

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

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

ON
TUESDAY, JANUARY 19, 2010

PRESENT WERE:

TUES. JANUARY 19, 2010

THE COMMISSION

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

Mr. Charles Ross - Member

Mr. Worrick Bogle - Member

COUNSEL TO THE COMMISSION

Hon. R.N.A. Henriques OJ, QC, LLM

SECRETARY TO THE COMMISSION

Mr. Fernando DePeralto

MARSHALLING THE EVIDENCE

Mr. Ransford Braham - Attorney
Mrs. Kelley Wong- Henry - Attorney-at-law

REPRESENTING BANK OF JAMAICA

Hon. Mr. Michael Hylton, Queen's Counsel
Mr. Kevin Powell - Attorney-at-Law

REPRESENTING JAMAICA REDEVELOPMENT FOUNDATION

Mrs. Sandra Minott-Phillips - Attorney-at-law
Mr. Gavin Goffe - Attorney-at-Law

REPRESENTING MS. SHIRLEY TYNDALL

Mrs. Nicole Foster-Pusey - Attorney-at- Law

REPRESENTING MR. PATRICK HYLTON Mr.

Dave Garcia - Attorney-at-Law

GIVING EVIDENCE

Honourable Danny Williams OJ
President - Life of Jamaica Limited

1 Tuesday, January 19, 2010.

2 Commencing at 9:50 a.m.

3 CHAIRMAN: Good morning, ladies and gentlemen, this
4 enquiry is now in session. Before we
5 begin this morning's exercise, we would
6 like to make a statement in light of an
7 article appearing on the front page of
8 Herald Newspaper. We received a letter
9 under the hands of the Honorable Michael
10 Hylton, O.J, representing Dr. Omar
11 Davies, MP, Mrs. Sandra
12 Minott-Phillips, representing Jamaica
13 Re-development Foundation Inc.,
14 Mrs. Nicole Foster-Pusey representing
15 the Honourable Shirley Tyndall, O.J,
16 and Mr. Dave Garcia representing
17 Mr. Patrick Hylton, C.D, raising certain
18 concerns based on allegations of fact
19 which question the eligibility of the
20 Chairman. This letter was copied to His
21 Excellency the Governor General, the
22 Prime Minister and the Minister of
23 Finance. The matter was referred by us to
24 the Solicitor General for him to
25 investigate the allegations and to

1 advise accordingly. The Solicitor
2 General has advised that there is no
3 factual substratum on which one can
4 arguably base a claim on actual or
5 perceived bias, or that the matters, the
6 subject of the Enquiry cannot be heard in
7 accordance with the doctrine of fairness.
8 We will now proceed. Please swear Mr.
9 Williams.

10 MR. HYLTON: Mr. Chairman...

11 CHAIRMAN: Mr. Hylton, will you have a seat. I
12 will not hear you, we will not hear you
13 at the moment. We wish to continue.

14 MR. HYLTON: Mr. Chairman, you don't know what I am
15 going to say sir.

16 CHAIRMAN: Are you appearing for Mr. Williams?

17 MR. HYLTON: I am not, sir.

18 CHAIRMAN: No. So what is there to be heard?

19 MR. HYLTON: I wish to respectfully invite you, Mr.
20 Chairman, to reconsider the decision.

21 CHAIRMAN: No, we are reconsidering nothing. The
22 procedure is what this Commission ordains
23 and we have decided that we are
24 proceeding. Dr. Williams will be sworn.
25 Thank you, Mr. Hylton.

1 MR. HYLTON: Mr. Chairman.

2 MRS. MINOTT-PHILLIPS: Can I have the mike, please?

3 CHAIRMAN: We will not hear you any further,
4 counsel, please take your seat.

5 MRS. MINOTT-PHILLIPS: Mr. Chairman, I wish to submit this
6 Commission as presently constituted...

7 CHAIRMAN: We will not hear you any further.

8 MRS. MINOTT-PHILLIPS: ...has disqualified itself from

9 continuing to hear the proceeding on the
10 ground of bias.

11 CHAIRMAN: Yes.

12 MRS. MINOTT--PHILLIPS: I have with me authority on the

13 points. I would certainly also like the
14 letter to which you referred to be
15 admitted into evidence together with the
16 response of January 18 provided to me
17 this morning. I refer the Commission to
18 the judgment of the House of Lords...

19 CHAIRMAN: Mrs. Phillips, are you hearing what I

20 said? I will repeat: Dr. Williams will
21 be sworn.

22 MRS. MINOTT-PHILLIPS: Mr. Chairman, does that mean that you
23 are not allowing any submissions by
24 counsel?

25 CHAIRMAN: We are not hearing you now. Will you

1 please take your seat.

2 MRS. MINOTT-PHILLIPS: Can you indicate when you will be
3 hearing us, Mr. Chairman?

4 CHAIRMAN: I am not engaging in chit-chat, please
5 take a seat. Dr. Williams, will you
6 stand please and take the oath.

7 MRS. FOSTER-POSEY: Mr. Chairman, I have heard what you have
8 been saying but I wish to indicate that
9 I too had wish to make submissions this
10 morning. You have indicated that you
11 will not be hearing us, but I just wish
12 to indicate that if, and in due time you
13 indicate a period of time or a scheduled
14 time when we can make our submissions we
15 would wish for you to kindly tell us,
16 because we do feel that this is an
17 important issue and we have more that we
18 wish to say on the matter. Thank you,
19 Mr. Chairman.

20 MR. GARCIA: Mr. Chairman, if it pleases you, I must
21 adopt the position taken by my learned
22 friends and I wish to raise a further
23 issue, sir, which is the question of
24 this matter being taken to the courts in
25 appropriate proceedings. I have

1 instructions on behalf of my client to
2 do so and I wish to raise...

3 CHAIRMAN: Are you threatening us? Please don't.

4 MR. GARCIA: I am not.

5 CHAIRMAN: You have a right as you are advised to
6 do what you will. So far as this
7 morning's proceedings are concerned we
8 propose to continue.

9 MR. GARCIA: Well, Mr. Chairman...

10 CHAIRMAN: Will you listen to me, please? Since
11 there are four of you, I suggest after
12 the adjournment you consult with our
13 Secretary who will be advised by our
14 counsel and if necessary, the counsel
15 marshalling the evidence as well so you
16 may fix a date when we can hear you.
17 Thank you very much. There is nothing
18 further to say. Would you take your
19 seat.

20 MR. GARCIA: Very well, sir.

21 CHAIRMAN: Yes.

22 (MR. WILLIAMS SWORN)

23 Yes.

24 MRS. WONG: Morning Mr. Chairman and Commissioners.

25 CHAIRMAN: We need a mike.

- I CHAIRMAN: We need a mike.
- 2 MR. HYLTON: We don't have use for it.
- 3 MRS. WONG: Morning Dr. Williams, in keeping with
4 the Terms of Reference the Commission by
5 letter dated December 11, 2009, you
6 provided submissions to the Commission
7 of Enquiry into the collapse of
8 financial institutions of Jamaica in the
9 1990's with particular reference to the
10 role, if any, played the by Life of
11 Jamaica Limited, correct? You have the
12 documents in front of you?
- 13 A: Yes.
- 14 Q: For the record, could you just state
15 your full name.
- 16 A: My full name is Raby Danvers Williams.
- 17 Q: And your present status right now is?
- 18 A: I am retired, I serve on Boards of
19 Directors largely.
- 20 Q: Could you state which Boards.
- 21 A: Yes, I sit on Sagicor, Alkali Group,
22 Jamaica Broilers Group, those are the
23 three main ones; Dolphin Cove, one or
24 two other lesser ones.
- 25 Q: Could you provide us with some vital

1 information as to your formal
2 qualifications, if any?
3 A: By that you mean education?
4 Q: Correct.
5 A: I am a Chartered Life Underwriter, that
6 was in 1957. I see Mr. Jones over there,
7 he and I did it at the same time. I am a
8 Q: Chartered Life Underwriter and I think
9 it was 1957.
10 Q: Thank you. You were the founder and
11 past president of Life of Jamaica
12 Limited, correct?
13 A: That's correct.
14 Q: As previously stated you have provided
15 some submissions to the Commission
16 regarding the history of Life of Jamaica
17 and in particular the role, if any,
18 played by Life of Jamaica. Could you
19 just give us some details as to the
20 history and your relationships at the
21 institution?
22 (Lawyers leave enquiry)
23 CHAIRMAN: Go on.
24 MRS. WONG: Am I to proceed?
25 CHAIRMAN: Yes, please.

1 A: Would please repeat.

2 MRS. WONG : In keeping with the submissions that you
3 provided to the Commission, could you
4 just give us a brief history and in
5 particular your relationship there? Life

6 A: of Jamaica was formed on June the 1st
7 1970, it was formed as a public company
8 and listed on the Stock Exchange. The
9 shareholders numbered several thousands
10 and I had the honour of leading the team
11 that created the company. I was named
12 President on June 1st 1970, served in
13 that capacity until January 1977. I took
14 leave from the company in '77 for three
15 years and returned in January '80 as
16 Executive Vice Chairman with
17 responsibility for corporate planning and
18 long term development, I served in that
19 capacity for two years. I returned to the
20 company as President in mid-1986 and
21 retired in December 1995. Do you want me
22 to go further?

23
24 Q: Now at this point could you describe
25 some of the internal control measures

1 that were put in place at LOJ during
2 your tenure there?

3 A: Life of Jamaica carried out all the
4 proper corporate governance that you
5 would have been expected of a company of
6 this kind. We have Audit Committee, in
7 fact, I think it was one of the first
8 audit committees set up in the country;
9 it was chaired by Mr. Carol Thorburn,
10 well known as the senior partner at
11 Deloitte and Touche. He chaired that
12 committee for us. It had also a
13 Financial and Investment Committee that
14 approved all the investments that were
15 made by the company. We had all
16 committees approving expenditures;
17 expenditures had to be specifically
18 approved even although they may have
19 been budgeted. The bottom line is all
20 the checks and balances that you would
21 have expected from a company like that
22 were in place. I might add though, a
23 very important point is that Life of
24 Jamaica was one of first companies in
25 North America and the Caribbean to use a

1 office was used because the Life
2 Insurance companies lend themselves,
3 being a mathematical thing, to model
4 office projections and as a result we
5 were guided by, we could project what
6 the likely outcomes would be if this
7 happened, that happened and the other,
8 x' interest rate, volumes of business

9 and so on. So we used that and we were
10 guided by that. We also had in place an
11 actuary. From the company started we
12 were set up with a Consulting Actuary
13 and we had our own in-house actuary
14 within a couple of years and the actuary
15 working with the model office guided the
16 company and advised the Board of
17 Directors as to exactly what volume of
18 business we could afford to do and the
19 levels of expenditure we could afford
20 and so on.

21 Q: Could you also give us some information
22 or description of the products that were
23 offered by LOJ over the years?

24 A: Life of Jamaica offered traditional life
25 insurance products in the early years;

1 insurance products in the early years;
2 the original endowment policies, whole
3 life policy, term policy, were the three
4 main types of policy or derivatives of
5 that. In the later years, I think it was
6 in 1987, we introduced a different set of
7 policy call the Universal, although we
8 still sold it traditionally, we
9 introduced a Universal Life series of
10 policy which was in response to the
11 significant inflation that was taking
12 place and those policies were linked to
13 three major funds: an Equity fund, a
14 Mortgage and Real Estate Fund and a Fixed
15 Income fund -- sorry, it was a long term
16 securities fund, this is a correction,
17 long term securities fund, property fund
18 and short term security fund. Long term
19 securities fund were invested in stocks
20 listed on the stock exchange; the
21 property fund was in mortgages and real
22 estate, and the short term securities
23 fund were invested mainly in Government
24 of Jamaica securities,
25

1 I think I should also add here, in
2 addition to traditional life insurance
3 products, the company was also in the
4 pension business, pension and group life
5 business and the pension business was
6 segregated from the ordinary business of
7 the company into pool investment funds
8 and those pool investment funds were an
9 equity fund, a mortgage and real estate
10 fund and a fixed income fund. And
11 these were specifically done this way to
12 separate them from the ordinary business
13 of the company and that was introduced
14 literally from the beginning of when the
15 company started business in 1970. In mid
16 1980"s the company also went into the
17 group health business.

18 Q: What was your relationship between LOJ
and Citizens Bank?

19
20 A: Life of Jamaica had the controlling
interest in Jamaica Citizens Bank.

21 How was Jamaica Citizens Bank run in
22 Q: relation to LOJ?

23 They were run as two totally separate
24 A: entities. As a matter of fact, a very
25

1 important point for me to make here, is
2 that even when Life of Jamaica had
3 problems, liquidity problems, we never
4 at any time drew on any of the Citizens
5 Bank resources, they were run as two
6 separate entities, two separate boards,
7 two separate audit committees,
8 completely separate, and I want to
9 emphasize that point because the
10 suggestion has been made in the past
11 that Life of Jamaica used some of the
12 resource of Citizens Bank, we used
13 absolutely none, it would have been
14 completely counter to the governance
15 principles that guided us.

16 Q: Jamaica Citizens Bank later became a
17 failed institution, correct?

18 A: That is correct.

19 Q: What, if any association -- would you
20 associate that failure to LOJ?

21 A: No, because as I said they were run as
22 two separate entities. Citizens Bank
23 like so many other banks, when people
24 couldn't pay their loans ran into
25 financial difficulties but the two

1 no connection. Of course, we didn't get
2 the profits we used to get in earlier
3 years.

4 Q: Could you describe for us what you
5 referred to as the developing trend
6 which you had concern with in the late
7 80's?

8 A: Yes. As a result of the high inflation,
9 the coupon rate on government securities
10 began to rise. Real estate values rose
11 in nominal terms but more important to
12 investors, their investment appreciated
13 in real terms as well as in relation to
14 US dollars.

15 CHAIRMAN: Before you go on...

16 A: Yes, sir.

17 CHAIRMAN: One of the accusations, if we may call
18 it that, leveled at insurance companies
19 was that there was people formed a
20 conglomerate so you have a bank, a
21 building society, an insurance company,
22 and by having this conglomerate people
23 could use what is called arbitrage, duck
24 out of one and duck into the other as it
25 suited you. That is one of factors

1 suited you. That is one of factors
2 suggested that led to the collapse of
3 the financial sector.

4 A: That's not what I know traditionally as
5 arbitrage, sir, but...

6 CHAIRMAN: Maybe I am getting it wrong but you
7 understand what I am trying to say.

8 A: I am sure I understand what you are
9 trying to say but that is why I
10 emphasized the point a while ago that we
11 were not using any resources and for
12 example, Citizens Bank did have a
13 building society as a subsidiary of
14 Citizens Bank, but we did not use any of
15 the assets or funds of Citizens Bank for
16 the benefit of Life of Jamaica, it was
17 simply an investment that had been made,
18 it was being run on proper lines to
19 produce dividends for us.

20 CHAIRMAN: Very well.

21 A: I emphasize the point and certainly I
22 don't know if there are other people who
23 used the resources of the bank with
24 which they were associated, I can only
25 speak to the one I know about.

1 CHAIRMAN: Thank you.

2 MRS. WONG: Before you...

3 CHAIRMAN: One moment please. Please proceed.

4 Q: Before you continue your description of
5 my inflation and the result it had in
6 the economy and LOJ specially, could you
7 just give us some information as to when
8 LOJ began to invest in real estate and
9 why?

10 A: Life of Jamaica began to invest in real
11 estate very early. As I mentioned
12 before here, we had a property fund and
13 when in the '80's inflation started to
14 go crazy and people started to withdraw
15 money from the life insurance and
16 traditional products which was the
17 reason why we established those
18 segregated funds and linked our policies
19 to those segregated funds because our
20 policy holders were saying to us, look,
21 we don't want the traditional products
22 any more, don't you see what is
23 happening out there? Inflation is
24 running wild, real estate is escalating,
25 people were buying real estate and

1 becoming very rich overnight by buying
2 and selling. You see what's happening
3 on the stock market, people were buying
4 stocks and so on, and they were
5 therefore withdrawing their funds to go
6 into these investments. So this was
7 the point and I had mentioned earlier on
8 that we did have a real estate fund for
9 the pension fund, because as you know,
10 pension funds are long term funds, they
11 are intended to be long term funds and
12 therefore it was quite appropriate for
13 us to have those segregated funds for
14 the purpose providing pensions for
15 people and it was therefore a desirable
16 thing specially in the inflationary
17 economy like what we found ourselves in,
18 it was the only sensible thing to do, to
19 invest in stocks and real estate to try
20 and keep pace with the inflation.

21 Q: Could you please elaborate some more on
22 what was the result of the high
23 inflation particularly in relation to
24 LOJ?

25 A: Yes, certainly. I am sorry I didn't

1 have been able to have prepared myself a
2 little better.

3 I think that is why, if I go here,
4 between 1990 and 1995 -- I am going to
5 read a section of what I sent in to you
6 here, I think it was relevant.

7 "I am not an economist but common sense
8 suggests that if a large, relatively
9 conservative, professionally managed
10 company like Life of Jamaica experienced
11 serious liquidity and solvency problems
12 in the late 1990's, it's important to
13 examine the fiscal and monetary
14 environment of the period leading up to
15 the financial collapse.

16 In order to understand the role played
17 by Life of Jamaica and a host of other
18 financial institutions caught up in the
19 debacle that led to the formation of
20 FINSAC one must first examine in detail
21 the economic environment that was its
22 precursor.

23 Between 1990 and 1995 inflation averaged
24 40 percent per annum with the peak being
25 80 percent in 1991. This created an

1 80 percent in 1991. This created an
2 environment ultimately destructive to
3 business enterprise. The economy heated
4 with massive amounts of money chasing
5 yield in order to cover rapidly rising
6 costs. The role and responsibility of
7 trade unions to their membership is
8 crucial in a *high* inflation environment.
9 Jamaica is not unique in this respect, so
10 naturally unions were active and forceful
11 in advocacy.

12 Government budget deficits were being
13 covered with borrowed money, with no
14 increase in production or productivity.
15 Pressures were building that would in due
16 course blow the lid off the exchange rate.
17 The annual increase in money supply
18 averaged 47 percent between 1991 and
19 1995, and domestic debt catapulted from
20 ten billion dollars to fifty billion
21 dollars.

22 Each billion dollars borrowed and spent
23 by government ends up in the banking
24 system. It is then leveraged perhaps

1 effect of eight billion dollars speeding
2 through the economy in search of a yield
3 higher than inflation.
4 But it gets worse when banks,
5 individuals and companies make an
6 assessments of risk and decide that
7 lending to the government at 40 percent
8 is safer than taking any business risk.
9 The result is a contraction in
10 productive enterprise and an explosion
11 in chasing paper profits.
12 Those who had cash wanted the highest
13 yield and those who took, or already had
14 business risk associated with borrowed
15 funds, found they could not pay the high
16 and rising interest rates demanded. Loans
17 with unpaid interest were sometimes
18 rolled into bigger and bigger loans.
19 Banks booked profits in the process, and
20 the borrower's equity in securities they
21 offered diminished in many cases to
22 zero." Because of the high interest rate
23 the debt would be increasing if people
24 were not able to pay and it was: it's
25 only a matter of

1 pay and it was: it's only a matter of
2 time before the loans exceeded the value
3 of the asset. During this period of time,
4 of course, you also had the assets
5 decreasing in value which is a natural
6 reaction in times like that.

7 "With lending rates lower than the high
8 inflation rate, particularly in 1991
9 people were encouraged to speculate with
10 borrowed funds in real estate,
11 government paper and the stock market. A
12 popular strategy -- and Commissioner, I
13 think this is what you were referring to
14 -- a popular strategy was to
15 introduce into Jamaica US dollars and
16 leverage them by borrowing more US
17 dollars at between around ten and fifteen
18 percent. The entire amount was then
19 converted to Jamaica dollars and placed
20 in government bonds or commercial paper
21 at rates between forty percent and fifty
22 percent and in some cases higher.

23 Foreigners and Jamaicans participated in
24 what became a highly profitable game of
25 arbitrage.

1 The strategy was to watch the exchange
2 rate in relation to interest rates. A
3 stable exchange rate and high government
4 paper rates created massive arbitrage
5 profits for many years with absolutely no
6 production of anything other than adding
7 to the national debt. The illusion was
8 that the funds represented an investment
9 in Jamaica. However, when viewed
10 correctly the foreign exchange was
11 nothing more than a high interest foreign
12 exchange loan. In defending the NIR we
13 were in effect paying additional interest
14 on those loans in an effort to hold on to
15 the funds.

16 The high interest rate environment
17 divided the business community into two
18 distinct groups: the 'cash rich' chasing
19 paper profits in the stock market,
20 government paper or high
21 interest commercial paper. This is a
22 distinct disincentive to productive
23 enterprise.

24 This is the thing that is often
25 referred to in our society where people

1 have remarked that this was one of worst
2 transfers of wealth from the poor to the
3 rich.

4 (2) The 'bank and commercial paper
5 borrowers' unable to keep up with high
6 inflation, high interest rates, and the
7 demands of trade unions."

8 This was what we were faced with.

9 "The government decided in 1993 to raise
10 interest rates higher than inflation to
11 cool the economy and stabilize the
12 Jamaican dollar. The Treasury Bill rates
13 doubled in 1993 to peak at 48.90 percent
14 and at its peak the BOJ rate for
15 overdrafts incurred by the bank was as
16 126 percent per annum.

17 This course of action would not have been
18 necessary were money and fiscal policies
19 appropriately conservative in prior
20 years, but in the circumstances
21 understandable. Similar to when Federal
22 Reserve Chairman Paul Volker raised
23 interest rates in the USA to 20 percent
24 in the early 19980's.

25 In my opinion these high rates were

1 maintained long past the point of being
2 constructive.

3 The 'Net International Reserves' grew
4 during this prolonged period of
5 excessively high interest rates, again
6 for understandable reasons. And the
7 desire for an increasing NIR may have
8 influenced the decision to keep rates
9 high for too long. So an initially
10 responsible strategy morphed into a
11 destructive force, eroding the ability
12 of many good businesses to survive or
13 prosper.

14 On the other hand, we have people
15 converting for example, US dollars, as I
16 mentioned earlier on, and taking
17 advantage of significant arbitrage. It is
18 my opinion that interest rates held too
19 high for too long did grow the Net
20 International Reserves and the real price
21 Jamaica paid was the cost of FINSAC.
22 High interest rates were simply kept in
23 place far too long and with devastating
24 effect. The price is still being paid
25

1 and will continue to be paid for
2 generations to come."
3 We only have to think of recent
4 developments in our country.
5 Some life insurance companies during this
6 particular period issued interest
7 sensitive policies trying to keep up with
8 what was taking place. I want to make the
9 point that Life of Jamaica never issued
10 any interest sensitive policy. We had our
11 contracts linked to the various funds
12 that we mentioned earlier on and we never
13 took part in any guaranteed interest
14 rates or any interest sensitive policy.
15 "Life of Jamaica by the nature of its
16 business places funds in investment grade
17 real estate and for particular purposes
18 explained earlier, in the stock market.
19 Those two areas imploded with devastating
20 results for individuals, small companies,
21 large companies and financial
22 institutions.
23 Real estate investments which in earlier
24 years contributed handsomely to LOJ's

1 profitability were now losing value at
2 break-neck speed. Eventually we had to
3 mark down the asset on our balance
 sheet."

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Continued...

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1 DR. WILLIAMS: And this is an important point we are
2 getting to here: that in the late 1990's
3 what really happened was that the value
4 of stocks and real estates started
5 depreciating very rapidly, but the
6 liability we had to our policyholders
7 remained the same, so it became
8 unbalanced and that was the reason why
9 we had to...

10 COMM ROSS: Could you explain that first page,
11 because I thought you said earlier that
12 your policyholders were linked to the
13 values of the funds.

14 A Yes. Commissioner, I appreciate the
15 reason for the question. The fact of
16 the matter was that the -- as you
17 correctly point out, the value, the
18 person's benefit was linked to the
19 performance of the various funds. But
20 when people are cashing out on real
21 estate, for example, and you are not
22 able to sell that real estate you need
23 to find cash to meet the obligation,
24 because they had the right to call for
25 cash. Now, we did have a provision in

1 the contract that gave us the right to
2 postpone for six months the payment to
3 the client. We did not enforce that
4 right. On reflection I don't know
5 whether it was a right or wrong
6 decision. But the reasons why we didn't
7 enforce that right was because we said it
8 might create panic within the society. It
9 was at a point where there was quite a
10 bit of panic already in the society. So
11 we decided to try we
12 used the cash that we had to meet the
13 obligations of the fund. We loaned money
14 from the general fund to the fund, the
15 segregated fund. We borrowed money from
16 independent people to meet the
17 obligations because we had all this real
18 estate that we couldn't sell overnight.
19 We had earlier -- I should tell you when
20 this thing really started, when this
21 thing really started becoming a big
22 problem and the liquidity crunch was
23 facing the insurance company, Richard
24 Powell and I, Richard Powell who was then
25 Vice President, Investment, went

1 and saw Mr. Omar Davies who at that time
2 was a Minister in the Ministry of Finance
3 and very shortly after became the
4 Minister, and we explained to him that
5 the insurance companies and we weren't
6 speaking just on our own behalf at the
7 time, were going to face a financial
8 crunch because everybody was trying to
9 cash out because they saw real estate
10 value dropping and stock values dropping,
11 they were afraid it was going to drop so
12 they were trying to cash out and we
13 therefore asked for some
14 liquidity support. We never got that
15 liquidity support and in fact we never
16 got liquidity support and we never got
17 support from the government until we
18 were, it was in 19 -- we got an infusion
19 in capital from the government in 1997.
20 We approached FINSAC for help in '97,
21 they introduced capital of \$1.2B in
22 exchange for 26.5 percent of the
23 company's shares. They also purchased
24 from us all the shares we had with CIBC
25 and market for 517 million dollars

1 because we needed cash. Their
2 shareholding was increased to 76% in
3 November 2000 in exchange for an
4 additional \$2.2B of capital. This has
5 become necessary in order to restore
6 LOJ's solvency. Have I answered your
7 question, sir?

8 COMM ROSS: Essentially this was the beginning of
9 the problems which led to the major
10 financial crisis.

11 A Within Life of Jamaica, yes.

12 COMM ROSS: Thank you.

13 MRS. WONG: Dr. Williams, you said that FINSAC, you

14 approached FINSAC for help in 1997.

15 Could you give us a description or

16 elaborate somewhat on FINSAC's

17 involvement with LOS after that period?

18 A When FINSAC put money into the company

19 and took a percentage of the ownership

20 they nominated directors to the Board.

21 And certainly, I know for sure that when

22 they had the 76% ownership they not only

23 nominated directors, they nominated the

24 chairman and other directors to the

25 Board. FINSAC you might say had through

1 remember the local banks and insurance
2 companies were being praised for the
3 role that they played in helping to
4 develop Jamaica in all spheres -housing,
5 stock exchange, everything. In fact, it
6 was in those days said that the overseas
7 financial companies were doing nothing
8 but investing in Government Paper and
9 were not participating in the development
10 of the country, the ones that became the
11 heroes afterwards. We were the ones that
12 were developing the
13 country and participating in what needed
14 to be done in the country. But we found
15 ourselves in a position, when you have
16 an economy just totally overheat in the
17 way our economy overheated it ruined the
18 financial institution. You see, I think
19 you are in the banking sector because I
20 was on the Citizen's Bank Board, I saw
21 people who had -- I will give you just a
22 small example. I remember a
23 particular case of a gentleman bringing
24 a car key to me and saying, Danny, I
25 bought this car for a \$XXXXM, I have

1 already paid a \$XXXXM, I still owe XXXX
2 Hundred Thousand, the car is now worth
3 XXX Hundred Thousand, please hand the key
4 to the bank for me. Because you know this
5 is what happened. You have all the assets
6 melting away, but liabilities remain the
7 same and with ever increasing interest
8 rates. And I emphasise it must now be
9 obvious or it should by now be obvious
10 that when economies are allowed to
11 overheat and inflation runs rampant as it
12 did in Jamaica, when money is printed
13 that is not backed by a corresponding
14 increase in production the result is
15 destruction of the financial sector.
16 Although the real economy enjoyed little
17 to no growth in 20 years from 1976 to '96
18 the financial sector experienced a
19 financial growth. The financial bubble
20 was destined to burst with devastating
21 consequences. That happened in the 1990's
22 and it could have been avoided. We
23 participated because we bought stocks, we
24 bought real estates, we did

1 developments, we sold houses. Sure we
2 participated. If we were participating in
3 what was taking place, You see 70% of the
4 expenses, 60 to 70 percent of running a
5 thing like a financial institution is
6 your overhead cost. And when you have
7 inflation up to 80% and you have the
8 unions asking for wage increases of 60%,
9 where is it going to come from? It can
10 only come from two sources: it can only
11 come from an additional investment
12 earnings. So if you have the opportunity,
13 because if you didn't you just go
14 bankrupt and belly up. You had to invest
15 in the stock market, you had to invest in
16 real estate because your clients were
17 giving you money saying put it there, but
18 in addition to that you had to do it
19 because that was the order of the day. So
20 we didn't create the problem, we reacted,
21 we participated. But the truth of the
22 matter was that the financial
23 institutions were destroyed by the bad
24 fiscal and economic management of the

1 country through that period.

2 Q Can you comment at this point on the
3 role...

4 CHAIRMAN: Just one moment. Mr. Williams, one of
5 the allegations against the insurance
6 companies was that they were paying
7 their staff, their representatives high
8 commissions - one, they had too many.

9 A Too many what?

10 CHAIRMAN: Representatives. Among the many
11 complaints that we had to garner, what
12 observations would you have to make in
13 regard to that?

14 A The rates of commission that were paid
15 was that was in line with what had been
16 played throughout the history of the
17 insurance company. They never increased
18 the commission rate. In fact, during
19 that period of time when things got
20 difficult and if everybody was, you
21 know, you were trying to reduce
22 expenditure in every way, commissions
23 were actually cut. So as far as the
24 volumes of business that was done was
25 done, and if you had the agents in line

1 with the volume, the number of agents you
2 recruited was in line with the volumes of
3 business that you want to do. And you
4 know, when when you have the kind of
5 inflation and so on that we had, if you
6 didn't grow your business you wouldn't
7 have had the margins to pay your
8 overheads. You see, life insurance is a
9 fixed price product. When you sell a
10 policy you indicate the amount, you
11 identify the amount in that premium that
12 is available for expenses. Your other
13 source of income is from
14 investment profits over and above what
15 you have provided for in your premium
16 rates. Now, when you have inflation gone
17 mad and you have to keep and you have
18 pressure on you for increase wages and
19 you have every single item of cost going
20 through the roof, you have no
21 alternative but to have participated in
22 trying to earn money from the stock
23 exchange which everybody else was doing
24 and the real estate market, or to grow
25 your business. To grow life insurance

1 requires capital. We were fortunate at
2 Life of Jamaica that because of an
3 earlier real estate investment with the
4 large tract of land in New Kingston we
5 had significant profits which we were
6 able to employ and use it to grow the
7 business through this particular period.
8 So the bottom line answer to your
9 question is sir, that agents were in line
10 with the required volumes of business
11 needed by the company to survive, and
12 that the commission rates were in line
13 with what had been paid from -- I went
14 into the business from 1953 and in fact
15 were actually reduced. I know this
16 happened at LOJ, I believe it is the same
17 thing happened elsewhere.

18 Thank you.

19 CHAIRMAN:

20 MRS. WONG: Dr. Williams, at this moment would you
21 like to comment...

22 CHAIRMAN: Just one second.

23 COMM ROSS: Mr. Williams, one of the accusations
24 against the financial industry in
25 particular, is that the problems came

1 from a mismatch of assets and
2 liabilities, long term assets from the
3 current short term liabilities. Could
you comment on that with regard to T10J's
5 experience and position?

6 A Yes. First of all as someone with your
7 experience would appreciate, when you
8 have had these various funds, real
9 estate fund, equity fund, and people
10 have the right to cash their funds
11 because I had mentioned earlier we had
12 the right to cash their funds but we
13 never exercised that right; when you
14 have that kind of situation are you
15 going to say that it was a short term
16 liability, but that the asset was a long
17 term asset. Now, under normal
18 circumstances it wouldn't have been a
19 problem because within your respective
20 funds you did not invest a 100% of the
21 funds that were given to you to say
22 invest in equities. You kept a
23 significant portion in cash so as to
24 meet those demands on you. The same
25 thing was done in the real estate fund,

1 you kept a significant amount in cash. I
2 will be frank with you you know, we
3 realised that there was going to be a
4 bursting of the bubble and so much so we
5 set up significant reserves, investment
6 reserves in our balance sheet. For
7 example, when we had these high
8 increases in value in real estate we
9 didn't just bring them in our accounts and
10 bring them into our profit and loss. We
11 only brought to account what was actually
12 realised, a realised gain and the gain
13 that came from the high inflation and the
14 revaluation of the assets, we brought that
15 in at the rate of 10% per annum and we
16 left carrying the other 90 percent on our
17 balance sheet as investment reserves. So
18 that was just part of the prudent way to
19 behave. But we carried liquidity in our
20 funds, normal cashing out would have been
21 easily accommodated. And so that accusation
22 is not accurate.

24 CHAIRMAN: Thank you very
 much.

25 COMM BOGLE: Mr. Williams, regarding the regulations

1 and oversight of the life industry
2 during that period, it is said that a
3 major part of the problem was that
4 regulations, supervision and oversight
5 were very, very serious, very weak that
6 allowed the insurance companies to more
7 or less do things that proper
8 regulations should have avoided. Could
9 you comment on that?

10 A Regulations today are much stronger than
11 they were at that time. But I don't
12 frankly think that although the
13 regulations were not as strong as they
14 are today, I personally don't think
15 that insurance companies were doing
16 anything that they were not set up to
17 do. They weren't being reckless -- let
18 me speak for Life of Jamaica, I can only
speak for Life of Jamaica. Life of Jamaica most certainly was not
19 doing anything that was reckless as I
20 indicated to you. Profits that arose we
21 carried as reserves; we were not taking
22 any undue risk. People gave us their
23 money, they said they wanted their money
24
25

1 so they could form the real estate fund
2 or government security fund. We invested
3 accordingly, we kept adequate liquidity,
4 we didn't go paying out any whole heap of
5 dividends or anything like that; nominal
6 dividends were paid. We were guided by
7 what our actuaries advised us to do what
8 we could do and what we shouldn't do, and
9 as I said earlier on, we were the heroes.
10 We were the heroes, we were the ones that
11 when the foreign financial institutions
12 wouldn't invest any money to help Jamaica
13 grow as a nation, we were the ones that
14 were out there. When the
15 hotels, for example, had to be divested
16 there was nobody else for them to be
17 divested to and so pension funds which
18 are in there for the long term, bought
19 hotels. There was nothing reckless
20 about that. It was done to help Jamaica
21 grow and develop and in line with normal
22 behaviour in the management of the funds
23 that were entrusted to you. Keeping in
24 mind the liabilities that you have
25

1 business was going along, people were
2 able to pay their bills -- it was all
3 being done with black market money and
4 every single merchant, every single
5 businessman-- I believe every single
6 one, maybe I am wrong, maybe there are
7 the odd one that didn't but believe you
8 me it could only have been the odd one -
9 - right? They kept their businesses
10 growing by buying black market currency
11 to pay their bills and they had various
12 means and ways of taking it out of the
13 country and paying the people in Miami or
14 wherever it was. You know when you as a
15 businessman know that this money is out
16 there it is just not in the system and
17 we may remember when the Bank of Jamaica
18 had some unofficial thing going, if we
19 think back to that, they had no
20 difficulty getting all the money pouring
21 in. So I

22 that was what influenced me and
23 others and that was one of the reasons
24 why. On reflection and you know 20/20
25 is the easiest thing in the world,

1 hindsight is so easy. Maybe a series of
2 small steps say over 36 months would have
3 been better if it had been done like
4 that; none of us will ever really know
5 for sure. Deregulation saw the exchange
6 rate -- because it was done so quickly,
7 it did see the exchange rate move from
8 J\$13.42 to J\$28.10 between September 16,
9 1991 and April 8, 1992...a 108%
10 devaluation in just seven months. That
11 caused the first wave of insolvencies in
12 the retail trade. It had consumers
13 reeling with exploding inflation. The
14 bullet had already left the gun and could
15 not be recalled. There was no NIR to stop
16 currency speculation. What actually
17 happened there, the issue is that because
18 of this huge devaluation so quickly,
19 merchants would have bought goods and had
20 sold them had gotten credit from their
21 suppliers, they sold the goods and when
22 the time came now to pay back the
23 suppliers they didn't have the money
24 because they already sold the goods and
25

1 by the time they had to pay back it was
2 twice the amount. The result was that
3 many of them went insolvent. The
4 imported raw material content of
5 Jamaica's manufactured goods doubled,
6 along with wages; so much of the
7 benefits they ought to have enjoyed
8 enjoyed vanished overnight. These forces
9 started the island floundering
10 in a sea of confusion resulting from the
11 shock of sudden change.

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1 DR. WILLIAMS: Who was affected? Everybody --
2 government, farmers, consumers,
3 manufacturers, conglomerates, retailers,
4 individuals, planning,
5 retirement strategies, insurance
6 company, everybody, banks -- everybody.
7 Everybody suffered as a result of that
8 dramatic change. So the bottom line is,
9 I think it was the right thing to
10 deregulate. I don't now have any doubt
11 in my mind at all. Maybe if it had been
12 done over few years rather than so
13 quickly it might have been better, but
14 we will never really know.

15 MRS. WONG: Those are the questions at this time.

16 COMM. BOGLE: Mr. Williams?

17 A: Yes, sir.

18 Q: Having the benefit of 20/20, what do you
19 think that LOJ could have done, with the
20 benefit of 20/20, to have saved their
21 situation, prevented the situation that
22 they got themselves in?

23 A: Well as I mentioned earlier on, the
24 situation that was forced upon them
25 because of the bad financial economic

1 management of the society was pretty
2 well beyond their control. The only
3 thing LOJ could have done was to have
4 identified capital earlier -- that could
5 have made a difference. But with what
6 transpired it was difficult for the
7 company to avoid running into a loss,
8 and it was difficult for us to have
9 avoided the liquidity squeeze that we
10 ran into. The only thing I can think of
11 at this point here to have avoided, is
12 that we should have got some more
13 capital earlier on.

14 Q: It has been put forward at this
15 Commission that one of the main causes
16 for the collapse of the financial
17 institutions was bad management, poor
18 management decisions.

19 A: Where?

20 Q: At the financial institutions. Now
21 coming to that, one of the things they
22 say, one of things that has been put
23 forward is that the insurance companies
24 borrowed a lot of money from their
associated bank. You stated that LOJ

1 did not do anything like that.

2 A: That's correct.

3 Q: What would you say then was the main
4 cause of the problems at Jamaica
5 Citizens Bank?

6 A: Well, in the case of Jamaica Citizens
7 Bank it was a straight situation of a
8 overheated economy; people couldn't meet
9 their loans, this high interest rate --
10 I mean, if a man is going to be called
11 on to pay 80 and a 100% interest rate he
12 didn't need to borrow the money in the
13 first place. The fact of the matter was
14 that you had this excessive interest
15 rate and people couldn't pay their loans
16 and so the assets that the bank had,
17 which were the loans, those were the
18 assets the banks had, the loans were no
19 good. People couldn't meet them, so they
20 had liabilities to their depositors
21 which don't change; those liabilities
22 don't change, but their assets have
23 depreciated the value enormously, so
24 they run into financial worries. Hence
25 when those things happen and in other

1 situations - we have seen in North
2 America it happened with the building
3 societies up there - the only thing to
4 do in a case like this for a bank is, if
5 the government probably takes off the
6 bad loans and recapitalize the bank. So
7 in my opinion, I am saying that it was
8 the economic situation in the country
9 that ruined our entire financial sector,
10 not just Life Insurance Companies, the
11 banks as well.

12 Q: So as a member of the Board you are
13 satisfied that the management of the
14 Bank, of that particular bank, did what
15 one would have thought prudent in
16 handling its affairs, and as a result
17 you feel that they were not in anyway
18 responsible for the failure of the bank?

19 A: Most definitely. I want to make it
20 abundantly clear that in my opinion the
21 managements of the insurance companies -
22 - and I know you have other Presidents
23 or Chairmen of the Boards that will be
24 coming to you -- all of them in my
25 opinion were very able managers at the

1 insurance company levels and at the
2 levels of certain Citizens Bank that I
3 can talk about. And you know, you only
4 have to ask yourself: How come all of
5 these institutions went down? How come
6 everything gone belly up except one or
7 two? I mean, common sense tells us it
8 has to be something much more
9 fundamental; everything couldn't crash
10 so. And that is what we are dealing
11 with and you know we'll try and find
12 scapegoats, and we'll try and say the
13 management wasn't good, or we'll try and
14 say that regulation wasn't enough. The
15 point was this that all of the people
16 who managed and ran these companies were
17 experienced people, they had all been
18 trained, they all had linkages to
19 foreign support and consultants as
20 needed, and they had been going on and
21 managing their affairs very well for a
22 long time. Life of Jamaica was formed
23 from 1970. That's 40 years.

24 VOICE FROM AUD.: 1870?

25 CHAIRMAN: Please, please?

1 think it's important and the turn of
2 events I think, adds value to what I
3 wrote here. I said here:

4 **"As a country we can take what**
5 **I will call the easy path or we can take**
6 **the difficult path. The easy path leads**
7 **to another collapse of the financial**
8 **system, and the hard part leads to a**
9 **better and safer financial landscape for**
10 **future generations. In 1995 domestic debt**
11 **was 50 billion dollars and today it's a**
12 **whopping, I have here**
13 **627.4 billion dollars.** It was
14 information that I had at that time; I
15 hear that it's more than that now, over
16 700.
17 **Domestic and foreign debt total a**
18 **crippling one trillion one hundred and**
19 **sixty five billion dollars. The potential**
20 **for cataclysmic damage cannot be**
21 **understated. Inappropriate fiscal and**
22 **monetary policies have been sleepwalking**
23 **Jamaica in the direction of bankruptcy for**
24 **a long time ... and the pigeons have come**
25 **to roost. The time**

1 has come ... Jamaica today is where the
2 business community was in the late
3 1990's. It's back is against the wall,
4 overwhelmed by debt, confused and
5 floundering, yet we're impelled to
6 'crack the code' of economic wisdom and
7 take action ... WITHOUT DELAY.

8 Humanity takes its greatest strides at
9 times of utmost difficulty ...for Jamaica
10 this is truly such a moment and I can
11 only hope our government does what is
12 right.

13 In our time of greatest peril we can
14 make our greatest strides. So let us
15 pray for God's grace and guidance. If
16 we fail now our children and
17 grandchildren will never forgive us. We
18 can and we must put our economic house
19 in order...

20 I thought it should be read in light of
21 what transpired recently and in the hope
22 that the first step that has been taken
23 recently will be followed by the other
24 steps that need to be taken to save our
25 country. Thank you, sir.

1 CHAIRMAN:

2 Thank you very much. The document is
3 tendered into evidence and marked DW1.
4 Well, Mr. Williams, the Commission wishes
5 to thank you for coming, for doing
6 something that other people didn't seem
7 to want to do and that is to make a
8 submission that dealt with the terms of
9 reference. So we are very grateful for
10 the assistance you have given this
11 Commission, thank you very much.

12 A:

My pleasure. Am I released, sir?

13 CHAIRMAN:

14 You may go. There being no other
15 witness available, very well, we will
16 adjourn until tomorrow morning at 9:30.

17 Thank you.

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ADJOURNMENT

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