

1 think it's important, Chairman, because
2 it refers to the bidding process and
3 certainly provides a valuable summary.

4 COMM. ROSS: Mr. Moodie, can we just digest the
5 valuation for a second.

6 MR. MOODIE: Certainly.

7 COMM. ROSS: You tabled the document but it's an
8 extensive document. I am trying to
9 understand it. What was the
10 recommendation from this report, is this
11 suggesting that the company be sold for
12 a dollar or be given away?

13 MR. MOODIE: I think if you look at page 23, the
14 valuers stopped short of making a
15 recommendation, I don't think it would
16 have been their mandate to make a
17 recommendation. They just give the
18 value based on the analysis which they
19 undertook and the conclusion on page 23
20 certainly addresses that.

21 MR. LEVY: Mr. Chairman, maybe Mr. Campbell would
22 care to tell us about the qualification
23 of this company, Associates.

24 MR. MOODIE: They are a Jamaican registered company.

25 MR. LEVY: So is the local real estate company.

1 A: From the information we have on this
2 company, Mr. Levy, Commissioners, they
3 are a management consultant and they
4 offer business valuation services, so it
5 was on that basis that we requested them
6 to do the valuation, FINSAC requested
7 them to do the valuation.

8 COMM. BOGLE: They don't seem to be well known.

9 A: I would beg to differ.

10 COMM. BOGLE: You know them?

11 A: And they have done other valuations for
12 us as well.

13 COMM. ROSS: That doesn't make them well known Mr.
14 Campbell, they having done valuation for
15 FINSAC doesn't make them well known.
16 MR. LEVY: By FINSAC.

17 COMM. BOGLE: They are well known by FINSAC but a
18 number of us, it's the first we are
19 hearing of them.

20 COMM. ROSS: Mr. Campbell, the last line of the
21 valuation report states that the value
22 of the company to FINSAC lies in its
23 loan, that is FINSAC's loan to the
24 company?

25 A: Yes.

1 company owns, so if they have towers,
2 one would imagine, but I think that we
3 may have to come back to Mr. Campbell;
4 look at the other things that we will be
5 going through and probably

6 MR. MOODIE: I think page 19 has some indication of
7 fixed assets being considered. And you
8 see, for example, in the heading - **Asset**
9 **Based Approach** - under the assumption
10 that the company is a going concern and
11 using an asset based approach, DEBTOR 13

COMPANY 1 has a

12 negative value of \$XXXX million. The
13 company however does not meet going
14 concern criteria, and its fair market
15 value result in a negative value of
16 \$XXXX million. The company has no
17 record of profitability over the past
18 four years and the likelihood of
19 profitability at the time of this
20 valuation is low.

21 COMM. ROSS: Mr. Moodie, we will move on, we will
22 come back to it.

23 MR. MOODIE: You are not admitting this into
24 evidence?

25 COMM. BOGLE: Oh, yes admitted as EC 29/11, that was

1 done.

2 COMM. ROSS: Just a response, the question is, were
3 those assets valued at their current
4 market rate or are they written down as
5 book value?

6 MR. MOODIE: Noted. I think once we have had or the
7 Commission has had a chance to digest,
8 then certainly any further questions or
9 any questions that may arise, we will
10 endeavour to do the relevant research to
11 answer those questions.

12 COMM. BOGLE: Okay.

13 MR. MOODIE: I see some notes on page 20 which might
14 assist.

15 COMM. ROSS: Okay, we will come back because right
16 now what we are doing is looking at
17 points rather than having read the
18 document, so we will come back to that.

19 MR. MOODIE: Obligated. We now turn Chairman to that
20 letter to the Editor dated May 16,
21 Editor of the Daily Gleaner dated May 16
22 2001. Mr. Campbell, I will ask you to
23 read through that letter, its a three
24 page document, two pages and two
25 paragraphs, I ask you to read the entire

1 letter into the record please?

2 **A:** The letter from FINSAC dated May 16 2001
3 to the Editor, Daily Gleaner, 7 North
4 Street, Kingston.

5 **Dear Sir**

6 **Re: Statement by Mr. DEBTOR 13 re**
7 **sale of DEBTOR 13 COMPANY 2**

8 **We refer to the statement by DEBTOR 13**
9 **published in the Sunday Gleaner of**
10 **May 13. We wish to comment and respond**
11 **to the allegations, in the interest of**
12 **ensuring that the public is given a fair**
13 **picture of the matter.**

14 **1. DEBTOR 13 COMPANY 2's debt was held by**

Workers

15 **Savings & Loan Bank, and the Minister of**
16 **Finance intervened in that entity in**
17 **1998. The administration of the loan**
18 **portfolio of the Bank was handled first**
19 **by Ernst & Young, who were appointed by**
20 **the Minister of Finance as his agents**
21 **after his intervention. Thereafter, the**
22 **administration of the portfolio was**
23 **assumed by FINSAC. The interest that**
24 **was applied to that debt by the Bank**

1 2 no higher than prevailed in the
3 4 marketplace generally. The suggestion
5 6 that somehow FINSAC, through its
7 8 administration of the bank's loan
9 portfolio applied unusually high
10 interest rates is therefore without basis.
11 As at June 1998, the debt of the company on
12 the books of Workers Bank stood at \$XXXX
13 Million.

14 2. It should be borne in mind also that the
15 debt incurred by the company was chiefly via
16 an overdraft facility, which would naturally
17 have been the most expensive type of
18 financing chosen by the company, hence the
19 interest rates charged by Workers Bank would
20 have been substantially higher than the
21 rates charged on, for example, demand loans.
22 The situation was compounded by the fact that
23 the company's record of servicing its debts
24 was poor, even before the intervention of
25 the Minister.

3. The October 1999 proposal submitted by
the management of the company to FINSAC
repeated the earlier proposal for

1 the repayment of the debt and proposed the
2 acquisition of the shares by an investor
3 group drawn from some existing shareholders
4 and members of staff.

5 4. By the time this proposal was received
6 on November 1, 1999, FINSAC had already taken
7 a decision to go to the open market to seek
8 to dispose of the debt and the shares as one
9 package and this had been communicated to
10 some directors of the company at a meeting
11 held with the FINSAC executive responsible
12 for the divestment, as well as by a letter
13 to DEBTOR 13 from FINSAC dated October 28,
14 1999. This meeting occurred before the
15 proposal was sent and DEBTOR 13 was
16 therefore well aware of FINSAC's intentions
17 from before he sent the proposal.

18 5. DEBTOR 13 and other representatives of
19 the management of DEBTOR 13 COMPANY 2 met
20 with FINSAC again in mid-November 1999,
21 less than two weeks after the proposal was
22 received. In this meeting, which DEBTOR 13
23 himself described in a letter to
24
25

1 FINSAC and in his radio interview on
2 DEBTOR 13 COMPANY 2's "First Edition" on
3 May 14 as being "a very useful discussion",
4 FINSAC outlined how it intended to proceed
5 with the divestment of the shares and sale
6 of the debt. In fact, DEBTOR 13 requested
7 FINSAC to delay the process until early in
8 the New Year, as it was his opinion that
9 carrying on the divestment during the
10 Christmas season would affect the
11 station's ability to generate revenue
12 during a traditional high advertising
13 season. FINSAC agreed to this and
14 postponed the start of the divestment
15 until February 2000.

16 6. DEBTOR 13 and FINSAC also agreed that
17 FINSAC would consider the October proposal
18 along with the other proposals received
19 from potential investors through the
20 divestment process. The Ministry Paper
21 and FINSAC's previous press releases on the
22 sale all mentioned this. To state that
23 FINSAC never responded to the October 1999
24 proposal is therefore untrue.

1 7. DEBTOR 13 raises the issue of why existing
2 shareholders were not given preference to
3 other investors by FINSAC in disposing of the
4 shares and debt. This raises an important
5 question of policy. FINSAC does not accept
6 that existing shareholders should
7 automatically be given priority to other
8 investors in the disposition of shares it
9 holds in non-core entities, such as DEBTOR
10 13 COMPANY 2, particularly where the
11 proposals made by these shareholders are
12 less favourable to FINSAC than proposals
13 from outside investors. It is contrary to
14 FINSAC's divestment practices and the
15 interest of the Jamaican taxpayers. DEBTOR
16 13 had an opportunity to compete on a merit
17 basis with other investors and was not
18 successful.

19 8. It is somewhat disingenuous for DEBTOR 13
20 to attempt to blame FINSAC entirely for
21 DEBTOR 13 COMPANY 2's inability to produce
22 audited accounts. The valuation revealed
23 that there were other issues. For example, it
24 states that the

1 management of the company confirmed that
2 between 1998 and **1999** there was no formal
3 accounting department and that the
4 company had to undertake a
5 reconstruction of the records and
6 accounts. Having carried out an on-site
7 inspection and interviews with key
8 management personnel, including DEBTOR
9 13, **they confirmed that** the company's
10 record-keeping was poor.

11 9. Finally, DEBTOR 13 COMPANY 2's dramatic
12 decline in fortunes started from 1997 with
13 the loss of its key programmes, "Breakfast
14 Club" and "Straight Talk". Its revenues
15 fell by 67% in that year as a result of the
16 fall-off in its audience. This had nothing
17 to do with FINSAC, or the Government,
18 contrary to DEBTOR 13' assertions, and as
19 DEBTOR 13 also admitted on "First
20 Edition". DEBTOR 13 COMPANY 2's downfall
21 was **perhaps more directly a result of an**
22 **over-dependence on two products.**

23 **The public** should bear in mind that
24 DEBTOR 13' grouse is not that he has
25 been

1 deprived of his shareholding, but that he
2 and his investing group and staff did not
3 succeed in their bid to acquire FINSAC's
4 shares in the company. Nothing has been
5 taken away from him in the process.
6 Nowhere in his proposal is a suggestion
7 that all the existing shareholders were to
8 be given the opportunity to acquire the
9 FINSAC shares. This was apparently to be
10 reserved only for DEBTOR 13' elite group of
11 visionaries, who had managed the affairs
12 of the company as it slid into insolvency.
13 DEBTOR 13 continues to be a shareholder in
14 the company - he owns over 4 million shares
15 - and should therefore benefit from any
16 improvement in the financial condition of
17 the
18 company in the future, an improvement over
19 which he could hardly **seek** to claim credit.
20 The worth of a radio station cannot
21 consist solely of its creative
22 resources, nor can creativity and
23 innovation alone pay the bills. We are
24
25

1 **sure DEBTOR 13 and others would agree**
2 **with this.**

3 This is signed on behalf of FINSAC by N.
4 Patrick McDonald, Corporate Operations
5 Executive..

6 MR. MOODIE: With your permission, Chairman, I ask
7 that this document be tendered in
8 evidence.

9 COMM. BOGLE: EC 30/11.

10 MR. MOODIE: As regards in particular the allegation
11 for the sale to COMPANY, there is a
12 letter dated 27th of June 2000 directed
13 to Mr. Patrick McDonald from DIRECTOR
14 With your permission Chairman, I
15 would ask Mr. Campbell to read the
16 section dealing with COMPANY and
17 CORPORATION, I wouldn't ask him to read
18 anything else unless you are of the view
19 that it is relevant in its entirety.

20 COMM. BOGLE: Go ahead.

21 A: Letter dated June 27th June 2000, the
22 section that deals with
23 CORPORATOPM.

24 **This bid yields the highest immediate**
25 **cash offer of \$XXXXX for the shares**

1 and debts held by FINSAC and offers to
2 FINSAC a rapid exit strategy. Although
3 COMPANY requests that FINSAC "use its
4 considerable influence to negotiate a
5 government write off of Statutory
6 liabilities of \$XXXX", this request is not
7 stated as a requirement for the sale. The
8 offer for both the shares and debts is 22.3%
9 of DEBTOR 13 COMPANY 2's FINSAC debts of
10 \$XXXX million (principal - \$XXXX million
11 and interest - \$XXXX). As noted in our
12 valuation, the amount owing for statutory
13 liabilities as at December 1999 is
14 understated by a GCT fine of \$XXXX million,
15 plus penalties on other statutory
16 deductions. Therefore the amount owing for
17 statutory deductions will be some \$XXXX
18 million and not \$XXXX million as assumed in
19 this offer. Though yielding the highest
20 immediate cash offer, the overall proceeds
21 received by Government will be affected by
22 the extent to which FINSAC can influence the
23 writing off of the
24
25

1 statutory liabilities.

2 The financial strength of the company and

3 its ability to complete the transaction,

4 are not known to us. COMPANY Limited

5 The company submitted two bids and only the

6 first bid is being considered. The second

7 bid involves the purchase of the assets of

8 the company for \$XXXX million,

9 transfer of the broadcast licence, and a

10 retirement of all outstanding debts. As

11 DEBTOR 13 COMPANY 2 is a listed company and

12 FINSAC does not hold a majority position in

13 the

14 company, FINSAC is not in a position to

15 effect a transfer of the assets, other than

16 by appointment of a receiver under

17 debenture(s) held or by proposing a

18 restructuring of the company to the

19 shareholders. If a receiver is appointed,

20 steps would need to be taken to ensure that

21 the Broadcast Commission would continue to

22 allow the company to operate during the

23 period of receivership. It is also likely

24 that a significant decline in business/delay

25 in

1 payments for advertising will occur, as
2 the continued operations of the company
3 would be uncertain, once a receiver was
4 appointed. We therefore do not consider
5 Bid 2 to be a viable option.

6 Bid 1

7 COMPANY'S bid of \$1 for the shares and
8 repayment of principal over 3 years,
9 makes no mention of any interest
10 payments over the proposed loan period.
11 On this basis the present value of the
12 principal payments discounted at 20% is
13 \$XXXX million.

14 COMPANY is a paging and radio operation
15 which was formerly part of the Neal &
16 Massy Group of companies and is now
17 majority owned by Trinidadian investors.

18 MR. MOODIE: For completeness, having reflected on
19 it, I think the rest of the letter is
20 important, so I ask you to just read it.

21 LOCAL Company Limited

22 LOCAL COMPANY'S bid is the lowest cash
23 offer with \$XXXX million being the total
24 amount offered for the shares and for
25 the loans owed by FINSAC, Workers Bank

1 and Refin Trust Limited or 13.2% of DEBTOR
2 13 COMPANY 2's FINSAC debts of \$XXXX million.
3 There are no other special conditions
4 attached to the offer and it is presumed that
5 the statutory obligations of DEBTOR 13
6 COMPANY 1 would remain in place.
7 Offer made on behalf of staff/some
8 existing shareholders by Mr. DEBTOR 13
9 This offer did not form part of the formal
10 bidding process and was received in July
11 **1999**. In our opinion the company will not
12 be able to service the loan as set out
13 (monthly principal and interest repayment
14 starting at \$XXXX declining to \$ XXXX over
15 the five years) given their past inability
16 to make profits and service the company's
17 debts. Estimating the probability of
18 receiving these loan payments at 10% and
19 40%, the discounted cash flow value of the
20 offer would be \$ XXXX million and \$ XXXX
21 million respectively. The loan interest
22 rate used is 25%. The

1 immediate cash payment is nil.

2 Conclusion

3 If FINSAC has the flexibility to accept
4 payment over say two to three years, the
5 Comtech offer is the best offer.

6 If FINSAC requires an immediate all cash
7 deal, the COMPANY offer to FINSAC is the best
8 of the bids received, as any write off of
9 statutory liabilities would not be accounted
10 for by FINSAC. The LOCAL COMPANY offer
11 however makes no mention of statutory
12 liabilities being written off and though the
13 cash offer of \$XXXX million is lower than
14 COMPANY's, the offer could yield a higher
15 overall return to the Government.

16 The "proposal" from the management team has
17 no due diligence associated with it, whereas
18 all other offers have. Given the state of the
19 management accounts and accounting records,
20 the due diligence is likely to result in
21 reduced offers from all other parties. The
22 high discounted present value of the
23 management
24 proposal, even with assigning low
25

1 allegations of Mr. DEBTOR 10?

2 A: Yes. In March 1999 FINSAC wrote to Mr.
3 DEBTOR 10 concerning his indebtedness to
4 FINSAC. No payments have been made on
5 this account during that period and at
6 the time when FINSAC sold the loan
7 portfolio to the Jamaican Redevelopment
8 Foundation, his loan was included in
9 that list.

10 Q: There is a Credit Committee memorandum
11 dated March 18, 1999, do you have that
12 with you, Mr. Campbell?

13 A: Yes, I do.

14 Q: Have you seen that document before?

15 A: Yes, I have.

16 Q: Was it also among Mr. DEBTOR 10's files at
17 FINSAC?

18 A: Yes, it was.

19 Q: Could I ask you to read the relevant
20 sections of that Credit Committee Report
21 on DEBTOR 10.

22 A: The Credit Committee submission states
23 that the debt for the DEBTOR 10es
24 originated at Island Life Merchant Bank
25 where a Demand Loan of \$ XXXX and a

1 Guarantee of \$ XXXX were granted in 1994
2 to repay liabilities at Eagle Commercial
3 Bank. The facility was restructured in
4 1997. The Demand Loan was decreased to
5 \$ XXXX and the Guarantee increased to
6 \$ XXXX.

7 And it gives you a list of the
8 securities that were held to secure this
9 particular facility which is primarily a
10 residential property at ADDRESS,
11 St. Andrew.

12 This submission to the Credit Committee
13 was primarily to determine what was
14 considered to be the minimum expected
15 recovery from this debt and the figure
16 stated is \$ XXXX.

17 MR. LEVY: I can't hear you, Mr. Campbell.

18 A: Sorry, Mr. Levy, I am copying you
19 somewhat.

20 I am saying this submission to the
21 Credit Committee was primarily to get
22 approval from the Committee what is
23 considered to be the minimum expected
24 recovery value on this debt, and that
25 figure is \$ XXXX.

1 MR. MOODIE: Mr. Campbell, I see here something
2 called a Character Rating. Could you
3 tell us what that Character Rating is
4 and indicate if possible - it is in the
5 same Credit Committee Minutes.

6 COMM BOGLE: I suppose he could explain both ratings.

7 MR. MOODIE: Certainly, the Contract and the
8 Character rating.

9 A: Certainly. The Contract relates to
10 collateral that is held, whether the
11 documents are probably signed and
12 registered where they need to be
13 registered, and the fact that this says
14 100% for Contract, it means mortgage
15 documents were properly signed; they
16 have been stamped; they have been
17 registered on the title so as far as
18 FINSAC is concerned that is very good
19 security.

20 In terms of the Character, it usually
21 refers to the individual, how the
22 officer who is dealing with this
23 particular debtor views him in terms of
24 his willingness to cooperate or his
25 ability to pay. So effectively it is a

1 subjective figure but it is how the
2 officer views the debtor and 30% shows
3 that it was a little low.

4 Q: Are you able to give us any indication
5 of what the results were of the case
6 brought by Mr. DEBTOR 10 alleging fraud?

7 A: Yes, Z can.

8 COMM ROSS: Mr. Campbell, two options of sale were
9 put to the Credit Committee for the
10 minimum expected recovery, can you tell
11 us why the more aggressive option was
12 chosen?

13 A: I could only surmise, Mr. Commissioner,
14 that in view of the value of the
15 property and the fact that we have - all
16 the related security documents were
17 properly signed it was expected that if
18 the property were to be sold they would
19 be able to get as much as the \$ XXXX.

20 COMM BOGLE: This was his residence; was any special
21 consideration given to Mr. DEBTOR 10 in
22 view of the fact that this was his
23 residence?

24 A: He would have fallen into the category
25 of those who were given special

1 consideration at the point when FINSAC
2 sold the debts to Jamaican Redevelopment
3 Foundation. As to whether he took it up
4 is another matter.

5 COMM BOGLE: FINSAC would not have given any special
6 consideration, the consideration there
7 would have been the consideration of JRF
8 and not FINSAC?

9 A: Well, I don't necessarily want to put it
10 that way Mr. Chairman. At the time when
11 FINSAC was selling the portfolio in
12 conjunction with JRF, a decision was
13 made that persons whose primary
14 residence was the primary item of
15 security, they would be given a special
16 window; a period of time to arrange
17 financing and deal with their debt. So
18 while it wasn't necessarily offered at
19 FINSAC and it was not necessarily a
20 condition either of the sale, but it was
21 an agreement with the purchaser, with
22 JRF, I mean.

23 COMM BOGLE: It was just a verbal understanding then
24 you might say?

25 A: Yes, and it was honoured. I am aware

1 that Dennis Joslin while he was there
2 honoured it.

3 COMM. ROSS: Can you give us an idea as to the extent
4 of the concession? Was there a write-off
5 figure that was being offered, across the
6 board, how was that concession handled,
7 in quantitative terms?

8 MR. GOFFE: In fact, Commissioner Ross, there were a
9 few exhibits which we put which set out
10 the terms. One was the Financial Gleaner
11 of January 31, 2002, and there was also
12 a memorandum that passed between FINSAC,
13 I think it might have been Patrick
14 Hylton at the time, and JRF, which
15 indicated the terms of that agreement. I
16 think that memo was dated the day before
17 the Gleaner was published. The
18 Financial Gleaner excerpt was given when
19 Mr. DEBTOR 6 was testifying and the memo
20 - I can't remember but I could research
21 it if it would be helpful.

22 COMM. ROSS: It certainly would be very helpful if we
23 had that information before us at the
24 present time.

25 MR. CAMPBELL: Separate and apart from that, a year

1 earlier FINSAC had this window of
2 opportunity where all debtors were given
3 the opportunity to come in and make
4 offers and in a number of cases FINSAC
5 looked at accepting principal plus fifty
6 percent of interest in settlement
7 usually over periods of up to six months
8 and one of these I mentioned earlier,
9 that person even got an extension up to
10 December which would have been nine
11 months in all.

12 COMM. ROSS: There were also situations where people
13 got write-offs of nearly a hundred
14 percent.

15 MR. LEVY: Millions of dollars. Good PNP boys.

16 MR. GOFFE: Does Mr. Levy have a question?

17 COMM BOGLE: Mr. Levy, Mr. Levy, can you please not
18 have a running commentary.

19 MR. LEVY: My conscience doesn't allow me to let it
20 pass.

21 MR. MOODIE: Could you call Mr. Levy as a witness at
22 some point then.

23 Unless there is anything more from you,
24 Chairman, I was asking Mr. Campbell to
25 indicate whether his review of Mr.

1 DEBTOR 10' file has indicated...

2 COMM. ROSS: Mr. Moodie, before we leave the issue, you
3 just had an example for the proposals I guess
4 with the concession. In a memo from Patrick
5 Hylton to Omar Davies Minister of Finance
6 and one of the items suggests that it would
7 accept an amount equivalent to 80 percent of
8 the outstanding principal balance as one of
9 the concessions. The other was a write-off
10 of the interest with a restructuring of the
11 principal over 20 years at 12 percent.
12 That is for the persons like DEBTOR 10
13 whose house was the primary security.

14 MR. CAMPBELL: Under a million dollars category. That's
15 right.

16 COMM ROSS: Was that offer made to Mr. DEBTOR 10?

17 A: Well, it was open to everybody. Was it
18 COMM ROSS: made to Mr. DEBTOR 10?

19 A: We are not in a position to speak to that.

20 COMM ROSS: As I am saying this was something agreed
21 A: between FINSAC and JRF and I imagine it would
22 have been implemented by JRF, but I can't
23 speak to it.

24

25

1 MR. GOFFE: You will remember, Commission Ross, if I
2 can be of assistance, that Mr. Rudd gave
3 evidence about that and he said that
4 after the advertisement was put out in
5 the daily paper, there were a number of
6 persons who took long advantage of it
7 and some who didn't even qualify who
8 came in and worked out their own
9 settlement arrangements. I think the
10 number he had given was something like
11 88 persons, I believe, he had said had
12 taken advantage of that window of
13 opportunity Mr. Campbell is referring
14 to. Mr. DEBTOR 10 unfortunately is not one
15 of those 88 persons but I am just
16 reminding you in context of the
17 discussion we are having now about the
18 offer to persons and the evidence which
19 has already gone on before.

20 COMM. ROSS: The only difficulty I have with that is
21 that I would have thought that if you
22 are the 'bank', you have thousands of
23 debtors on your books, if you have a
24 special offer you would make it to them
25 directly rather than through an

1 advertisement in the press and so on.

2 MR. MOODIE: I think as Counsel has indicated and the
3 witness, that is not something that
4 Mr. Campbell could speak to.

5 MR. LEVY: Mr. Chairman, so that when Mr. Campbell
6 comes back to deal with this there is no
7 misunderstanding, if he could be invited
8 to bring the current valuations
9 immediately prior to the sale, not the
10 one in 1995 which was considered by the
11 Credit Committee in 1995, and also
12 copies of the mortgage documents.

13 MR. MOODIE: If that was one of the -- Mr. DEBTOR 10'
14 property was one the properties
15 transferred then I think the evidence of
16 Mr. Campbell was that copies of the
17 valuations would have been on the CD
18 that was provided and I think this
19 Commission was given a copy of that CD.

20 MR. LEVY: Counsel has not been given a copy, sir.

21 MR. MOODIE: Perhaps you could take it up with the
22 Commission then.

23 I was just asking as a final comment
24 well, let me ask first of all that these
25 Credit Committee Minutes be admitted

1 into evidence.

2 COMM BOGLE: It would be EC 32/11.

3 MR. MOODIE: Grateful, Mr. Chairman. And I was

4 asking Mr. Campbell to comment on the

5 court case which was brought by

6 Mr. DEBTOR 10, if he can shed any light on

7 what became of that court case?

8 COMM BOGLE: This court case was brought against

9 whom?

10 MR. MOODIE: It is in relation to the fraud that

11 Mr. DEBTOR 10 alleged, fraud by the bank

12 and he alleged it was continued, I

13 think, by FINSAC.

14 MR. CAMPBELL: I am saying I do not recall all the

15 parties involved in the suit but FINSAC,

16 Jamaican Redevelopment Foundation and

17 Island Life Merchant Bank were among the

18 parties who were sued by Mr. DEBTOR 10 who

19 is claiming fraud. This matter was

20 dismissed in the Court of Appeal.

21 MR. LEVY: And the reason?

22 A: Pardon me?

23 Q: I am just asking for the reason for the

24 dismissal.

25 A: Well, it may be that he didn't have the

1 evidence, so his attorney didn't turn up
2 in court.

3 MR. LEVY: Thank you, Mr. Chairman, that makes a
4 difference. (Inaudible)

5 MR. MOODIE: With your permission -

6 COMM BOGLE: Proceed.

7 MR. MOODIE: Thank you, Chairman.

8 MS. CLARKE: I am sorry, Mr. Chairman, on that I am
9 staying with this because there has been
10 quite a speculation by the witness but
11 in circumstances where it is possible
12 for us to obtain records speaking
13 precisely to why the matter was struck
14 out, so I am wondering whether...

15 MR. MOODIE: Those documents as far as I am aware
16 were already entered in evidence during
17 the cross-examination of Mr. DEBTOR 10.

18 MS. CLARKE: Well, perhaps you draw upon those
19 records rather than ask him.

20 MR. MOODIE: If Counsel would like copies of those
21 documents, I am sure the Commission can
22 assist.

23 MR. LEVY: I would like copies as well.

24 COMM BOGLE: Mr. Levy doesn't represent Mr. DEBTOR 10.

25 MR. GOFFE: He says he does.

1 MR. MOODIE: That's the question I was going to ask.

2 MR. DEPERALTO: David Wong Ken did.

3 COMM BOGLE: He didn't identify himself as
4 representing Mr. DEBTOR 10.

5 MR. LEVY: I haven't on a previous occasions but I
6 am doing so today, sir.

7 MR. MOODIE: Could we *get* for the record who really
8 represents Mr. DEBTOR 10 today, so could
9 all his lawyers please stand.

10 MR. DEPERALTO: He was represented by Mr. David Wong
11 Ken.

12 MR. MOODIE: Thank you.

13 We are moving on to address the
14 allegations of Mr. DEBTOR 11, DEBTOR 11

COMPANY

15 Limited. For reference *we* have looked
16 at his Witness Statement in particular
17 paragraphs 59, 75 and 83 where he made
18 allegations against FINSAC and the
19 transcripts of November 24 and 25.

20 Particularly Mr. DEBTOR 11 alleged that the
21 taking over of DEBTOR 11 COMPANY's accounts

by

22 FINSAC in circumstances where the

23 company was allegedly servicing its

24

debts as it should, was unfair.

25

He also alleged that FINSAC was not

1 entitled to charge interest rates above
2 those permitted by the Money Lending Act
3 and complained that the Window of
9 Opportunity was never communicated to
5 him.

6 He also alleged that he received no
7 correspondence from FINSAC in relation
8 to his loan balances even after making
9 several requests in writing.

10 Mr. Campbell, have you had a chance to
11 look at Mr. DEBTOR 11's files at FINSAC, and
12 if you have had that chance, could you
13 please indicate what the records show.

14 A: Yes. From the files we were able to...

15 COMM BOGLE: Just a minute, Mr. Campbell.

16 MR. MOODIE: Thank you, Chairman.

17 Before you go to the files, Mr.

18 Campbell, I just wish to indicate that
19 we did a review of the cross-examination
20 of Mr. DEBTOR 11 and Mr. DEBTOR 11 admitted
in

21 his cross-examination that his company
22 was indeed in arrears on loan payments;
23 he admitted that he suffered "an
24 excessive overdraft burden which had

1 can be found at line 1, page 150 of the
2 relevant transcript.

3 He admitted that his current account
4 carried an interest rate of 120%
5 compound interest and that also had
6 nothing to do with FINSAC. That
7 reference can be found at line 22, page 150
8 of the transcript.

9 The transcript also indicates that
10 Mr. DEBTOR 11 had promised to provide copies
11 of the letters he alleged he wrote to FINSAC
12 requesting accounts. I was not
13 able to find any

indication in future

14 transcripts that those letters were in
15 fact provided.

16 Please, Mr. Campbell, if you can now
17 proceed to indicate what FINSAC's
18 records have shown in relation to
19 Mr. DEBTOR 11 and his allegations.

20 A: We were able to find copies of letters
21 that were dispatched to him or to his
22 attorney advising of - well in response
23 in some cases, we were able to find
24 letters on the files which were

1 attorney.

2 Q: Do you have some of those letters with
3 you, Mr. Campbell?

4 A: I have some of these letters here.

5 Q: Could indicate the dates of some of
6 those letter and I would ask that they
7 be entered in evidence as they are
8 referred to by Mr. Campbell.

9 A: I'll take them in chronological order.
10 The first one is June 21, 1999.

11 MR. MOODIE: I think there may be a slight difficulty
12 with that. The copy I have, Chairman,
13 is unsigned so I would not want to put
14 that one in evidence so I will move on
15 from there unless Mr. Campbell has with
16 him the signed copy.

17 A: No, I do not.

18 Q: Can we move on to the other
19 correspondence please.

20 A: June 29, 1999.

21 Q: Do you have that with you,
22 Commissioners?

23 COMM BOGLE: Yes, we do.

24 MR. MOODIE: Could we give that EC 33/11.

25 COMM BOGLE: Yes. Take them one at a time.

1 MR. MOODIE: Would like for Mr. Campbell to read
2 through these letters?
3 COMM BOGLE: Yes.
4 MR. MOODIE: Please do, Mr. Campbell.
5 MR. CAMPBELL: June 29, 1999, addressed to Jennifer
6 Messado & Co., Attorney At Law.
7 6 Dominica Drive.
8 Kingston 5.
9 **Attention: Ms. Jennifer Messado.**
10 Dear madam:
11 Re: DEBTOR 11 COMPANY Development &
Construction
12 Company Limited/DEBTOR 11.
13 In response to your letters of May 22
14 and June 20, 2000, be advised that our
15 Credit Committee at its meeting held on
16 June 27, 2000 has rejected your proposal
17 submitted on behalf of the captioned.
18 If the debt is not settled in full
19 within fourteen days from the date
20 hereof, we will instruct our Legal
21 Department to dispose of all properties
22 held as security and file suit pursuant
23 to Mr. DEBTOR 11's guarantee for any
24 shortfall.
25 This is signed on behalf of Refin Trust

1 by Courtney Walker and Paul Chin.

2 COMM BOGLE: The letter is dated June 29, while the

3 letter refers to June 27, 2000.

4 MR. MOODIE: I note it too. This letter was found

5 amongst the FINSAC file as well, Mr.

6 Campbell?

7 A: Yes, it was.

8 Q: So subject to any incorrect assertion as

9 to dates, as far as you are aware this

10 letter would have been sent to

11 Mr. DEBTOR 11?

12 A: Yes, I would say that.

13 MR. LEVY: If it were a cheque it would bounce.

14 MR. MOODIE: Could you move on to the next?

15 MR. LEVY: No, Mr. Chairman, I object to this. I

16 object to this, Mr. Chairman.

17 COMM BOGLE: What is your objection?

18 MR. MOODIE: And what is the basis on which he is

19 objecting? He does not represent

20 Mr. DEBTOR 11.

21 MRS DEBTOR 11: He does.

22 MR. LEVY: I do.

23 MR. MOODIE: I think the Secretary has given

24 information as to who represents

25 Mr. DEBTOR 11 before this Commission.

1 MR. LEVY: Represented.

2 COMM BOGLE: He does not represent him.

3 MR. MOODIE: Thank you, sir.

4 MRS DEBTOR 11: He does, now, sir.

5 COMM BOGLE: We can't just keep adding and adding. No,

6 MRS DEBTOR 11: no, he represented us in court just two

7 weeks ago on our case with JRF. But not

MR. MOODIE: before the Commission.

9 COMM BOGLE: But you did not indicate that you

10 represent him.

11 MR. LEVY: Mr. Chairman, I am going to write you a

12 letter setting out who it is and you can have

13 to Secretary read it into the record.

14 So can he object at that time once we have

15 MR. MOODIE: established who he represents?

16 I am objecting right now. Mr. DEBTOR 11 has

17 MR. LEVY: a right to representation and I

18 represent him.

19 Mr. Levy, I do not have any record that you

20 COMM BOGLE: represent Mr. DEBTOR 11, however, and so Mr.

21 Ross will ask his question.

22 And I would also indicate, Chairman, that

23 MR. MOODIE: Mr. Campbell will be back for any questions

24 and so there will be no

25

1 opportunity lost to Mr. DEBTOR 11's rightful
2 representative to ask any questions.

3 MR. LEVY: I object to that. Out of order young
4 man.

5 MS. CLARKE: I am sorry, Mr. Chairman, I believe the
6 difficulty, and I am saying I would
7 object notwithstanding the absence of
8 any kind of direct representation, but
9 this is the kind of proceeding that
10 could affect the way evidences is put in
11 relative to other persons. I don't
12 think Mr. Levy is having any contention
13 as to whether he would be able to
14 cross-examine on it, it is manner in
15 which this document is being put in and
16 based on this evidence. I think
17 Mr. Campbell can take it this high, I
18 found these documents on the FINSAC
19 file. There can be no evidence coming
20 from him saying this would have been
21 sent to Miss Jennifer Messado, because
22 if he found this last week it could be
23 in circumstances where although it is
24 dated June 1999 it was generated last
25 week. He only became aware of the

1 existence of this document as from a
2 date when he made a search which he
3 indicated was quite recently. So no
4 question can be put in this witness's
5 mouth that it would therefore mean that
6 FINSAC would have sent this letter and
7 it is going to affect the way we
8 proceed. I interject because there are
9 persons whom I represent who could be
10 directly affected by this kind of
11 process.

12 MR. MOODIE: I can approach it in another way,
13 Chairman.

14 Mr. Campbell, were you a member of the
15 Credit Committee in 1999 or in 2000?

16 A: Yes, I was.

17 Q: Would you have been aware of the
18 decisions made by the Credit Committee
19 in relation to Mr. DEBTOR 11 during
20 those times?

21 A: Yes.

22 Q: Could you indicate as far as you can
23 recollect whether the Credit Committee
24 accepted or rejected any proposal
25 received from Mr. DEBTOR 11 in about 1999 or

1 2000?

2 A: Yes.

3 MR. LEVY: Give or take a year or two.

4 COMM BOGLE: Just a minute. This Commission is about
5 trying to get information; that is what
6 this Commission is about. As I have
7 said before no one is on trial; this is
8 not a court, this is a Commission of
9 Enquiry where we are trying to get
10 information. One of the organizations
11 that we are trying to get information
12 from is FINSAC.

13 MR. LEVY: We should get the truth.

14 COMM BOGLE: Mr. Levy, will you please! We are trying
15 to get at the truth but you seem to **be**
16 an obstructionist, and please allow the
17 Commissioner to **speak**.

18 MR. LEVY: Mr. Chairman, with respect sir, I am not
19 being an obstructionist, I am trying to
20 get the truth. This letter is an obvious
21 forgery.

22 COMM BOGLE: I will not withdraw what I said, Mr.
23 Levy.

24 MR. LEVY: I don't care, Mr. Chairman.

25 COMM BOGLE: Can you **allow** the Enquiry to proceed.

1 MR. LEVY: Yes, sir, but I would like to bring to
2 the attention of the Chairman...

3 COMM BOGLE: Will you allow the Commissioner to
4 speak.

5 MR. LEVY: I thought you were finished, sir.

6 COMM BOGLE: Go ahead.

7 MR. MOODIE: We have three sets of Credit Committee
8 Minutes which we will make available.

9 COMM BOGLE: Just a munitite Mr. Moodie.

10 Now one of the things that we have to
11 rely on is the information, the records
12 coming out of the various institutions.
13 One such institution is FINSAC. Now if
14 Mr. Campbell researches the FINSAC files
15 and he brings a document here to say
16 that. I found it on the FINSAC file,
17 this Commission, unless someone can
18 prove otherwise, will accept the
19 document that it came from the FINSAC
20 files and it will be dealt with in such
21 a manner, and all documents coming from
22 FINSAC will be dealt with in that manner
23 unless someone can prove that it did
24 not originate from the file.
25 Regarding this particular document -

1 Commissioner Ross.

2 COMM. ROSS: We have a document dated June, 1999
3 referring to events that took place in
4 June, 2000. Can we get some sort of
5 clarification on that because there
6 seems to be an error somewhere in that
7 document.

8 MR. MOODIE: If we can. Because of the
9 inconsistencies in this document I'll
10 not try to put in this document but I
11 will put in the actual Committee Minutes
12 relating to these decisions. That's
13 what I was trying to indicate to
14 Counsel, I can easily approach it in
15 another way.

16 So before I do that might I ask
17 Mr. Campbell to go on to the other
18 letters.

19 A: Sure. There is a letter dated 13th
20 September 1999, addressed to:

21 **DEBTOR 11 COMPANY Development and**
Construction
22 **Limited.**
23 **ADDRESS.**
24 **Attention Mr. DEBTOR 11.**

25

Dear sirs.

1 Re: Your indebtedness to National
2 Commercial Bank Jamaica Limited...

3 MR. LEVY: From, to?

4 A: To DEBTOR 11 COMPANY Development and
Construction

5 Limited and it is signed by Camille E.
6 Chevannes, Attorney-at-law for FINSAC.
7 Your letter of the 29th July, 1999
8 regarding the above captioned mater has
9 been forwarded to the undersigned for
10 response. Please accept our apologies
11 for the delay in responding.

12 In relation to paragraphs 2 and 3 of the
13 aforesaid letter, we advise that we are
14 communicating with the National
15 Commercial Bank Limited for further
16 information. As soon as we are in
17 receipt thereof, we will correspond with
18 you.

19 In the interim, we forward herewith, as
20 a matter of courtesy, a photocopy of the
21 Valuation Report procured by us in
22 relation to the property at ADDRESS

23

24 MR. MOODIE: Could we enter this one into evidence
25 please?

25

absolutely no correspondence between

1 FINSAC and himself and so we are not
2 putting them in for the purpose of
3 querying any of the specific items which
4 might have been requested, we are
5 putting them in for the purpose of
6 proving that there was communication.
7 We will address the other allegations in
8 a more material way when we get to the
9 Minutes of the Credit Meeting.

10 MR. IEVY: Mr. Chairman, the letter of itself does
11 not prove the it was delivered, that it
12 wasn't created last week.

13 COMM BOGLE: Point taken. Continue.

14 MR. MOODIE: The next letter, Mr. Campbell.

15 A: March 31, 2000.

16 By bearer and registered mail.

17 **DEBTOR 11 COMPANY Development and**

Construction

18 **Limited**

19 **ADDRESS**

20 **Kingston 10**

21 **Attention Mr. DEBTOR 11**

22 **Dear Sirs,**

23 **Re: Your indebtedness to the National**

24 **Commercial Bank Jamaica Limited**

Reference is made to the captioned

1 matter and to previous correspondence
2 herein. I write on behalf of Refin Trust
3 Limited a wholly owned subsidiary of FINSAC
4 Limited the Assignee of your debt to the
5 National Commercial Bank Jamaica Limited.
6 As requested by you all the security
7 documentation held by us in this matter has
8 been reviewed and our Non Performing Loans
9 Unit has instructed me to advise you as
10 follows:

11 1. An approved overdraft facility of \$
12 XXXX Million became hard core and the sum of
13 \$2.3 million was hived off by the bank in
14 1996. Thereafter, the overdraft facility
15 was increased to \$ XXXX million;

16 2. The sum of \$ XXXX million which was
17 hived off was converted to a demand loan on
18 May 02 1997. As at May 01 1997 the facility
19 reflected a balance of \$ XXXX million with
20 no accrued interest;

21 3. A commercial paper facility of \$ XXXX
22 million matured in 1977 and was
23 converted to a demand loan on January 16,
24 1997. As at February 17, 1977 the
25

1 facility reflected a balance of \$8.5
2 million with no accrued interest;

3 4. The approved overdraft facility of \$
4 XXXX million increased to \$ XXXX excluding
5 interest accrued of \$ XXXX for January and
6 February 1997. The sum of \$ XXXX was
7 converted to a demand loan on February 21,
8 1997. As at 1007 February 21 the facility
9 reflected a balance of \$ XXXX and accrued
10 interest of \$ XXXX million;

11 5. The bank charged an interest rate of
12 52% on all of the loans;

13 6. Payments totalling \$ XXXX were
14 received which were applied to the demand
15 loan of \$ XXXX million. The balance due and
16 owing on this facility as at September 1998
17 was \$ XXXX; The entire debt was
18 transferred to Finsac Limited on September
19 30 **1999** and since then interest has been
20 accruing on all of the debts at the rate of
21 30% per annum. ;

22 8. The performance bonds expired and
23
24
25

1 have Bever been incorporated into the
2 calculation of the company's total
3 indebtedness by this organisation.
4 I have been advised that copies of the
5 valuation reports in respect of the
6 properties held by us as security have
7 already been forwarded to you by the
8 credit Officer.
9 This is signed on behalf of Refin Trust
10 by Camille Chevannes, attorney-at-law
11 **MR. MOODIE:** Might we enter this as EC 34/11.
12 **COMM. BOGLE:** Yes.
13 **MR. MOODIE:** Mr. Campbell, you could go onto any
14 other communication letters which you
15 found in FINSAC whilst.
16 **A:** Two others, one dated July 12, 2000
17 addressed to:
18 **Jennifer Messado & Co.**
19 **Attorney-at-law**
20 **6 Dominica Drive**
21 **Kingston 5**
22 **Attention: Ms Jennifer Messado**
23 **Dear Madam**
24 **Re: DEBTOR 11 COMPANY Development &**
Construction
25 **Company Limited/DEBTOR 11**

1 In response to your letter dated July 6,
2 2000, our Credit Committee at its
3 meeting held on the 11th instant, has
4 accepted your offer to remit the net
5 proceeds from the sale of the property
6 located at ADDRESS for
7 \$ XXXX.

8 Your client will be allowed a period of
9 ninety days within which to settle the
10 remaining debt. Failure to settle the
11 debt within this time frame will leave

12 Refin Trust with no alternative but to
13 sell the property located at Grosvenor
14 Terrace at Public Auction/Private Treaty
15 and file suit to recover any shortfall.

16 Yours sincerely Refin Trust and it is
17 signed by Courtney Walker, Paul Chin.

18 MR. MOODIE: Could we make this EC 35/11. And there
19 was another letter.

20 A: Letter dated August 18, 2000, addressed
21 to Jennifer Messado & Co.

22 **Attorney-at-law**
23 **6 Dominica Drive**

24 **Kingston 5**

25 **Attention: Ms Jennifer Messado**

1

Dear Madam

2

Re: DEBTOR 11 COMPANY Development &

Construction

3

Company Limited/DEBTOR 11

4

We have not had a response to our letter

5

dated July 12, 2000. Kindly advise us

6

on the status of the sale of the

7

townhouse and the determination of the

8

Arbitration award.

9

Yours sincerely

10

Refin Trust Limited

11

Signed by Courtney Walker and Paul Chin.

12

This letter is copied to Mr.

13

DEBTOR 11.

14 MR. MOODIE:

I ask that this be marked EC 36/11,

15

Mr. Chair.

16

Chairman, there are two letters from

17

Jennifer Messado & Company going to

18

FINSAC dated May 22, 2000 and June 20th,

19

2000. Those letters are the letters

20

referred to in the vexed letter which

21

bears the inconsistency in terms of the

22

date and so I would now ask that you

23

revisit that issue of the letter which

24

is dated June 29, 1999 but refers to

25

correspondence dated May 22 and

1 June 20th from Jennifer Messado &
2 Company and I would ask that all three
3 letters, I will pass up the copies of the
4 letters referred to in the June 29 letter for
5 the Commission to determine how it treats
6 with it. Certainly I will accept there is an
7 inconsistency in the date of the letter and
8 I think that inconsistency is June 29, 1999
9 but as we have now provided the supporting
10 documentation which is referenced therein I
11 think it can be properly admitted by this
12 Commission and the Commission determine what
13 weight to give

15 to this. This is in
relation to the

16 letter that Mr. Levy labelled
17 fraudulent, and fictitious, the
18 correspondence which you now have in
19 front of you, Mr. DEBTOR 11's attorney sent
20 to FINSAC. Do you have those two
21 letters, Chairman, May 22nd and June
22 loth?

23 COMM. BOGLE: Yes, we do.

24 Q: Might I ask you, Mr. Campbell, to read
25 that letter dated incorrectly, I

1 propose, June 29, 1999?

2 MR. LEVY: Before Mr. Campbell starts to read, are
3 there copies?

4 MR. MOODIE: We did not make copies in advance of
5 those, in fact we just found them in the
6 files awhile ago, Chairman, but they are
7 the letters referred to?

8 COMM. BOGLE: Okay, for substance we will read these
9 two letters into evidence.

10 MR. LEVY: Could I be provided with copies today.

11 COMM. BOGLE: You will be provided, I don't know if
12 you will get it today but you will be
13 provided copies.

14 MR. MOODIE: Would you like me to read them into the
15 record, I don't have additional copies
16 or the witness can be given those to
17 read them and then we will hand them
18 back to you.

19 A: Letter of May 22, 2000
20 **Jennifer Messado & Co.**
21 **Attorney-at-law**
22 **To Finsac/Refin Trust Limited,**
23 **4th Floor, Mutual Life Building,**
24 **2 Oxford Road,**
25 **Kingston 5.**

Attention Mr. Paul Chin

Dear Sirs,

Re: DEBTOR 11 COMPANY Development &
Construction Company Limited/DEBTOR 11

We refer to our discussions and confirm that we are now authorized by DEBTOR 11 COMPANY Development & Construction Company Limited/DEBTOR 11 to place the following proposals for your consideration.

1. The debt to be considered on the basis of principal only, and all payments to be placed on principal.
2. The immediate sale of the townhouse at Sunrise Strip, Arcadia for the approximate price of \$XXXXX gross to realise approximately \$XXXXX towards the debt.
3. The immediate payment of the proceeds of the Judgment of the Arbitrator in relation to the building at Montego Bay, in accordance with the enclosed copy correspondence with Messrs. Myers Fletcher & Gordon, less payment due to sub-contractors and

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

1 2 legal fees.

3 4 In exchange for the above, FINSAC would
5 6 release the duplicate Certificate of Title
7 8 for PROPERTY, free and clear, provided that
9 10 Mr. DEBTOR 11 enters into a personal
11 undertaking for repayment of the principal
12 over three years.

13 We must place on record that our client has
14 made genuine efforts to meet their
15 obligations and have been a victim of the
16 high interest rates and the decline in the
17 construction industry.

18 The release of the duplicate Certificate of
19 Title for PROPERTY would give Mr. DEBTOR 11
20 the chance to "restart" his business and
21 place him in a position to service the rest
22 of the principal payments projected over the
23 next three years.

24 We look forward to your fruitful
25 consideration of the above, and will be
available to provide any further
information that you may require. Signed by
Jennifer Messado & Company.

1 Q: That letter was directed to Mr. Paul
2 Chin?

3 A: Yes.

4 Q: Who was Paul Chin?

5 A: Credit Manager in charge of these groups
6 of accounts.

7 Q: Thank you. Could you move to the letter
8 dated January 20, 2000 from Jennifer
9 Messado & Company. Chairman, with your
10 permission, might I ask that that first
11 letter be admitted as EC 37/11.

12 COMM. BOGLE: So admitted EC37/11 and this is a letter
13 dated May 22, 2000 from Jennifer Messado
14 and company to FINSAC, attention Mr.
15 Paul Chin.

16 A: Thank you Chairman. And the letter
17 dated June 20, 2000 from Jennifer
18 Messado & Co., Attorneys-at-law,
19 addressed to FINSAC Limited, (Refin
20 Trust Limited) 4th Floor, Mutual Life
21 Building, 2 Oxford Road, Attention Mr.
22 Paul Chin.

23 **Dear Sirs,**

24 **Re DEBTOR 11 COMPANY Development and**

Construction

1

Dear Madam

2

Re: DEBTOR 11 COMPANY Development and

Construction/

3

DEBTOR 11.

4

In response to your letters of May 22

5

and June 20, 2000, be advised that our

6

Credit Committee at its meeting held on

7

June 27 2000 has rejected your proposal

8

submitted on behalf of this caption. If

9

debt is not settled in full within

10

fourteen days from the date hereof, we

11

will instruct our Legal Department to

12

dispose of all properties held as

13

security and file suit pursuant to Mr.

14

DEBTOR 11's guarantee for any shortfall.

15

This is signed on behalf of Refin Trust

16

Limited by Courtney Walker and Paul

17

Chin.

18

Q:

Might I ask that that one now be entered

19

into evidence, Chairman, as EC 39/11.

20

That letter EC39/11 makes reference to a

21

June 22, 2000 Credit Committee Meeting

22

but before we get to that one I wish to

23

enter previous Credit Committee

24

meetings, we do have that Credit

25

Committee Meeting. So the first one I

1 would ask you Mr. Campbell...

2 COMM. BOGLE: Mr. Moodie, as I indicated, probably,
3 earlier, we will have to take our
4 adjournment at this time. We had hoped
5 to adjourn at 3:00, it is now five
6 minutes after three, so we will have our
7 adjournment for today and we will return
8 on Tuesday morning at 9:30; and Mr.
9 Campbell, I suspect you will be with us
10 Tuesday and Wednesday, so I suggest that
11 you keep your diary clear for Wednesday,
12 but at this time we are expecting you
13 here Tuesday morning at 9:30.

14 MS CLARKE: I am indicating Mr. Chairman that I will
15 have a certain difficulty on those two
16 days, three days next week I will be
17 indisposed.

18 MR. MOODIE: We too have a difficulty. On Tuesday,
19 counsel and I have a trial in St. Ann
20 and on Wednesday I have a trial in the
21 Supreme Court. I think we will recognise
22 that these dates were not canvassed
23 before.

24 COMM. BOGLE: All right, can your .

25 MR. MOODIE: I will make endeavours to see what

1 accommodations can be made but as these
2 matters were previously scheduled, one
3 is an adjourned trial which I doubt I
4 will be able to adjourn further, and
5 that is one for the Wednesday, so I will
6 try my best for Tuesday, but I will
7 communicate with Mr. DePeralto perhaps
8 by Monday morning.

9 COMM. BOGLE: It would have to be very early Monday
10 Morning because he has to try and book a
11 room and all the necessary.

12 MR. MOODIE: I will be guided.

13 (Mr. DePeralto confers with Commissioner
14 Bogle)

15 Mr. Chairman, in fairness, whenever we
16 are requested to make ourselves
17 available we make ourselves available.
18 This is the first time we are now
19 hearing for the first time that the
20 Commission is proposing for the 12th and
21 13th when the previous schedule which
22 was sent out had nobody appearing on the
23 12th or the 13th, so we had every
24 reasonable expectation of proceeding
25 with our matters which already had been

1 scheduled before the Supreme Court. So I
2 don't think that that representation from
3 Mr. DePeralto is fair in the circumstances.

4 We have shown,

5 especially as regards to counsel for FINSAC
6 and FINSAC's representative, a willingness
7 to come at any time that we can make whether
8 it be a Monday, whether it be a Friday, even
9 a Saturday if this Commission wishes to sit,
10 but in

11 relation to these two dates which we are being
12 met with for the first time today I have
13 indicated I will do my best to indicate as
14 soon as possible. I am certain that the matter
15 on the 13th will not be adjourned. If I can
16 make representation to counsel and the judge
17 is so minded in relation to the matter on the
18 12th, then perhaps something can be done but
19 I think the judges have been under their own
20 pressure not to grant adjournments and to *try*
21 and be as efficient as possible, so that would
22 be a challenge and we will try as best as
23 possible but we can do no better than

24

25

1 perhaps indicate on Monday morning
2 whether Tuesday we can make it having
3 heard for the first time today that you
4 intend to have this hearing on Tuesday.
5 MR. GOFFE: Though I may not be so material, I am in
6 the Court of Appeal on that date.
7 COMM. BOGLE: All right, I think that under the
8 circumstances, one has to be reasonable
9 and the fact that we did not schedule,
10 we did not expect that we would have
11 gone over to Tuesday and Wednesday.
12 MR. MOODIE: And we are here ready.
13 COMM. BOGLE: You are here now but we just have to
14 continue, we have no choice at this
15 point.
16 MR. MOODIE: Before you adjourn, just to move on
17 slightly. I had indicated to Mr. DePeralto
18 earlier that in relation to the evidence
19 given by Mr. Campbell on Monday, FINSAC has
20 done as it regard Mr. Crawford and his
21 entities, FINSAC has done some research and
22 we wish to be given an opportunity to correct
23 the record as it relates to perhaps two
24 representations which were made. I

1 don't think it will take longer than
2 maybe seven minutes. I will ask if
3 possible if Mr. Campbell could very
4 quickly just correct...

5 COMM. BOGLE: Seven minutes is taking me almost to
6 3:30.
7 MR. MOODIE: How about five minutes?

8 COMM. BOGLE: Couldn't we do that on your return?

9 MR. MOODIE: I am guided. The reason why I want to
10 address it is because arising from the
11 evidence which Mr. Campbell gave, the
12 press ran a story and so I would not
13 want for any extended period for the
14 public to have the wrong impression or
15 the wrong account.

16 COMM. BOGLE: From experience what the public has on
17 the first occasion is embedded in their
18 minds, that is my experience and
19 therefore if even if you send a
20 retraction and it comes in two or three
21 days after .

22 MR. MOODIE: It's just a clarification but I am
23 guided.

24 COMM. BOGLE: Coming back to the rescheduling, I am
25 going to ask you Mr. Moodie to try to

1 see if there is any possibility of
2 Tuesday and, I know Mr. DePeralto has a
3 big problem in terms of scheduling, I
4 will ask you to communicate to him as
5 early as you possibly can so he can see,
6 so he will try to see if he can have a
7 schedule for Tuesday.

8 MR. MOODIE: I will do so but of course it's subject
9 to....

10 COMM. BOGLE: Thursday next week DEBTOR 8 is
11 supposed to come, next week Thursday, so
12 that is why we are hoping that you would
13 come Tuesday and Wednesday but failing
14 that we are over now into the following
15 week and that is, really each time we
16 were hoping that by the middle of July,
17 the public hearing would have been
18 complete. What I would say if it is
19 impossible for you to make it this week,
20 the week coming, that you do your best
21 and speak to Mr. DePeralto to have it
22 rescheduled to the following week so
23 that we can have the completion the
24 following week.

25 MR. MOODIE: It is really on the basis of the

1 schedule that was sent out, I have trial
2 on Monday, trial on Tuesday and trial on
3 Wednesday.

4 COMM. BOGLE: I understand that but we will try our
5 best to work together to see if we can
6 get the whole matter through.

7 MS CLARKE: Mr. Chairman, I know we are going ahead
8 of time and I have been trying to
9 refrain from speaking but to the extent
10 that I am marshalling evidence on behalf
11 of certain persons and some documents
12 are now coming forward, I believe it
13 would only be fair at least if we try to
14 afford them an opportunity to see the
15 documents, so it is unlikely even if I
16 could be here on Tuesday or Wednesday
17 that these persons would have been put
18 in a position to even advance any kind
19 of response, so if we are hurrying along
20 we have to bear in mind that persons
21 would now wish to be able to see and
22 comment on, through me, certain data
23 that have now been brought forward for
24 the first time.

25 COMM. BOGLE: It seems, whether intentionally or not,

1 with Mr. Don Crawford.

2 COMM. BOGLE: The Commission will decide who and when
3 they will recall or call witnesses.

4 MR. LEVY: I am just saying, Mr. Chairman, if we
5 got a little notice we would not have
6 this problem. We all have other lives
7 to live. Well, Mr. Chairman I would
8 just like to state that Mr. Campbell was
9 unable to verify the qualifications of
10 one valuer today and I am asking that he
11 comes prepared to verify the
12 qualifications of the valuer of the
13 motorcar which was sold by a dealer.

14 COMM. BOGLE: Thank you. This hearing is now
15 adjourned, unfortunately, we have a
16 confirmation for next week Thursday, Dr.
17 Blythe will be here. At this point we
18 do not have a confirmation for Tuesday
19 and at this point it is highly unlikely
20 that we will have any hearing on
21 Wednesday. The possibility exist that
22 we could have one on Tuesday, but every
23 one will be informed as early as
24 possible.

25 MR. MOODIE: Thank you Chairman.

1

Adjournment

2

3:50 p.m.

3

4 5

6 7

8 9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25