

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, JULY 14, 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 Goffe- Attorney-at-Law

REPRESENTING MR PATRICK HYLTON

Mr. Dave Garcia - Attorney-at-Law

REPRESENTING FINSAC LIMITED

Mr. Brian Moodie - Attorney-at-Law

REPRESENTING DEBTOR 18 DIRECTOR, DEBTOR  
18 DONOVAN CRAWFORD, DEBTOR 6, MILTON BAKER

Mr. Anthony Levy -- Attorney-at-Law

REPRESENTING DEBTOR 8

Mr. Leonard Green - Attorney -at-Law

GIVING EVIDENCE

DEBTOR 8

1 **THURSDAY 14TH JULY 2011**

2 **COMMENCEMENT: 10:10**

3 COMM. BOGLE: Good morning ladies and gentlemen. We are  
4 awaiting the arrival of DEBTOR 8 and as soon  
5 as he arrives we will start. Might I ask Mr.

6 MR. MOODIE: Chairman, has the Commission received a  
7 statement from DEBTOR 8?

8 No.

9 COMM. BOGLE: So we have no idea what his statement is

10 MR. MOODIE: about? It is a bit unusual in our  
11 proceedings?

12 No, I think we have gotten persons, if I can  
13 COMM. BOGLE: remember right, that came on the morning  
14 with the statement.

15 Is the Commission expecting DEBTOR 8 to

16 MR. MOODIE: present a statement this morning? I hope he  
17 will have.

18 COMM. BOGLE: P A U S E

19 Good morning again ladies and gentlemen.

20 This enquiry is now in session and as usual  
21 we ask for the names of the attorneys  
22 present.

23 Sandra Minott-Phillips and Gavin Goffe,

24 MR. GOFFE: instructed by Myers Fletcher and Gordon,

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1 representing Jamaican Redevelopment  
2 Foundation Inc.

3 MR. GARCIA: Dave Garcia, representing Patrick  
4 Hylton.

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

8 MR. LEVY: Anthony Levy, instructed by G. Anthony  
9 Levy and Company. I represent DEBTOR 18  
10 DIRECTOR, DEBTOR 18, Don Crawford,  
11 DEBTOR 6, DEBTOR 11,  
12 Mr. Willis, myself and the truth.

13 MR. GREEN: Leonard Green, instructed by the firm of  
14 Chen, Green and Company, representing  
15 DEBTOR 8.

16 COMM. BOGLE: Thank you very much. This morning we  
17 have with us DEBTOR 8 who will be  
18 giving submission to this Commission  
19 this morning. At this time, therefore,  
20 I ask that DEBTOR 8 be sworn in.

21 MR. MOODIE: Chairman, before, could I ask again  
22 about the statement whether DEBTOR 8  
23 has a statement of the evidence he  
24 intends to give today so that it can be  
25 circulated as is the usual case to

1 counsel?

2 COMM. BOGLE: I will just have him sworn in first.

3 MR. GREEN: Yes, we do have statement and I am not  
4 sure of the amount of copies we have,  
5 but we will do as best to circulate the  
6 copies that we have and we will make  
7 what we have available to the  
8 Secretariat so that some copies can be  
9 made and distributed to counsel and the  
10 Commission.

11 MR. MOODIE: Grateful counsel.

12 MR. DEPERALTO: DEBTOR 8, please repeat this.

13 DEBTOR 8: No, I affirm.

14 MR. DEPERALTO: Please do.

15 **DEBTOR 8 CALLED AND AFFIRMED**

16 COMM. BOGLE: Thank you very much DEBTOR 8.

17 Mr. Green, if you have a copy of that  
18 statement you can give it to  
19 Mr. DePeralto now and he will endeavour  
20 to have copies made.

21 MRS. PHILLIPS: Mr. Chairman, if there are not enough  
22 copies could we just hold on for five  
23 minutes while the copies are distributed  
24 to everyone?

25 COMM. BOGLE: While we await the copies I think in the

1 interest of time we will proceed and the  
2 copies will come as we go along,  
3 hopefully the copies will come very  
4 shortly, but we will proceed at this  
5 time.

6 MRS. PHILLIPS: Are you entering my objection,  
7 Mr. Chairman?

8 COMM. BOGLE: No.

9 MR. LEVY: So that we don't waste any time we can  
10 accommodate some of the time until the  
11 copies come.

12 Could you advise us whether the date has  
13 been set for Don Crawford to be called?

14 COMM. BOGLE: A date has not yet been set.

15 MR. LEVY: Has the Commission considered the  
16 decision not to call P.J. Patterson?

17 COMM. BOGLE: The decision of the Commission still  
18 stands at this time.

19 Mr. Green?

20 MR. GREEN: DEBTOR 8, will you give the  
21 Commission your full name and  
22 occupation.

23 DEBTOR 8: My name is Enoch Crafton Karl DEBTOR 8,  
24 Medical Doctor with many business  
25 interests.



1           A:           FINSAC, as I understood, was created in  
2                           1997, I joined the Cabinet in January of  
3                           1998.

4           Q:           Would you like to provide us with a  
5                           brief outline as to what is the purpose  
6                           of your making this submission?

7           A:           Having been invited for two main  
8                           reasons; one, to make a submission on  
9                           the treatment of the debtors and also to  
10                          appear before the Commission to testify.  
11                          Those are two main goals.

12   MRS. PHILLIPS:       Two main what?

13           A:           Two main reasons for my invitation as  
14                           expressed to me in a letter dated  
15                           June 2.

16   MRS. PHILLIPS:       I am sorry, I didn't hear the second  
17                           one, I heard the first one.

18           A:           And to appear before the Commission to  
19                           testify sent to me in a letter dated  
20                           June 2, 2011.

21   MRS. PHILLIPS:       What is the second purpose of your  
22                           submission to appear before the  
23                           Commission to testify.

24           A:           I will read in its entirety what was  
25                           said. **The Commission has been asked by**



1                   **debtors affected by FINSAC to request**  
2                   **you to make a submission...**

3   MRS. PHILLIPS:       What are you reading from, DEBTOR 8?

4           A:            Just what I was saying before, a letter  
5                           sent to me dated the 2nd of June 2011  
6                           under the signature of Fernando  
7                           DePeralto, Secretary of the Commission  
8                           of Enquiry.

9   MR. GREEN:           So you are saying DEBTOR 8, that you  
10                           are complying with a request made to  
11                           you?

12          A:            I am complying with a request.

13          Q:            Thank you. Now, I would like you for  
14                           the benefit of the Commission to give  
15                           us...

16   MRS. PHILLIPS:       Objection.

17   MR. GREEN:           Objection?

18   MRS. PHILLIPS:       I think the witness was reading the  
19                           letter and I am certainly interested in  
20                           hearing what the letter says.

21   MR. GREEN:           Would you want us to put it in evidence?

22                           We don't have an objection.

23          A:            Should I put it in?

24   MRS. PHILLIPS:       Until we get the statement could he read  
25                           the letter.

1 MR. GREEN: DEBTOR 8, could you read the letter in  
2 its entirety.

3 A: Letter dated June 2, 2011.

4 DEBTOR 8 and my address

5 c/o Pegasus Hotel

6 85 Knutsford Boulevard

7 Kingston 5

8 Dear DEBTOR 8,

9 Re: Commission of Enquiry - Invitation  
10 to appear before the Commission.

11 The Commission has been asked by debtors  
12 affected by FINSAC to request you to  
13 make a submission on the treatment of  
14 debtors and to appear before the  
15 Commission to testify.

16 The terms of reference of the Commission  
17 are wide and include among other things  
18 an assessment of the factors that caused  
19 the financial crisis and whether or not  
20 debtors were fairly treated by the  
21 FINSAC Limited and JRF.

22 Should you be willing to accept the  
23 Commission's invitation you are kindly  
24 requested to make contact with the  
25 Secretary of the Commission,

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**Mr. Fernando DePeralto, at the  
Commission's Secretariat located on the  
ground floor of the Pegasus Hotel or by  
calling 908-4402/3 or 381-6118.  
Yours respectfully  
Fernando DePeralto  
Secretary to the Commission of Enquiry.**

Q: Thank you.

MR. MOODIE:

Before you go on, Mr. Green.  
Chairman, perhaps this question ought  
best to be put to the Commission, given  
that that letter came from the  
Commission. Could you indicate the basis  
on which DEBTOR 8 is being asked to  
make a submission on the treatment of  
debtors? Is it proposed that he will be  
giving anecdotal evidence from other  
debtors as to how they were treated or  
is it proposed that he is going to speak  
about his own personal relationship and  
the treatment of himself as a debtor by  
FINSAC? Could you indicate, Chairman.  
By and large there are two situations  
here. One, DEBTOR 8 was a member of  
the Cabinet and at the time the

1 Government had made certain decisions  
2 regarding the crises and also regarding  
3 FINSAC and the other point is that  
4 DEBTOR 8 was a debtor and he may very  
5 well speak about his personal  
6 experience.

7 MR. MOODIE: So then he is not being asked to make a  
8 submission on the treatment of debtors  
9 generally, in relation to debtor it  
10 would be a submission based on his  
11 experience and his debt.

12 COMM. BOGLE: He has to give evidence based on his  
13 experience and as I said, his certain  
14 knowledge.

15 MR. LEVY: Mr. Chairman, DEBTOR 8 is being asked  
16 to tell the truth, what he knows about  
17 FINSAC having been a member during the  
18 period in time when FINSAC's matters  
19 were discussed by the Cabinet or he is  
20 being confined to his own personal  
21 situation?

22 HIS LORDSHIP: As I said before, DEBTOR 8 was a  
23 member of the Cabinet and a lot of  
24 decisions would have been made there and  
25 therefore we are expecting that aspect

1 of it to be dealt with.

2 MR. GREEN: Thank you.

3 MRS. PHILLIPS: May it please you, Mr. Chairman, this  
4 Commission took a decision that all  
5 debtors would give evidence before  
6 Jamaican Redevelopment Foundation was  
7 called upon to respond. It was in that  
8 context I asked this Commission whether  
9 or not DEBTOR 8 was coming to give  
10 evidence in his capacity as a debtor;  
11 after Jamaican Redevelopment Foundation  
12 has been examined and cross-examined  
13 this Commission said no he was not  
14 coming in that capacity. How do you now  
15 reconcile this decision with that?  
16 COMM. BOGLE: DEBTOR 8 has been asked to come to

17 this Commission. DEBTOR 8 will be  
18 giving his submission and his statement  
19 and should any of the attorneys here,  
20 JRF, FINSAC, or any other attorney wish  
21 to cross-examine DEBTOR 8 on any  
22 matter that he will speak is so free to  
23 do and therefore, the fact that  
24 DEBTOR 8 might be mentioning his own  
25 experience after JRF - well, FINSAC is

1 not yet finished - but after JRF, JRF is  
2 quite at liberty and free to  
3 cross-examine if that is necessary.

4 MRS. PHILLIPS: So you are reversing yourself in  
5 relation to that statement?

6 COMM. BOGLE: Situations do happen whereby we have to  
7 give leeway. This is a Commission of  
8 Enquiry and I will from time to time  
9 change or reverse if the situation - we  
10 believe that the situation will provide  
11 information for this Commission. Thank  
12 you very much.

13 MRS. PHILLIPS: And without a statement we can determine  
14 that the information will assist the  
15 terms of reference?

16 COMM. BOGLE: Well, I tell you, I think that by and  
17 large it is the purview of the  
18 Commission. We have invited Dr.  
19 DEBTOR 8...

20 MRS. PHILLIPS: I am not saying that is not your  
21 purview.

22 COMM. BOGLE: You will get a copy of the statement.

23 MRS. PHILLIPS: No, I am saying you not having had one  
24 before, it was put in your hand two  
25 minutes ago, how is it that you were

1                   able to determine that what he has to  
2                   say would be in the terms of reference?

3    COMM. BOGLE:           We will wait and see. And I will not  
4                   continue this conversation anymore. We  
5                   have invited DEBTOR 8 here and I will  
6                   ask that Mr. Green and DEBTOR 8  
7                   continue.

8    MR. GREEN:            DEBTOR 8, I will ask you, sir, by way  
9                   of background to give us a sense of what  
10                  was your assessment of the conditions,  
11                  the economic conditions existed just  
12                  around the time that FINSAC was  
13                  established in the Nineteen Eighties.

14            A:            In order to get into the request as made  
15                   by you, it is important for me in making  
16                   this submission to say that I do so with  
17                   the sole purpose of assisting in  
18                   fulfilling the Commission's mandate, in  
19                   helping to fulfill the Commission's  
20                   mandate which includes among other  
21                   things an assessment of the factors that  
22                   caused the financial crisis and whether  
23                   or not the debtors were fairly treated  
24                   by FINSAC Limited and Jamaican  
25                   Redevelopment Foundation Inc. I also

1 would hope that in doing so it is the  
2 intention of arriving at whether or not  
3 debtors were not only fairly treated but  
4 equally treated by the said company. I note  
5 that the Commission is dealing with and has  
6 the right to deal with the causes of the  
7 financial crisis, however, it is important in  
8 assessing the fair or equal treatment of the  
9 debtors to find out how the banks calculated  
10 the debts that were transferred to FINSAC.  
11 FINSAC's calculation of the debt sold to JRF:  
12 who certified that these debts were accurate  
13 and truly reflected what was owed by the  
14 debtors: who gave FINSAC and JRF the  
15 authority to treat these debts in similar  
16 manner as if they were a commercial bank  
17 where the interest was concerned: what  
18 action...

19 MRS. PHILLIPS: Objection. Is he here to ask questions  
20 or to give testimony?

COMM. BOGLE: I repeat I am not asking...

MRS. PHILLIPS: Just a minute, I made an objection.

COMM. BOGLE: This is a part of his submission.

MRS. PHILLIPS: Well, you have an advantage over me



1 Commissioner because I don't have a copy  
2 of his submission.

3 COMM. BOGLE: And you will get that shortly.

4 MRS. PHILLIPS: And I hear him asking questions,  
5 witnesses don't ask questions.

6 COMM. BOGLE: Mrs. Phillips, could you please allow  
7 the Commission to run this Commission?

8 MRS. PHILLIPS: I am making my objection, so you can  
9 rule or is it that you are overruling  
10 it?

11 COMM. BOGLE: That objection is overruled.

12 MRS. PHILLIPS: Thank you. I accept that.

13 A: Mr. Chairman, I want to make it  
14 absolutely clear that I am simply asking  
15 that I hope the Commissioners are  
16 looking into these areas, I am not  
17 asking any questions. Were all the  
18 debtors treated fairly and most  
19 importantly, equal, and if not why? Were  
20 politicians or persons closely  
21 associated with the political parties  
22 singled out for special treatment what  
23 could be considered as sweetheart deals?  
24 Were certain debtors, to include certain  
25 politicians, singled out for harsh

1 treatment, and if so, why and by whom? In  
2 my position Mr. Chairman, as holding the  
3 different positions as was earlier indicated  
4 and also being very actively involved as a  
5 cattle farmer, limestone miner, being a  
6 hotelier myself, dealing in real estate and  
7 general insurance family business, I found  
8 myself seated in the front row of the arena.  
9 It is not my intention to use this submission  
10 to simply highlight problems I had in  
11 settling the debts with me. But of course,  
12 to use my experience to show similarities  
13 which exist with other debtors who have  
14 appeared before this Commission, especially  
15 as it relates to the fairness of treatment  
16 and to the debtors and was this treatment  
17 equal to all?

18 In giving a background as I was asked in  
19 examining the factors that caused the  
20 financial crisis and whether or not the  
21 debtors were treated fairly by FINSAC and  
22 JRF, it is important to take our minds back  
23 to the period of the early  
24  
25

1 Nineties and try to recall the realities  
2 that were on the ground at that time,  
3 the country's debt burden was indeed  
4 very heavy. The government was trying  
5 to have some of our debts written off  
6 and certainly we had to approach certain  
7 countries to include that of the United  
8 States. Growth at the time was very  
9 minimal, exports were down.

10 MRS. PHILLIPS: Objection. Can he state the source of  
11 this information?

12 A: As a member of the Cabinet.

13 MR. GREEN: May I say that DEBTOR 8 is making a  
14 submission, he is making a submission in  
15 the hope that it can be of value. It  
16 cannot be regarded as a purely  
17 legalistic exercise, he is making  
18 comments and opinions that he is  
19 entitled to make. And I wish, may it  
20 please you Mr. Commissioner, that he be  
21 given a little latitude in expressing  
22 his opinions. And indeed so many  
23 persons have given testimony in the past  
24 and had been given a little latitude. I  
25 ask for your assistance that we do not

1 have him unnecessarily interrupted while  
2 he is making some basic comments about  
3 his own opinion.

4 Applause

5 COMM. BOGLE: Please refrain from the applause.

6 MR. LEVY: Mr. Chairman, I seem to recall hearing  
7 witnesses before this Commission who  
8 were not even around in Jamaica at the  
9 time of the FINSAC takeover of the  
10 economy giving evidence of hearsay and I  
11 speak particularly of Jason Rudd, the  
12 CEO of Jamaican Redevelopment  
13 Foundation. So I cannot understand what  
14 Mrs. Phillips is objecting about. Or  
15 are we waiting for an injunction to be  
16 served for stopping him giving evidence?  
17 Because that is what I expect them to  
18 do.

19 COMM. BOGLE: Okay, Mr. Levy. Mr. Moodie?

20 MR. MOODIE: As I understood it, Chairman, I think  
21 the objection by my friend was if  
22 DEBTOR 8 is giving information about  
23 the economic conditions, I think it  
24 would only be fair that he points out  
25 the source of that information.



1 MR. GREEN: Mr. Commissioners, DEBTOR 8 is not  
2 disclosing any information from the  
3 Cabinet, that is not what he is doing,  
4 he is expressing an opinion, a general  
5 opinion.

6 MR. MOODIE: So there is...

7 MR. GREEN: May I finish, Mr. Moodie, please?

8 MR. MOODIE: Certainly counsel.

9 MR. GREEN: I cannot see why a witness testifying  
10 before this Commission is not entitled  
11 to express a general opinion about  
12 conditions which existed. How can that  
13 be objectionable? We are wasting time.

14 MR. MOODIE: I heard DEBTOR 8 say the source of his  
15 information is Cabinet, he never said  
16 this is my opinion, he said the source  
17 of my information is Cabinet. Is that  
18 your recollection, Chairman?

19 COMM. BOGLE: No.

20 MR. MOODIE: Could the transcript be read to reflect  
21 that.

22 MRS. PHILLIPS: Can the shorthand....

23 COMM. BOGLE: No, no, I am going to overrule all the  
24 objections at this time and ask  
25 DEBTOR 8 to continue.

1 MR. MOODIE: Noted, Chairman.

2 COMM. BOGLE: I am overruling all the objections and  
3 DEBTOR 8, would you please continue.

4 A: Mr. Chairman, in continuing, let me make  
5 it absolutely clear that in answering  
6 and presenting this submission, I am  
7 doing so from a background of the  
8 positions I held, not only as a Cabinet  
9 Member but in the party, in the public  
10 as just an ordinary Jamaican and in my  
11 business entities so this is where I am  
12 pulling this from.

13 Certainly, I would have known as an  
14 exporter of limestone at the time to the  
15 US that exports were down, imports were  
16 up, manufacturing was down, small and  
17 medium hotels were in trouble. I owned  
18 one. We needed to boost agriculture. I was a cattle farmer of some  
19 500 heads of cattle. The NIR was almost  
20 non-existent, the entire Jamaica knew that.  
21 The nation was called upon to 'produce' our  
22 way out of the problem.

23 I simply remember that calls were made from  
24 the Government and from all sectors

1 for banks to respond to the call of  
2 production. Certain banks heeded the call  
3 more than others. Loans were made available  
4 to entrepreneurs who heeded the call for  
5 production, especially in the area of  
6 tourism and agriculture. Loans were made to  
7 parents to educate their children and of  
8 course, to deal with personal matters. It was  
9 known to me that some banks became more caught  
10 up in the production drive and themselves  
11 even entered areas such as tourism and  
12 agriculture also with a view of earning  
13 foreign exchange.

14 I will not debate the wisdom of whether or not  
15 these banks ought to have ventured into these  
16 areas; I leave it to the historians. We as  
17 members of the Government at that time, we had  
18 introduced a Motor Vehicle Policy. Every  
19 single Jamaican was entitled to a car or a  
20 van; we wanted to help to push production.  
21 There was an increased need for foreign  
22 exchange. We introduced liberalization  
23 somewhere around 1991. We



1 2 had a lot of Jamaican Dollar chasing after  
3 4 the US Dollar and the speculators were out  
5 6 in full. The value of the Jamaican dollar was  
7 8 tumbling. Inflation was skyrocketing. The  
9 competition for the US Dollar by government,  
10 the private sector, or just the small  
11 entrepreneurs, even the individual was  
12 indeed very active.  
13 Action was enquired.

#### 14 HIGH INTEREST RATE REGIME

15 The Government, of which I was a part,  
16 introduced a high interest rate policy  
17 which most of us would agree, is an  
18 effective tool to achieve certain  
19 objectives such as --  
20 Tightening liquidity to discourage  
21 currency speculators, thus protecting the  
22 exchange rate and controlling inflation.  
23 The problem is, the Government erred  
24 significantly in maintaining the high  
25 interest rate for much too long a period.  
This tool is best used for short periods.

1 If I might be allowed to give an  
2 analogy, in the case where there is damage  
3 done to a main artery in limb a person, it  
4 might become necessary to apply tourniquet  
5 to stop the bleeding, however if it is going  
6 to be for a prolonged, period it is essential  
7 to relax the tourniquet to allow some blood  
8 flow to reach the limb. Failure to do this  
9 would result in death to that part of the  
10 limb, distal to the tourniquet. So what is  
11 a good and necessary procedure, could end up  
12 in the death of the limb.

13 So it was with the high interest rate policy.  
14 It was maintained for too long a period. So,  
15 the situation that was created in the  
16 financial sector was that the entrepreneurs  
17 who had well established business plans, to  
18 include interest rates between 18 and 20  
19 percent, now found themselves being  
20 forced to repay loans at an interest rate  
21 of above sixty percent in most cases. At  
22 the same time the Government

1 was offering rates somewhere between  
2 fifty and sixty percent on Government  
3 Paper. The banks found themselves  
4 competing, so they were forced, they  
5 claimed, and if I might use this word, to  
6 jack up the interest rates.

7 The desperate entrepreneurs, as well as  
8 fathers and mothers who had simply  
9 mortgaged their homes to cover their  
10 children's educational expenses as well as  
11 to cover health expenses, now found  
12 themselves in a real tsunami.

13 The desperate clients of the bank were  
14 offered overdrafts from which the Bank  
15 Managers would take loan payments. Like is  
16 a drowning man clutching to a straw, they  
17 took up the offer which now saw them paying  
18 back loans at interest rates above 60 but also  
19 now servicing an overdraft at approximately  
20 120 percent. There is no way on God's earth  
21 that any legitimate business or person on  
22 salary could service these loans. The  
23 Government, which I was a part of, ought to  
24 have been aware of this situation.

1 Not even the best of illegal Ponzi scheme  
2 persons, managers could maintain paying out  
3 100% interest on funds they took in, so I  
4 don't know how in God's earth could anyone  
5 could expect these clients of the bank to  
6 not only pay out an interest rate of sixty  
7 or above but to service an overdraft of 120  
8 percent. It must be clear to all well  
9 thinking Jamaicans that to do so you would  
10 have to fall in the following categories, at  
11 least some of these categories. Old money  
12 would have to have been introduced into the  
13 business, likes so many of us in those days  
14 did.

15 So many of us had to sell off assets,  
16 downsize the business and use the money to  
17 pay the loan.

18 We sold off unrelated assets and used the  
19 money to keep paying the loan. And I would  
20 hate to think anyone would have used illegal  
21 funds to pump in the business to pay. That is  
22 the only way it could happen.

23 So the problem on the ground was very  
24  
25

1 clear to everybody.

2 The clients of the bank were failing; bad

3 debt portfolio were rising; Deposits to the

4 banks were decreasing; and those banks which

5 responded to the government's call for

6 increased production, found themselves in

7 deep water much deeper than the other banks.

8 The situation in some banks were made worse

9 because they involved in what we have been

10 told in Jamaica in what is known as

11 inter-group transaction and other bad

12 practices. The banks that were cautious in

13 that they didn't respond as much to the

14 production drive and if they had to seek

15 permission from their foreign owners, they

16 were able to survive.

17 We now found the financial sector

18 heading into crisis, and thus the

19 necessity for FINSAC.

20 Hold a minute. You are aware

21 DEBTOR 8, that you told us before, that

22 MR. GREEN: FINSAC was established, and I am going to

23 ask you to express your own

24

25

1 opinion based on your own experience in  
2 Government as to why you understood that  
3 FINSAC was established?

4 A: I want to make it very clear because I  
5 want no misunderstanding. I believe  
6 then, and I believe today, that the  
7 creation of FINSAC was necessary. It was  
8 my understanding then that FINSAC's role  
9 was to prevent the total collapse of the  
10 financial sector in Jamaica and to  
11 restore the sector to stability and  
12 growth.

13 FINSAC had two main approaches.  
14 It dealt with the financial sector and  
15 it dealt with the debtors.  
16 Not being privy to the internal workings  
17 of the financial institutions and  
18 certainly not having the opportunity to  
19 examine the books in detail, I cannot  
20 truly comment on whether or not the  
21 treatment meted out to these banks was  
22 indeed the best possible approach.

23 My only concern then was that, having  
24 agreed that the National Commercial Bank  
25 was too big to fail, and removing its bad

1 debt portfolio, this bank ought not to  
2 have been sold to any private individual  
3 or company unless there was just no  
4 other option.  
5 (APPLAUSE)

6 COMM. BOGLE: Mr. Levy, we are not at a concert.

7 DEBTOR 8: It should have been offered to the  
8 workers and to the public by way of  
9 shares. It would have been very easy  
10 for the Government of the day to change  
11 the top management if we thought they  
12 were the problem, and certainly to  
13 improve on the monitoring and the  
14 regulations of the financial sector.  
15 It is no secret that the same bank was  
16 able to produce significant profit in  
17 the first year of operation (after  
18 having been sold.  
19 I am in total agreement, and let us not  
20 have any misunderstanding here, of the  
21 decision of the government of which I  
22 was a part to protect the insurance  
23 policy holders, the pensioners, the  
24 small savers and even the large ones,  
25 even the depositors. But I would

1 certainly have placed a limit on how much  
2 of the taxpayers money would be called  
3 upon to bail out the large depositors.  
4 Nobody can denied the positive outcome  
5 having created FINSAC. The Government and  
6 Minister Davies must and be  
7 commended for what took place after that in  
8 the financial sector:

9 Strengthening of the regulatory and  
10 legislative framework, and the  
11 compliance issues

12 The ability to detect inter-group  
13 transactions early was ensured;

14 Increased participation of foreign  
15 institutions which would attract long term  
16 capital and skills were introduced

17 Restriction on cross section activities

18 Retention of deposit insurance legislation

19 Legislative power to supervise and  
20 demand full and timely disclosure

21 Power to issue Cease and Desist  
22 directives and finally close

23 Adopting more internationally accepted  
24  
25



1                   accounting practices

2                   Drafting of new insurance law and  
3                   regulation

4                   Full reorganization of the Office of  
5                   Superintendent of Insurance and

6                   Development of a law to protect private  
7                   pension funds.

8                   But my problem lies in dealing with the  
9                   category that I believe, as a  
10                  government, we took our eyes off the "ball"  
11                  and that was, the debtors. Having put in  
12                  place what the minister clearly explained  
13                  himself, was a Committee whose  
14                  responsibility it was to see how government  
15                  could help those commercial entities which  
16                  could play a role in helping to restore the  
17                  financial sector to growth, it is  
18                  disappointing that we now hear of the  
19                  difficulties these commercial entities had  
20                  in trying to settle their debts and in some  
21                  cases assuming that the presentation made by  
22                  these commercial entities is indeed correct,  
23                  I would have to conclude they were not  
24                  treated properly.

1 I have no reason to doubt Dr. Davies when  
2 he says that the members of the committee  
3 became fed up because all the debtors wanted  
4 was to have their debts written off and their  
5 assets returned to them.

6 In light of the testimony of many such  
7 persons before this Commission and the  
8 documents they presented to support their  
9 efforts to settle the debts of their  
10 commercial entities, as well as my own  
11 experiences, I would have to conclude that  
12 the explanation the Committee gave to the  
13 Minister, was indeed incorrect and  
14 unfortunate. I wish my Minister had, at  
15 that time, abolished that Committee and  
16 put in place, one willing to carry out its  
17 mandates, but this time to have even a  
18 Minister of State monitoring since he was  
19 extremely business trying to stabilize the  
20 banking sector.

21 Minister Davies also gave instructions, as  
22 he stated, that special instructions were  
23 given that special consideration  
24  
25

1 should be given to the debtors where their  
2 primary residence was used as security for  
3 loans. I have not seen what these special  
4 considerations are.

5 I have not been able to see them printed  
6 anywhere and I have know information as to  
7 who was given the responsibility to ensure  
8 that these debtors benefited from the  
9 considerations given to them by their  
10 government. If the debtors were aware of, in  
11 writing, what their rights were as given to  
12 them by their  
13 government, they would have been in a better  
14 position to protect themselves. Again, based  
15 the testimonies given before the Commission  
16 and my experience as it relates to my  
17 brother's debt it is clear that these  
18 considerations were not given. Had they  
19 been, it would be unlikely that we would be  
20 hearing of the many sufferings driving some  
21 families into utter despair, having lost  
22 their primary residence as well as other  
23 business assets. The case I recall most  
24 vividly is that of the eighty-one year

1 old lady who now finds herself living in  
2 a trailer, even after it is reported  
3 that she had made a deal with JRF under  
4 the leadership of Mr. Joslin to live in  
5 her house for her natural life.

6 MRS. PHILLIPS: Sorry. Is that the same lady who came  
7 here from overseas, Edith Donaldson?

8 MR. LEVY: Mr. Chairman, could DEBTOR 8 continue  
9 his evidence?  
10 MRS. PHILLIPS: You are asking him to specify, aren't  
11 you, because there was an old lady who  
12 gave evidence who said that but she came  
13 from abroad.

14 COMM. BOGLE: Would you make a note of that and have  
15 that under cross-examination please.  
16 MRS. PHILLIPS: But why is evidence being given which is  
17 unspecific in nature? It is a valid  
18 objection.

19 COMM. BOGLE: And I am saying, will you please put  
20 that question to DEBTOR 8 under  
21 cross-examination.

22 MR. MOODIE: Mr. Chairman, if I may, you indicated to  
23 me earlier that you would not be  
24 facilitating anecdotal evidence from  
25 other debtors being given by DEBTOR 8.

1 This is exactly where we are going down.

2 Are you now reversing yourself on that?

3 COMM. BOGLE: Mr. Moodie, did I make a statement? I  
4 made a statement earlier and I said I  
5 will allow DEBTOR 8 to continue. I  
6 said there might be situations that may  
7 reverse or adjust.

8 MR. MOODIE: So you are reversing that initial  
9 statement, Mr. Chairman?

10 COMM. BOGLE: In an effort to get information, as I  
11 have done in past, I have allowed  
12 latitude to lawyers, I have allowed  
13 latitude to persons giving submissions  
14 under cross-examination and otherwise  
15 and I will continue so to do in the  
16 interest of this Commission getting the  
17 information which the Commission feels  
18 necessary.

19 At the end of the day the Commission  
20 will go through all the evidence and the  
21 Commission will be required to write a  
22 report based on the facts that the  
23 Commission receives.

24 MR. GREEN: Mr. Chairman, it is clear that  
25 Mrs. Sandra Minott-Phillips is seeking

1 clarification and she will have more  
2 than enough time and opportunity to have  
3 DEBTOR 8 clarify any statement that he  
4 made during the presentation. Could we  
5 kindly proceed?

6 COMM. BOGLE: Proceed. As I said before, I told Mrs.  
7 Phillips, that under cross-examination  
8 you can put any question that you deemed  
9 necessary based on the submission.

10 MR. DEBTOR 8: So Mr. Chairman, if I may continue.

11 BAD DEBTORS:  
12 Now we have what some persons are  
13 calling bad debtors. They were good  
14 clients of the bank meeting their  
15 obligations to the bank and other  
16 financial institutions but met upon a  
17 high interest rate regime.

18 MRS. PHILLIPS: Objection. What is the source of that  
19 information?

20 COMM. BOGLE: Objection overruled.

21 MR. LEVY: (inaudible)

22 COMM. BOGLE: Mr. Levy, Mr. Levy! Objection overruled  
23 even at this stage.

24 MRS. PHILLIPS: Mr. Chairman, to say that they were good  
25 clients of the bank is a statement of

1 fact and a person who is giving evidence  
2 of a statement of fact must establish  
3 the basis on which he is able to put it  
4 forward as fact.

5 COMM. BOGLE: And again I am saying, Mrs. Phillips,  
6 that whatever question you have  
7 regarding the submission of DEBTOR 8  
8 that you may so do under  
9 cross-examination.

10 Continue for me.

11 MR. DEBTOR 8: They certainly met upon this high  
12 interest regime or policy which did not  
13 last for a short time but lasted for a  
14 very long time which was years. I, in  
15 drawing my own conclusion, and I believe  
16 those of well thinking Jamaicans, will  
17 conclude that absolutely no legit  
18 business could have survived this type  
19 of high interest regime for so long a  
20 period.

21 MRS. PHILLIPS: Objection, speculative, opinion.

22 COMM. BOGLE: Overruled.

23 MR. GREEN: You may not agree with his opinion but

24 he is entitled to it.

25 COMM, BOGLE: I did overrule the objection so we can

1 continue.

2 MRS. PHILLIPS: He can give evidence as to fact not as  
3 an expert witness. Now, if his opinion  
4 is relevant...

5 COMM. BOGLE: We will leave that to the Commission.

6 MRS. PHILLIPS: Mr. Chairman, that is an issue of law,  
7 Commissioner, that's an issue of law.

8 COMM. BOGLE: I have overruled your objection. Can we  
9 continue?

10 MR. LEVY: Mr. Chairman, can I ask a question of  
11 you? Is this Commission bound by the  
12 rules of the Evidence Act?

13 COMM. BOGLE: No.

14 MR. LEVY: I just wanted to clarify, Mr. Chairman.  
15 MR. DEBTOR 8: I will continue.

16 COMM. BOGLE: Yes.

17 MR. DEBTOR 8: It is important to look at a period of  
18 one to two years prior to when the banks  
19 got the opportunity of their lives to  
20 compile the bad debts list with a clear  
21 indication that the government, the  
22 taxpayers of this country, would have  
23 relieved them of this bad debt  
24 portfolio. This period, not saying there  
25 was, but this period, this request



1 opened opportunity for abuse; not saying  
2 that there was.

3 The banks then turned over these bad debts  
4 portfolios to FINSAC. The debtors were never  
5 given a chance to certify the accuracy this  
6 debt.

7 I have personal experience to know that  
8 where arrangements were in place prior to  
9 debt being taken over by FINSAC the bank  
10 simply ignored these arrangements and the  
11 loan was turned over to FINSAC as a bad debt.  
12 Where FINSAC erred as well as the government  
13 of which I was a part, is not monitoring the  
14 tabulation of these debts turned over to  
15 FINSAC. I believe that an accounting firm or  
16 firms should have been in place to certify  
17 that the debts being turned over truly  
18 reflected that which was owned by the  
19 debtors. This should have been certified by  
20 the debtors and where there was a dispute,  
21 the banks and their clients should have  
22 settled the matter before FINSAC took the  
23 debts.  
24  
25

1 The same injustice was done when the debts  
2 were sold to JRF. Debtors could get no print  
3 out showing how the principal came to be what  
4 it was and the interests.

5 What we got was a letter for which I have  
6 many copies. It simply stated: Dear  
7 Debtor.

8 Re liabilities with Refin Trust Limited,  
9 (Subsidiary of FINSAC Limited)

10 The account in the name of the debtor and  
11 it lists the debtor and the bank. And it  
12 simply says principal so much, interest  
13 so much, total so much per  
14 diem.

15 No real Statement of Accounts to show how  
16 they arrived at such principal and the  
17 interest which they quoted up front and this  
18 continued throughout the period the debts  
19 were with them until sold to JRF.

20 The unkindest cut of them all came when  
21 FINSAC sold the debt to JRF for some 17 cents  
22 to twenty cents, I think. I have 17 here,  
23 I think it is 17 to 20, it

24

25

1 varies, in the dollar, and in some cases  
2 they did not even promise to pay for the debt  
3 unless they were able to collect on the debt.  
4 That was known as 'hard to  
5 recover debt'. It was a mistake and a serious  
6 mistake to have given JRF the right to be  
7 able to be charging this interest on a daily  
8 basis, compound. It was a mistake. Where as  
9 we could have as a government, we could have  
10 given it to FINSAC because we had control  
11 over FINSAC. In the case of JRF, as I  
12 understand it, is a company based in  
13 Florida. United States. I do not know if I  
14 am sure but I think that is what I saw on the  
15 court documents, so I am  
16 accepting it as being so. But that is  
17 irrelevant. The fact is that the  
18 Minister and the Ministry of Finance had  
19 absolutely no control over this company,  
20 and in presenting to the Commission if I  
21 am not very sure of a thing relating to a  
22 company that I am not associated with, I  
23 will make it clear. That is why I did so.  
24  
25

1 The Financial Services Commission had no  
2 control over this company. It did not  
3 come under the Banking Act. The Bank of  
4 Jamaica Act had no control, gave the  
5 Bank no control over this company. By  
6 giving JRF this right, by doing so, the  
7 company was put in the position to abuse  
8 the debtors, with absolutely no recourse  
9 to the debtor, but to go to the court or  
10 to plead for mercy. There is no way the  
11 debtors could afford the high profile  
12 lawyers for prolonged periods to fight  
13 the cases all the way to the Privy  
14 Council,  
15 None of the debtors including myself...

16 (APPLAUSE)

17 COMM. BOGLE: May I ask that the applause from the  
18 audience be not continued, including Mr.  
19 Levy.

20 MR. LEVY: Mr. Chairman, I will dot all the 'is'  
21 and cross the 'ts'.

22 COMM. BOGLE: Go ahead Mr. DEBTOR 8.

23 MR. DEBTOR 8: None of the debtors including myself who  
24 believe we ought to challenge the  
25 constitutionality of anyone being given

1 the right to this company to charge this  
2 type of interest rate as well as the  
3 right to act in so respect as a  
4 commercial bank can afford the legal  
5 expense to conclude this matter. This to  
6 me is a grave injustice to the debtors.

7 MRS. PHILLIPS: This witness has no right, authority to  
8 speak on behalf of anyone and I want it  
9 noted on the records. Mr. Chairman, are  
10 you going to respond to my objection?

11 COMM. BOGLE: I assume, Mr. Green, is responding.

12 MR. GREEN: Mr. DEBTOR 8 is speaking from his own  
13 personal knowledge and experience on an  
14 issue, and he is entitled to do so and  
15 if based on his own personal experience  
16 and knowledge he came to a particular  
17 conclusion. I can see no basis for  
18 somebody objecting to him giving his  
19 expression of his own opinion based on  
20 his experience.

21 MR. MOODIE: It cannot be based on his opinion.

22 MRS. PHILLIPS: It was not a statement based on his own  
23 behalf, Commissioners.

24 COMM. BOGLE: Just a minute. If we cannot get some  
25 order, then unfortunately we have to do

1 something to ensure that we have order,  
2 but we will not allow this Commission to  
3 be dragged into all sorts of behaviour.  
4 I am imploring the persons in the  
5 audience to control yourselves, if not,  
6 as I said, the Commissioners will have  
7 to do something about it.

8 MRS. PHILLIPS: The statement did not say 'I', the  
9 statement says, 'none of the debtors'. It  
10 includes an entire category. It is made on  
11 behalf of them all, all four thousand and  
12 whatever, not just the eight who have  
13 testified against Jamaican Redevelopment  
14 Foundation and the word, 'we' is used to  
15 coincide with  
16 his treatment of an entire class.  
17 That is my objection and it is not just  
18 this statement, the testimony is replete  
19 with such references.

20 COMM. BOGLE: The objection again is overruled and as  
21 I said, all your concerns you may  
22 address them in cross-examination.

23 MRS. PHILLIPS: Yes, Commissioners, but I will continue  
24 to object when think it is required as I  
25 am entitled to do, so that my objection

1 can be noted for the record.  
2 COMM. BOGLE: Go ahead.

3 MR. DEBTOR 8: Mr. Chairman, just so that you may  
4 guide me. I am asked, I am requesting to  
5 make a submission on the treatment of  
6 debts. That is what the letter is  
7 saying. I am saying, this is a grave  
8 injustice and I concluded by saying,  
9 'the debtors' if it is even myself, if  
10 it is even that of my brothers, if it is  
11 even that of my JANE DOEs, it becomes  
12 plural. I did not say, all debtors, I  
13 said, the debtors. That is more than  
14 one debtors. So the debtors were not  
15 treated fairly.

16 The testimonies before this Commission  
17 and certainly my own clearly suggest  
18 with proof that offers far in excess of  
19 17 cents in the dollar were made by  
20 debtors for their debts. Let us not  
21 forget and this is not my saying but  
22 that of Mr. Hylton himself...

23 MR. MOODIE: Which Hylton.

24 MR. DEBTOR 8: Patrick Hylton who was in charge of  
25 FINSAC while addressing the role and

1 aims of FINSAC said the billion dollar  
2 question is how much of this 20 billion non  
3 performing loans do we expect to get back.  
4 FINSAC's answer, is, as much as is humanly  
5 possible. This is the taxpayers money.  
6 So for FINSAC to sell these debts for 17 cents  
7 in the dollar without offering the debts to  
8 the debtors at a much higher rate, is  
9 contrary to this statement and is not in the  
10 best interest of the taxpayers.  
11 Having made the decision to sell, had FINSAC  
12 offered these debts in writing to the debtors  
13 for just say 20 to 30 cents in the dollar and  
14 they refused, then the debtors would have had  
15 no leg to stand  
16 on.

17  
18  
19 COMM. BOGLE: At this point  
20 DEBTOR 8, ladies and  
21 gentlemen, we will have our usual ten  
22 minutes break.

23 COFFEE BREAK

24 COMM. BOGLE: Ladies and gentlemen this enquiry is now  
25 back in session. DEBTOR 8, Mr. Green.

MR. GREEN: Yes. DEBTOR 8...



1 MRS. PHILLIPS: Before he resumes Mr. Chairman, my friend  
2 Mr. Green had offered to put the letter of  
3 June 2, 2011 in evidence and I accepted that  
4 offer. Could you kindly have it admitted in  
5 evidence.

6 COMM BOGLE: Certainly.

7 MR. GREEN: I have absolutely no objection to the  
8 letter being tendered and admitted as  
9 evidence. I am not sure of your numbering  
10 scheme.

11 COMM BOGLE: In which case we will have that as KB 1. KB  
12 MR. GREEN: 1?

13 COMM BOGLE: Yes.

14 MR. GREEN: Very well.  
15 MRS. PHILLIPS: Obligated.

16 MR. GREEN: It's normally EKB but we will accept KB. We  
17 COMM BOGLE: can change it to EKB.

18 MR. GREEN: KB is fine.  
19 I think, DEBTOR 8, prior to the break we were  
20 discussing the whole business of injustice.  
21

22 MR. GARCIA: Sorry to interrupt my friend. May I have a  
23 copy of the exhibit.  
Same.

24 MR. MOODIE: You can have my copy.

25 MR. GREEN:

1 MR. GARCIA: Thank you.

2 MR. GREEN: Any more housekeeping matters?

3 MR. MOODIE: May I just ask Mr. DePeralto in a  
4 convenient moment to provide FINSAC with  
5 a copy.

6 COMM BOGLE: You will get that.

7 MR. MOODIE: Grateful, Chairman.

8 MR. GREEN: Yes, DEBTOR 8, back to you.

9 DEBTOR 8: Mr. Chairman, and other Commissioners, I  
10 am now looking at what I have as a  
11 heading:

12 **Treatment of Debtors by FINSAC/JRF.**

13 And this is where Mr. Chairman, I have a  
14 serious concern.

15 It is well known and written in the  
16 press that Dr. Davies, the former  
17 Minister of Finance has made many calls  
18 on the now Minister of finance to make  
19 available to all of us his debts and how  
20 they were treated, etc.

21 MR. MOODIE: Sorry, I did not get that. Whose debt?

22 COMM BOGLE: The Current Minister of Finance.

23 DEBTOR 8: The current Minister of Finance. Dr  
24 Davies, the former Minister, in the  
25 press, written and otherwise has asked

1                   that Minister, Mr. Audley Shaw make  
2                   available his debts, how they were  
3                   treated, what the right off was.

4   MR. MOODIE:           When you say 'his', Minister Davies?

5           A:           Minister Shaw. Sorry for not being  
6                   plain.

7                   I will go a little further. We all  
8                   could agree that the debtors list must  
9                   be published.

10   MRS. PHILLIPS:        Objection. We who?

11           A:           I agree that the debtors list ought to  
12                   be published.

13   MR. GREEN:            Many would agree.

14           A:           And since Dr. Davies has introduced the  
15                   fact that Minister Shaw should reveal  
16                   his debt, I go much further for fairness  
17                   and for transparency, I believe all  
18                   Ministers who formed the Cabinet then  
19                   should also make available what their  
20                   debt was, what the write-off was and  
21                   how, what arrangements were in place for  
22                   them to pay the balances. Because you  
23                   see I believe that transparency leading  
24                   to fairness and equality, is essential  
25                   for the public to understand that all

1 debtors were treated equally.

2 As a matter of fact, I go further, and I  
3 say all MPs, all politicians should lead  
4 the way by making their debts available.

5 MR. MOODIE: If I can Mr. Chairman, just for  
6 clarification because these statements  
7 are going out, I just wish the record to  
8 reflect that FINSAC has provided to this  
9 Commission a list of all debtors who  
10 received concessions and that would  
11 include the persons that Dr DEBTOR 8 is  
12 making representation about.

13 MRS. PHILLIPS: I also have a clarification on behalf of  
14 my client and would also like to point  
15 out that a list of all debtors was made  
16 available by my client from 2009 before  
17 the very first sitting in response to a  
18 request from the then Commission.

19 MR. LEVY: Mr. Chairman, what we have seen from  
20 experience, is that lists of all things  
21 provided by FINSAC have shown that  
22 things were not provided, were not on  
23 the list including titles which were  
24 sold by FINSAC and I am specifically  
25 relating to DEBTOR 18 and some

1 other things which you are aware of.

2 MR. MOODIE: Is Mr. Levy speaking of the list to  
3 which I referred?

4 CHAIRMAN: All points made by attorneys have been  
5 noted. We will now move on Doctor  
6 DEBTOR 8.

7 A: Thank you Mr. Chairman. I'll not deal  
8 with my personal debt, and you notice I  
9 said 'my personal debt' which was  
10 related to the purchase of six  
11 PROPERTIES. It is possible that  
12 repayments were already made as well as  
13 the sale of one apartment very early in  
14 the history of the loan, coupled with  
15 the fact that JRF had put up the other  
16 five for auction, that at some stage  
17 I'll be advised whether my debt has been  
18 cleared and whether they owe me money  
19 and will return that money to me or  
20 whether or not some years down the line  
21 I'll be told that they just didn't get  
22 enough money so I still owe them. The  
23 principal is so much, the interest is so  
24 much, the accrual so much. I don't know  
25 what the outcome will be but I await.

1                   However, I will now use the instance of  
2                   debt related to me, to my family for  
3                   which I have attempted to treat with and  
4                   show how this was dealt with by the  
5                   bank, FINSAC and JRF. This will clearly  
6                   show and you will have supporting  
7                   letters, that in my opinion an injustice  
8                   was meted out to how this debt was  
9                   treated.

10                  Apparently, in 1993  
11                  DEBTOR 8 RELATIVE, (deceased) used their  
title to  
12                  secure a loan of **Million** for my JANE DOE  
13                  JANE DOE.

14                  The bank seems to have granted her three  
15                  additional loans thereafter, and as  
16                  explained to me some years later, and  
17                  seeing the bank statements, the  
18                  overdraft facilities were used to  
19                  service the first loans, and to operate  
20                  a small business.

21    MRS. PHILLIPS:       Through you, Mr. Chairman, I am seeking  
22                           a clarification. Which bank?  
23            A:             National commercial bank.  
24            Q:             Thank you.

25

A:

This also included a car loan of

1                   \$XXXX.

2                   By December 29, 1995, the overdraft was  
3                   cleared, that is, the overdraft operated  
4                   by my JANE DOE and the account was put in  
5                   credit XXXX.

6                   By January 2, 1996, the car loan was  
7                   paid out.

8                   On January 2, 1996, the loan for \$ XXXX  
9                   million was also paid out.

10                  On July 7, 1997 another loan for JANE DOE  
11                  was cleared. (This was the loan on which  
12                  I was paying, but I cannot remember how  
13                  it or the other loans came to be paid  
14                  out).

15   MR. MOODIE:           Might I just ask through you Mr.

16                           Chairman, whether there is supporting  
17                           documentation in relation to these  
18                           assertions?

19   MR. GREEN:            Yes, the documents are available.

20   MR. MOODIE:           Might I ask to be provided with copies

21                           of those documents?

22   COMM BOGLE:           I think DEBTOR 8 did say that he will  
23                           provide the documents.

24   MR. GREEN:            He will provide the documents.

25   MRS. PHILLIPS:         I am sorry, I know that was the position



1 of the Commission, but we don't know if  
2 it has changed. Could I get a copy  
3 please.

4 COMM BOGLE: Copies will be provided.

5 DEBTOR 8: May I continue?

6 COMM BOGLE: Yes. copies will be provided.

7 MR. GREEN: I undertake to provide copies and  
8 undertake at an appropriate time to put  
9 these documents in evidence.

10 DEBTOR 8: One thing I am sure, my JANE DOE did not  
11 pay out these loans. By examining the  
12 bank statements which I have I noticed  
13 that on January 2,1997, the same date  
14 that other loans were cleared, a loan  
15 account was opened in DEBTOR 8's  
16 name (my RELATIVE)and was debited \$2.5M  
17 for principal and interest of  
18 \$ XXXX.

19 Some years later, towards the end of  
20 1995 and early 1996, I don't know what  
21 happened but I assumed, and rightfully  
22 so, that the bank was tidying up these  
23 accounts. Somehow, JANE DOE's loans  
24 were cleared and DEBTOR 8 RELATIVE now had

a

new loan or overdraft, at 82 years of

1 age. He would never have taken out this  
2 loan. This loan was apparently transferred  
3 to him and an account opened on the same day  
4 that JANE DOE' loans were closed, that is,  
5 January 2, 1996. By August 21, 1996, a letter  
6 was addressed to DEBTOR 8 RELATIVE stating  
7 that, as of the close of business on August  
8 19, 1996, his account reflected the balance  
9 and arrears quoted, and that he was to make  
10 an immediate deposit to clear.

11 Again, one can only assume or I can only  
12 assume, that the bank was tidying up their  
13 books. This certainly would have been a  
14 massive surprise to my DEBTOR 8 RELATIVE, had  
15 the letter reached him, but JANE DOE, in a  
16 letter dated August 27, 1996, informed the  
17 bank that she intercepted the letter and  
18 reprimanded them for showing what she  
19 described as

20 callousness to a cardiac patient and  
21 requested that in the future, all such  
22 documents relating to the loan should be  
23 referred to her, the borrower. Apparently,  
24 she was unaware that the

1 bank had somehow transferred the loan to  
2 DEBTOR 8 RELATIVE. Surprisingly, however, by  
3 March 9, 1998, the said loan was transferred  
4 to DEBTOR 8. and that refers to me. By March  
5 11, 1998, a reversal takes place, and again  
6 by April 9, 1998, by advice, an amount of  
7 \$XXXX with interest, appeared on an account  
8 in my name at NCB, now creating an overdraft  
9 in my name which showed a figure of \$XXXX.  
10 Apparently, they now had an account with an  
11 overdraft to send to FINSAC and this became  
12 known as DEBTOR 8 National Commercial Bank  
13 Loan.

14 Let me be absolutely clear that the only thing  
15 I remember is that when the loans associated  
16 with my JANE DOE and secured by DEBTOR 8  
17 RELATIVE and DEBTOR 8 RELATIVE stood at  
18 \$XXXX, a letter  
19 threatening to sell my parents' house if the  
20 loan was not cleared, was sent to them. That  
21 would be somewhere towards the end of 1995  
22 and January 1996. As the Lord would have it  
23 the Post Office  
24  
25

1 confused DEBTOR 8 with DEBTOR 8 and the  
2 letter came to me instead.  
3 Being a medical doctor I was well aware of  
4 the damage that could be done to my aged and  
5 ailing parents, using their primary  
6 residence to secure a loan for JANE DOE.

7 I told my big brother, JOHN DOE, and we both  
8 went to NCB, held discussions with the  
9 Manager and verbally agreed to pay on this  
10 loan which would be in the name of JANE DOE  
11 DEBTOR 8/JANE DOE Ventures Limited and the  
12 security was changed from the residential  
13 property owned by my parents to commercial  
14 property on THE PROPERTY, Savanna-la-mar,  
15 owned by my family.

16 An arrangement was made to pay the loan for  
17 \$XXXXM thus --

18 \$XXXXM was to be paid from an account in the  
19 name of DEBTOR 8 Insurance (Agents)  
20 Limited. The monthly payment was \$XXXX,  
21 and.

22 2. \$XXXXM was to be paid by me. The  
23  
24  
25

1 2 monthly payment of \$XXXXX was  
3 4 debited to my current account.

5 6 The arrangements ran successfully until for  
7 8 some reason the bank appeared to have had  
9 a better offer so the loans were first  
10 transferred to my DEBTOR 8 RELATIVE and  
11 ultimately to my name, and then passed on  
12 to FINSAC.

13 I held discussions with FINSAC, explaining  
14 the nature of the loan and that the  
15 Westmoreland Parish Council had occupied the  
16 PROPERTY for years, and had an interest in  
17 purchasing. I offered the land for sale  
18 proceeds to liquidate.

19 On January 5, 1999, I received a letter from  
20 Veronica Bailey, Credit Officer of FINSAC,  
21 saying they would be willing to accept \$10  
22 million and giving me 30 days to conclude the  
23 sale. I responded immediately acknowledging  
24 discussions held and explained that the  
25 agreement was not that I should seek to get  
a Letter of Undertaking in respect of the  
property purchased, but a Letter of

1 Intent to purchase the property.  
2 I again responded to her on April 5, 1999  
telling her that there is a draft  
4 agreement in place, but it was taking  
5 time to conclude the sale.  
6 On January 12, 2000, I received a letter  
7 from Mr. Patrick Hylton expressing  
8 concern in delay to settle the debt and  
9 also stating they would be willing to  
10 accept cash and real estate. At this  
11 time, the debt was reported as being -  
12 Principal XXXX and interest of  
13 \$XXXX. Don't forget that this  
14 was the same initial debt of \$XXXXM made to  
15 JANE DOE DEBTOR 8.  
16 Mr. Hylton also expressed that he could  
17 consider some compromise on the  
18 interest.  
19 MR. GARCIA: Commissioner, I am wondering if the  
20 witness has copies of letters to which  
21 he is making reference and is going to  
22 be putting them in...  
23 MR. GREEN: That is what I said.  
24 MR. GARCIA: I am not finished. At this time, because  
25 it seems that if the witness is now

1 dealing with the correspondence then  
2 this would be the appropriate point at  
3 which it should be put into evidence and  
4 such aspects as are relevant, and I  
5 think that is the procedure that the  
6 Commission has been following up to this  
7 time.

8 COMM BOGLE: Mr. Green?  
9 MR. GREEN: I'll invite your guidance, but can we do

10 it in the luncheon adjournment?

11 COMM BOGLE: I think it is customary that we would  
12 get the exhibits as we go along.

13 MR. GREEN: Understandably so.

14 COMM BOGLE: If they are available at this time we  
15 will take them.

16 MR. GREEN: You wouldn't take the adjournment now?

17 COMM BOGLE: No, no.

18 MR. MOODIE: We don't have sufficient copies.

19 COMM BOGLE: You don't have sufficient copies?

20 MR. GREEN: The copies would be the problem. We  
21 have the document but not sufficient  
22 copies to circulate at this time so I  
23 seek your guidance as to how we could  
24 proceed.

25 COMM BOGLE: If you have the copies you could pass



1                   what you have to Mr. DePeralto and he  
2                   will in the interim start the process  
3                   whereby copies will be made.

4   MR. GREEN:           May I just consult with my client and we  
5                   can copy some of these. With your  
6                   permission, Chairman.

7   MR. GARCIA:          The witness has been giving evidence in  
8                   regard to the loans and who the loans  
9                   were granted to, perhaps it might be  
10                  also appropriate that he might be asked  
11                  to provide copies of the loan documents  
12                  to be put in evidence as well.

13   MR. GREEN:          Mr. Commissioner, I had requested an  
14                   opportunity to consult with my client  
15                   and I note that counsel is making  
16                   enquiries in circumstances where I am  
17                   consulting my client in response to the  
18                   very objection that he has made. I just  
19                   asked him to just permit me an  
20                   opportunity to consult with my client  
21                   before he raises other issues.

22   COMM. BOGLE:         However, Mr. Green, in view of the fact  
23                   that we are close to the luncheon  
24                   interval, may I suggest that we continue  
25                   as we were going until the luncheon

1 interval and during the luncheon  
2 interval, if you would go through all  
3 the documents and we will have it after  
4 lunch.

5 MR. GREEN: That was my original proposal, that is  
6 why I enquired about the luncheon  
7 adjournment.

8 COMM. BOGLE: So we will continue as we were going, we  
9 are pretty close to lunch, we continue  
10 until lunch and during luncheon  
11 interval, as soon as we resume, the  
12 copies will be put in evidence. So  
13 Mr. Green can we continue.

14 MR. GREEN: Yes, sir. Yes DEBTOR 8. You had made  
15 reference to correspondence of January  
16 12, 2000.

17 A: Right. And I said I received a letter  
18 from Patrick Hylton expressing concern  
19 in the delay to settle the debt and also  
20 stating that they will be willing to  
21 accept cash and real estate. At this  
22 time the debt was reported, as I said,  
23 to be thirteen plus million, I don't  
24 think I have to repeat it and the  
25 interest seven plus million.

1 On January 21 2000, I replied to  
2 Mr. Hylton expressing the nature of the  
3 loan and its origin again. I was willing  
4 to surrender the properties to clear  
5 this debt but simply wanted to await the  
6 conclusion of the sale of the Parish  
7 Council and I would turn over the sales  
8 proceeds to FINSAC.

9 MR. GREEN: I think you meant sale to the Parish  
10 Council.

11 A: Yes, sale to the Parish Council sorry,  
12 and I would turn over the proceeds to  
13 FINSAC. Correspondence continued  
14 between myself and Mr. Hylton and  
15 Veronica Bailey and by March 30, 2000, I  
16 received another letter stating that the  
17 debt was now \$XXXX with a per  
18 diem accrual of \$\$XXXX. They also  
19 stated that they would accept the eight  
20 million being offered by the Parish  
21 Council as partial payment for this loan  
22 and that the matter between the Parish  
23 Council and myself was indeed private.  
24 On April 3rd I wrote to them still  
25 pleading for them just to take the land

1 and advising that I thought it extremely  
2 unfair for one arm of Government, the  
3 Parish Council, to be occupying the same  
4 land used as security for this loan,  
5 refusing to give me what I consider a  
6 fair price, refusing to pay me lease or  
7 rental while occupying the land,  
8 charging the vendors a fee for  
9 occupying, actually installing light and  
10 power as well as toilet facilities and  
11 tying my hands...

12 MRS. PHILLIPS: Objection, just a minute DEBTOR 8. I

13 am afraid I am not following. Through  
14 the Commissioners, the witness has said  
15 the Parish Council was occupying land  
16 used as security for this loan, to which  
17 loan is he referring that the Parish  
18 Council lands were security for?

19 A: May I clarify?

20 MRS. PHILLIPS: I would be obliged.

21 A: The loan is the loan given to my JANE DOE  
22 which I am giving a history on of which  
23 I was paying on for all these years, in  
24 other words, they were deducting it from  
25 my account because it fell into trouble

1 and the loans were loans which the bank  
2 transferred to my DEBTOR 8 RELATIVE and the  
bank  
3 made me the owner of the loan and sent  
4 it to FINSAC, not as JANE DOE 's  
5 loan, not as DEBTOR 8 RELATIVE 's loan but  
as  
6 DEBTOR 8's loan; that is the  
7 loan that I am referring to, so I now  
8 have the full authority to proceed on a  
9 loan they referred to FINSAC in my name.  
10 COMM. BOGLE: Proceed.

11 A: And my objection, my concern at the time  
12 was that one arm of government which was  
13 the Parish Council, they were occupying  
14 my land by putting an arcade on it, they  
15 were not paying me lease or anything,  
16 they were offering me a price which I  
17 thought was far below the value, they  
18 were preventing me from selling the land  
19 because nobody wanted the land that was  
20 occupied by a set of vendors, that was  
21 the problem, to get them off. So I felt  
22 that my hands were tied and on the other  
23 hand, another arm of government which is

24

FINSAC had control over those lands

25

because those were the lands used as

1 security on the loan and the two  
2 entities I felt, you mean they could not come  
3 together and at least take the lands and  
4 relief the family of the burden of this debt  
5 on which interest was piling up daily? As a  
6 Cabinet Member, I always, when necessary I  
7 should say, would copy letters to both Prime  
8 Minister and Minister of Finance because as  
9 Cabinet Member you have to be careful, so I  
10 wanted them to know what was happening with  
11 me at all times. By May 15, 2000, Patrick  
12 Hylton wrote to say that my offer was  
13 refused. At this time the Ministry of Local  
14 Government got involved in helping the  
15 Parish Council to conclude the sale and it  
16 was stated that the Parish Council could not  
17 pay more than the value that the Commissioner  
18 of Land placed on these lands. Don't forget  
19 -- I wouldn't say don't forget -- I had a  
20 valuation on this which made the value \$XXXX  
21 million. The debt at that time was XXXX plus  
22 million. The Parish Council was offering

1 between XXXX and XXXX million and I simply  
2 said, FINSAC accept that, take the land and  
3 let the debt go because in my mind I knew the  
4 value of the land was much more, but they  
5 wanted to hear from the Commissioner. The  
6 commissioner spoke .

8 MR. GREEN: Which  
Commissioner?

9 A: The Commissioner of Land through Land  
10 Valuation Department, they acted. They  
11 stated at that time that the land was  
12 valued some \$XXXX million plus and they  
13 also stated that what would be a fair  
14 compensation to the owners of the land,  
15 that would be the DEBTOR 8 family, would  
16 be approximately one point two something  
17 per year as a lease and they had  
18 occupied the land for seven years, so  
19 right away you see that it was over  
20 XXXX million, so in essence the value  
21 of the land was XXXX and the  
22 Parish Council should offer me XXXX, so  
23 we are talking about XXXX  
24 million dollars value by the person who  
25 is to state what they could pay for the



1 land.

2 MR. MOODIE: Sorry, might I ask through you Chairman,  
3 that evidence just given by DEBTOR 8  
4 does not indicate that the Land Val's  
5 correspondence was contained in any  
6 letter which he has, so does he have  
7 correspondence from the Land Valuation  
8 Department substantiating what is said  
9 here because I don't see a reference.

10 A: May I explain?

11 MR. MOODIE: Through you Chairman.

12 A: May I explain Mr. Chairman?

13 COMM. BOGLE: Yes.

14 A: There were two letters, something  
15 happened to one, I have the one which  
16 states the XXXX million and how to be  
17 compensated. I just can't find the one  
18 to deal with the valuation, but there  
19 are letters which refer to the  
20 XXXX from the lawyer, which would  
21 suggest that there was such a valuation,  
22 so there were two letters, I have one  
23 which clearly set out what I should be  
24 paid, what the going rate was for  
25 commercial lots, signed by the

1 Commissioner herself, so I did have  
2 those letters but I can only find one at  
3 this stage.

4 MR. MOODIE: Might I, through you Chairman, ask one  
5 more question; in the proceeding there  
6 is a reference to the Valuation Report.

7 A: I have all those.

8 MR. MOODIE: I am grateful so those would be among  
9 the documents.

10 A: You are talking about the valuation,  
11 which I have -- we had many valuations  
12 for the property but I have all the  
13 valuations.

14 MR. MOODIE: For the XXXX million that you make  
15 reference to?

16 A: Yes.

17 MR. MOODIE: Thank you Mr. Chairman.

18 A: I must say that I would be paying, in  
19 essence, using these values, I would be  
20 paying two dollars for every dollar  
21 owed, but this offer was refused. Does  
22 this seem like a debtor who just wanted  
23 his debt written off and assets  
24 returned? But Dr. Davies' report that  
25 the Committee reported so. The debt was

1 sold for seventeen cents in the dollar,  
2 approximately at the time \$XXXX million and  
3 the value of the assets I was seeking for  
4 them to take, using that which was given to  
5 us by the

6 Commissioner was \$XXXX million.

7 On August 22nd, I wrote to Mr. Hylton  
8 expressing how sorry I was that the Board  
9 would not accept my offer and I said,  
10 rightfully so or not, I said, I reserve the  
11 right to purchase the loan if a decision to  
12 sell is made. I further expressed that I  
13 would offer no more than that which they  
14 would be selling the loan for at that time.  
15 On March 26 I still continued pleading with  
16 Mr. Hylton, I really didn't want him to sell  
17 my loan, take the offer to take up the land  
18 and to accept the \$XXXX million. On February  
19 15, 2002, I received a letter from one Dianne  
20 Russell-Grant, Loan Recovery Manager for JRF  
21 stating that the loan and other obligations  
22 have been acquired by JRF. No, it was not  
23 until March the same year that I

1 received a letter from FINSAC/Refin Trust  
2 Limited stating that the debt was sold to JRF  
3 Inc from February 1 the same year and that  
4 Joslin Jamaica Limited has been appointed by  
5 JRF Inc to service all such debts. Someone  
6 signed the letter, I can't make out the  
7 signature, for Mrs. Audrey Robinson, General  
8 Manager for Asset Management and Divestment  
9 at Refin. So this debt was sold seventeen  
10 cents in the dollar and I had offered the land  
11 plus the compensation, simply asking one  
12 agency to take it because the other agency  
13 was occupying it.

14 After discussion with my colleagues in  
15 Cabinet and others that were not in the  
16 Cabinet, I was advised that their  
17 matters were treated fairly. I truly believe  
18 that all debts, not only mine, would have  
19 been treated in that manner, so I decided to  
20 meet with Mr. Joslin. This meeting took place  
21 at his apartment with three or four persons  
22 present in what was a very relaxed  
23 atmosphere. As discussions developed, I  
24 became

1 concerned that my debt as well as those  
2 relating to the rest of the family were  
3 not going to be settled along the same  
4 line offered to those persons who had  
5 encouraged me to meet with Joslin. All  
6 related debts, both principal and  
7 interest to date, had to be paid.  
8 Having, you must understand, been  
9 informed by my colleagues how they said  
10 that their matter was dealt with fairly,  
11 I had to enquire why. The answer was  
12 unexpected and somewhat upsetting as he  
13 advised them that the value of your  
14 assets being held as security is much  
15 higher than the debt and I cannot  
16 convince my principals to write off any  
17 part of your debt, even the interest.  
18 Furthermore, I have been instructed that  
19 when .

20 MRS. PHILLIPS: Objection, Mr. Chairman. Is this the  
21 subject of a letter, this quotation  
22 here, could you clarify and if so is  
23 there a document?

24 A: Mr. Chairman, we were in discussion in  
25 his apartment but even though I am

1 reporting this today, many years ago I  
2 would have reported it to the Prime  
3 Minister and to the Minister of Finance  
4 in the same way that it was said so I  
5 would have no reason not to proceed as  
6 was said to me then. So it's not today  
7 that I am saying it, it was said maybe  
8 eight years ago to my Prime Minister and  
9 quoted as what was said.  
10 COMM. BOGLE: It appears there is no written documents  
  
11 to this.  
12 MRS. PHILLIPS: I am obliged.  
13 COMM. BOGLE: Go ahead.  
  
14 A: Further more I have instructed that when  
15 it comes to any adjustment in your debt,  
16 the Ministry....  
17 MRS. PHILLIPS: One thing further, sorry, Mr. Chairman,  
  
18 is this a discussion which he was having  
19 with Mr. Dennis Joslin, I am not  
20 completely clear?  
21 A: This was a discussion I was having with  
22 Mr. Joslin in the presence of three  
23 others of which I wouldn't be familiar  
24 with, they were members of his team.  
25 MRS. PHILLIPS: As Mr. Joslin is now deceased, we have

1 no way of checking the accuracy of his  
2 statement.

3 A: We have the letters that were written to  
4 Prime Minister....

5 MRS. PHILLIPS: Sorry DEBTOR 8, I am speaking to the  
6 Chairman.

7 A: I am so very sorry.

8 MRS. PHILLIPS: So the corroborating documents then,  
9 Chairman, you will ask him to produce  
10 them?

11 COMM. BOGLE: Yes.

12 MRS. PHILLIPS: Obligated.

13 A: Mr. Chairman, I don't want to be mis-  
14 understood, I made it very clear, this  
15 was discussion taking place with  
16 Mr. Joslin; the only letters that I  
17 would have had back then would have been  
18 letters written to JRF explaining what I  
19 was told, also letters copied to the  
20 Prime Minister and the Minister of  
21 Finance repeating the same thing that  
22 was said to me at that time.

23 MRS. PHILLIPS: That is what we are asking for.

24 A: Yes, I thank you.

25 MRS. PHILLIPS: You can produce those?





1 witness is now referencing documents  
2 that relate to my client. Your ruling  
3 was specific to the particular objection  
4 taken. If it is that every reference to  
5 a letter in this witness statement my  
6 friend Mr. Green is undertaking to  
7 provide a copy for the Commission, then  
8 I have no difficulty.

9 COMM. BOGLE: I am sorry; our understanding seems to  
10 be different. As far as I know the  
11 witness and his attorney have said that  
12 all the correspondence that they refer  
13 to in the submission, they will  
14 endeavour to provide to this Commission.  
15 Now that is my understanding.

16 MR. GREEN: That is the correct understanding.

17 MRS. PHILLIPS: To endeavour to provide and provide it  
18 are two different things.

19 COMM. BOGLE: We are going in semantics, the witness  
20 and his attorney....

21 MR. GREEN: We are lawyers, aren't we?

22 COMM. BOGLE: Can we -- the witness and his attorney  
23 have promised that they will endeavour  
24 to provide copies of the documents  
25 referred to and they would go through

1                   during the lunch break and try to  
2                   provide those. Can we wait and see, let  
3                   us not preempt. Thank you.

4           A:                   Mr. Chairman, you know, I am giving....

5   MR. GREEN:                 DEBTOR 8 one second, I thought you may  
6                   well be contemplating the adjournment at  
7                   this time.

8   COMM. BOGLE:               Yes, I think now is a good time for us  
9                   to take our lunch break, and we will  
10                  return at 1:30. Will that give you  
11                  enough time?

12   MR. GREEN:                 That will be fine.

13   COMM. BOGLE:               We will return at 1:30.  
14   MR. GARCIA:                When I previously was making my request

15                               I believe my friend was conferring with  
16                               his client, I made that request in  
17                               relation to the loan documentation of  
18                               the witness, so I am going to renew that  
19                               request now so that my friend could  
20                               address it.

21   COMM. BOGLE:               Ladies and gentlemen, please.

22           A:                   Mr. Chairman may I be of some help; as I  
23                   explained then all loan documents were  
24                   with the bank. My DEBTOR 8 RELATIVE, my JANE

DOE did

25

not give me a copy and I cannot find it.