already in evidence, the Court of Appeal has disposed of DEBTOR13's claim refuting his application for injunction and these judgments have been tendered into evidence as well.

Q: We would therefore ask Commissioners, that you take note of these judgments which have already been put into evidence regarding DEBTOR13's complaints. Unless there are any questions arising from the evidence Mr. Campbell has given so far, that

would complete FINSAC's response.
You will note, Commissioners, that we did not do a separate response for FINSAC in relation to DEBTOR1 and DEBTOR1COMPANY because it is our view that Mr. Hylton did so comprehensively.

COMM. ROSS: Mr. Campbell, one of the allegations of DEBTOR13 was that he actually had a deposit at Century National Bank, have you been able to investigate that allegation?

A: I wasn't able to find any information on that Mr. Commissioner.

COMM. ROSS: So you can't say whether or not his allegation has foundation?

A: Yes, sir.

MR. MOODIE: The records reflect it was referred to CNB's attorney for their attention and he brought a case which eventually went nowhere, I think it was dismissed in relation to that aspect.

COMM. ROSS: So we had a court case in relation to that deposit, am I correct?

MRS. PHILLIPS: Maybe I could be of some assistance in helping with the recollection hopefully. This was the gentleman, the whole issue about whether a judgment was final and interlocutory and if it was final this Commission would treat it as binding as it were, on the words and accept it and this was a final judgment of the Honourable Mr. Justice Jones dismissing his claim. So, I think that has been put to rest and this Commission has already indicated that it has accepted the final judgment of the court.

MR. MOODIE: Finally, Chairman, with your indulgence, I indicated on the last occasion that FINSAC wish to make a statement in relation to evidence which was previously given by Mr. Campbell on Monday July 4 in relation to Donovan Crawford and related interests, Donovan Crawford, Alma Crawford and Regardless Limited. With your permission I ask for Mr. Campbell to read that statement into the record and we have copies we wish to provide for the Commission.

Mr. Campbell please proceed.

A: It's letter dated July 8, 2011 addressed to Commissioner of Enquiry, c/o The Jamaica Pegasus Hotel, 81 Knutsford Boulevard.
Attention Mr. Fernando DePeralto
Dear Sirs,
Commission of Enquiry into the Collapse of Financial Institutions in Jamaica in the 1990s.
At the public hearing of the Commission of Enquiry on Monday July 4, 2011, the General Manager of FINSAC appeared and gave evidence. In particular he gave evidence in relation to Donovan Crawford and the matter has since been the subject of media reports.
I wish to bring to the attention of the Commission that in late 2005, the Privy Council handed down a decision upholding the decision of the Jamaican Courts for Donovan Crawford and connected parties to pay to Financial Institutions Services Limited, FIS, sums totaling in the region of J$2.5-J$3 billion plus interest. Subsequently, our attorneys

in the matter obtained a Court Order for sale of various properties owned by Mr. Crawford and some connected parties. Having regard to enquiries made by the Commission, we have reviewed the files and can confirm that representations were made in early 2006 by Mr. Crawford's attorney to ours that based on the age and health of his mother, consideration be given to granting her a lifetime interest in her residence at Sterling Castle. This was not agreed, but she was allowed to continue occupying the house for a further three months, as this would not unduly affect the timetable for the proposed sale of the properties, bearing in mind the sale process.

Mr. Crawford made a number of subsequent representations to FINSAC and to the former Government for leniency or assistance with medical bills on humanitarian grounds for his ailing mother who is over 90 years old. These were not approved in view of the Court

Orders obtained for sale of the properties.

Similar representations have since been made to the present government and the matter has been referred to the Attorney General's Chambers for advice on whether any assistance may be granted.

In 2006, valuation reports were obtained on Mrs. Crawford's residence and the five adjoining apartments. These apartments were listed with D C Tavares & Finson for sale and no offers were received but they were never taken off the market.

In view of the age of the existing valuation reports, FINSAC will obtain up-to-date valuations and proceed to auction all the remaining properties and if not sold, list them with brokers for sale by private treaty.

In relation to the properties at the Enchanted Gardens (Carinosa), these are part of a complex consisting of 78 units, 31 of which are controlled by FINSAC/FIS, including the 13 related to

Century. The other 47 units have diverse ownership and previous efforts by the liquidator of the company which formerly owned the common area to sell, were futile. The common area has since been sold and contact will now be made with the liquidator requesting that efforts be resumed to obtain agreement from the various owners to again pursue sale.

Signed on behalf of FINSAC, Robert Martin.

MR. MOODIE: I trust Chairman, that this not only addresses some of the concerns raised by you and the Commission on July 4 but certainly sets the record straight as regards FINSAC's intention as regards the remaining properties for Donovan Crawford.

COMM. BOGLE: I think there was a valuation that I requested and that was the Holiday Inn, Mr. Campbell, you have that?

MR. MOODIE: We have a copy of that valuation to provide to the Commission.

COMM. BOGLE: Okay.

MR. MOODIE: Chairman, before you move on since we read it into the record...

COMM. BOGLE: EC56/11.

MR. MOODIE: Grateful. And the Valuation in respect of Holiday Inn perhaps we could just formally enter that too.

COMM. BOGLE: There are two others that I would love to see, one is the Mutual Life building and the LOJ Complex, you can find those.

A: Which is the other one?

COMM. BOGLE: The LOJ Complex. They have one down at Norman Road.

A: No, we didn't sell that.

MR. MOODIE: Could we assign an exhibit number to the Holiday Inn valuation which you requested and which was provided to you?

COMM. BOGLE: EC57/11.

MR. MOODIE: Grateful, Chairman. And we certainly will endeavour to get any additional documents that you have requested between now and when Mr. Campbell returns. You had indicated that should there be any questions arising from the evidence Mr. Campbell has given in response to the debtors' concerns that

FINSAC would be given an opportunity to receive those questions and research the answers in advance.

COMM. BOGLE: Yes.

MR. MOODIE: So to date we have received nothing else. I am advised that Counsel, I think Miss Clarke, had indicated the Commission said she should send her questions directly to us, whether that is so or not we have not yet received any questions and certainly we would look forward to receiving them in short order so that we could do the required research when Mr. Campbell is next before this commission.

MR. LEVY: Mr. Chairman, cross-examination requires predetermined and written questions, cross-examination will be able to test the veracity of the witness.

MR. MOODIE: The only reason I made that request is because I don't think it can be expected that Mr. Campbell would walk with all of the files with him, certainly, we don't even have the manpower to bring them down. So if there are documents which are required, if there is information to be gotten from the files, certainly previous notice could assist us in providing the copies of those documents to the Commission and to Counsel. I am sure Counsel would want to see any document which he requests before he puts them to the witness. And I certainly would like to see them.

COMM. BOGLE: I remember that on Friday I did explain to Counsel present it is indeed desirable that the questions be sent either through the office or directly to Mr. Campbell. If it goes directly to Mr. Campbell, Mr. Campbell would wish to see copies of those so that Mr. Campbell can do whatever research there is so that the answers can be properly given. Because as I said on Friday, Mr. Campbell is not on trial, what we are trying to do is to get information about operations at FINSAC and a lot of these requests mean that Mr. Campbell would have to research and provide us with documentary proof. I think it is unreasonable to expect that Mr. Campbell could just have all of this information in his head to real off, and so it is on that ground that I said that questions should be sent to him so that he can do his proper research and inform himself and bring the necessary documents to this enquiry so that - what we want is information.

MR. MOODIE: I ask that any communication to Mr. Campbell either be routed through or copied to his attorneys.

MR. LEVY: Mr. Chairman, in terms of cross-examination it is not proper and I have never heard it before.

COMM. BOGLE: Noted Mr. Levy. Okay at this point this Enquiry is now adjourned until Thursday morning at 9:30.

ADJOURNMENT