

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, JUNE 21, 2011

PRESENT WERE:

COMMISSIONERS

Mr. Charles Ross
Mr. Worrick Bogle

COUNSEL FOR THE COMMISSION

Hon. Justice Henderson Downer (Retired)

SECRETARY TO THE COMMISSION

Mr. Fernando DePeralto

REPRESENTING JAMAICAN REDEVELOPMENT FOUNDATION

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

REPRESENTING MR PATRICK HYLTON

Mr. Dave Garcia - Attorney-at-Law

REPRESENTING FINSAC LIMITED.

Mr. Brian Moodie - Attorney-at-Law

REPRESENTING DEBTOR1 & DONOVAN CRAWFORD

Mr. Anthony Levy - Attorney-at-Law

GIVING EVIDENCE

Mr. Jason Rudd

1 **Tuesday 21st June 2011**

2 COMM BOGLE: Good morning ladies and gentlemen. Our
3 apologies for the late start. However, this
4 Enquiry is now in session, and for the
5 record may I have the names of the
6 attorneys present.

7 MRS. PHILLIPS: Sandra Minott-Phillips and Gavin Goffe,
8 instructed by Myers Fletcher and Gordon for
9 Jamaican Redevelopment Foundation Inc.
10 Dave Garcia, representing Patrick

11 MR. GARCIA: Hylton.

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

14 Anthony Levy, instructed by the firm G.

15 MR. LEVY: Anthony Levy and Company, representing
16 Donovan Crawford, DEBTOR1 and
17 DEBTOR1COMPANY and with me is Mr. Elyakim
18 Drang.

19 Mr. Who?

20 MRS. PHILLIPS: Elyakim Drang.

21 MR. LEVY: Could you please repeat the name for me.

22 COMM BOGLE: Elyakim Drang.

23 MR. LEVY: He is not an Attorney.

24 MRS. PHILLIPS: He is not an Attorney in this

25 MR. LEVY:

1 jurisdiction, but he is associated with
2 my office and he is doing his pupillage
3 in my office.

4 COMM BOGLE: He is not an attorney in Jamaica?

5 MR. LEVY: He is not an Attorney in this
6 jurisdiction.

7 COMM BOGLE: Okay. Today we will be having Mr. Jason
8 Rudd, representing JRF. At this time we
9 will ask that he be sworn in.

10 MR. JASON RUDD CALLED & SWORN

11 Thank you very much. The last time we
12 were here, Mr. Rudd was here, he had
13 just completed his presentation of his
14 Witness Statement.

15 Mrs. Minott Phillips?

16 MRS. PHILLIPS: Yes, and he was prepared to embark on
17 being cross-examined. The Commissioners
18 had a few questions of him.

19 COMM BOGLE: Right.

20 MRS. PHILLIPS: I don't know if you wanted him to
21 address those initially at the outset?

22 COMM BOGLE: We would.

23 MRS. PHILLIPS: You had asked him four questions, he had
24 answered two on the last occasion. The
25 two that remained, my note of them is,

1 and please correct me if you don't think
2 I have captured them accurately. How
3 many people benefited under the JRF
4 window of opportunity? That was one. And
5 the other one was, How many loans had
6 been resolved and are still outstanding
7 both in value and number?

8 COMM BOGLE: Yes, those were they.

9 MRS. PHILLIPS: You want to take the first one now, Mr.
10 Chairman?

11 COMM BOGLE: Sure.

12 MR. RUDD: With respect to the first question
13 regarding the window of opportunity.

14 Q: This one?

15 A: Yes. The information I was given is that
16 a total of 88 persons took advantage of
17 the window of opportunity. Unfortunately
18 the way that our systems are set up
19 there could possibly have been more
20 people that took advantage of it. We
21 would not necessarily note that in our
22 accounting system, but we were able to
23 locate a Microsoft Word document that
24 referenced the number of people. So for
25 purposes of the Enquiry that's all we

1 have to rely on, so I believe it is a
2 total of 88 people.

3 Q: And the second question was how many
4 loans have been resolved or are still
5 outstanding in value and number?

6 A: Okay, I am going to answer this question
7 in two parts and if you want to ask
8 more, feel free, but there is a total
9 now, a total number of open accounts of
10 4,434 accounts.

11 The outstanding principal balance on
12 those accounts is roughly US\$172
13 Million. However, we only have 1,648 of
14 what we consider active accounts.

15 The unpaid principal balance on those
16 accounts total roughly \$145 Million. The
17 difference in those two numbers, there
18 is a vast majority of accounts that we
19 have deemed either of no value or simply
20 uncollectible, but they have not been
21 closed out of our system. So that is
22 why you have such a high number of total
23 open accounts versus what we consider
24 active accounts.

25 Of the accounts that have been settled -

1 let me go back to my numbers here - a
2 total of 1,700 loans have been
3 completely resolved with the total
4 amount received being....

5 COMM BOGLE: Sorry, could you repeat that number for
6 me please?

7 A: 1,700. With the total amount received
8 being approximately US\$108 Million.

9 COMM. ROSS: Sorry. Mr. Rudd, we heard previously
10 that it was only \$200 Million that had
11 been collected and \$70 Million paid over
12 to Government, something like that, and
13 that doesn't seem to correspond with the
14 \$108 Million collected from accounts
15 resolved.

16 A: Let me look and see. That could be a
17 principal balance collected, that \$107
18 Million. Let me double check that. If I
19 could, maybe I could in one of the
20 breaks get back to you on that number.
21 Certainly the number that has been paid
22 over, the report that you received in
23 earlier testimony from both FINSAC and
24 JRF with regard to how much has been
25 paid to FINSAC is accurate. I have got

1 that report on my computer. How I was
2 given the number of \$107, I am just not
3 sure where that number comes from. I
4 suspect that that's going to be
5 principal balance collected not
6 including interest and things like that
7 and that's what the difference is, but I
8 can confirm that during our first break.

9 COMM. ROSS: Okay.

10 COMM BOGLE: Therefore you are saying that there
11 were 4,434 accounts that are now open,
12 4,434 of those open?

13 A: That are technically open, yes, sir.

14 COMM BOGLE: And closed accounts would be 1,700?

15 A: Well, accounts that have been settled.
16 Now there are accounts that have been
17 closed because we have written them off
18 and they are actually closed.

19 COMM BOGLE: So it's 1,700 settled?

20 A: Yes, sir.

21 COMM BOGLE: And 4,434 open, not necessarily all
22 active?

23 A: Yes, sir.

24 COMM BOGLE: So this would account for 6,134
25 accounts? What we don't have would be

1 the amounts that have been written off
2 because those would be different from
3 the settled ones?

4 A: Well, keep in mind that there are going
5 to be two numbers that you probably
6 don't have. One is, a significant number
7 of accounts were sold to IAS and then
8 also there had been accounts that had
9 been written off.

10 COMM BOGLE: You wouldn't have the number of accounts
11 that were sold to IAS?

12 MRS. PHILLIPS: I think that was in the statement. That
13 is in the written statement,
14 Commissioners, I will find it for you.
15 16,000, paragraph 21.

16 COMM. ROSS: A question of a more general nature, Mr.
17 Rudd. You say in the testimony that the
18 documentation that the banks maintained
19 was very poor, yet you have managed to
20 collect quite a lot of money. Was it
21 just that you were very persuasive or
22 were there actual collaterals assigned
23 or pledged for many of those loan
24 accounts, that you have been able to
25 collect, or JRF has been able to collect

1 on?

2 A: I guess I am not totally sure 1
3 understand the question. The fact that
4 paper work was poor does not necessarily
5 mean that collateral was not pledged,
6 loan documents were not executed. I
7 think in every case that you find, we
8 have more than sufficient documentation
9 to evidence both the debt and the
10 collateral that is pledged. In fact, I
11 am confident that we never had an
12 instance in court where that was
13 successfully challenged. By poor paper
14 work, I believe what we are referring to
15 is certainly that some of the paper work
16 is sloppy in the sense that you don't
17 necessarily have personal financial
18 statements, you don't necessarily have
19 all the correspondence that went back
20 and forth between borrowers and lenders
21 with regard to credit decisions; how
22 plans were made, business plans; things
23 that you would typically expect to be in
24 an entire comprehensive file.
25 COMM. ROSS: But the bottom line was that you had

1 what was needed to collect on the debts?

2 A: Well we had what anyone would have
3 needed to collect on the debts.

4 COMM. ROSS: I wanted to be clear on that because I
5 was trying to understand the relevance
6 of the comment, let's say.

7 A: I think the relevance of the comment was
8 more pointing towards the state of the
9 failed institutions, that going back to
10 a comment that occurred both from FINSAC
11 through even a counsel for the FINSAC'd
12 entrepreneurs, that showed up, just lack
13 of internal controls at the banks.

14 COMM BOGLE: You have alluded to the number of
15 persons that have come before this
16 Commission regarding their debts with
17 JRF, do you know of any situation where
18 JRF compromised with the debtors or any
19 debtor on condition that such debtor do
20 not appear before the Commission?

21 A: I am not aware of any such compromise,
22 no. In fact, I would go so far as to say
23 that we attempted to compromise the
24 debts of people who were currently
25 appearing before the Commission, and

1 with respect to one I specifically
2 requested that we do not have
3 discussions until after he had testified
4 because we did not want to have that
5 inference to be given.

6 COMM BOGLE: Any attorneys present would like to
7 question?

8 MR. LEVY: Not a question, sir, I would just like
9 to affirm the last statement made by Mr.
10 Rudd.
11 COMM BOGLE: Which is?

12 MR. LEVY: That he refused to discuss the matter or
13 declined to discuss the matter until
14 after the appeal is heard, not appear to
15 be getting compromised by not appearing.
16 Mr. Chairman, are you inviting general
17 questions or just on this?

18 COMM BOGLE: Of this particular witness.

19 MR. LEVY: Of this witness, because I still have
20 some questions of the witness. I
21 thought you meant on the subject matter
22 that we just dealt with.

23 COMM BOGLE: No, no, general questions to the
24 witness.

25 MR. LEVY: I do have some questions, sir.

1 for Mr. Hylton.

2 COMM. ROSS: Well, I don't know what's the point of
3 him repeating it then if he is not
4 prepared to support it?

5 MRS. PHILLIPS: He was repeating it as a fact that was
6 given, the fact of evidence. The fact
7 was that the portfolio was valued by
8 FINSAC at ten cents in the dollar. It
9 doesn't make it his valuation.

10 COMM ROSS: I don't know if he could speak to that
11 fact if he wasn't able to produce the
12 document or something like that.

13 MRS. PHILLIPS: But he can speak to any fact that is
14 given in evidence. He can refer...

15 COMM. ROSS: He can refer to what somebody else has
16 said but that doesn't make it a fact.

17 MRS. PHILLIPS: He referenced it as what somebody else
18 has said, and that somebody else
19 presented it as a fact.

20 COMM. ROSS: And he has no idea how it was arrived at
21 or whether it was a good value.

22 MRS. PHILLIPS: He couldn't do it because it was a
23 closely guarded secret within FINSAC.

24 COMM. ROSS: I will take that into account.

1 portfolio to take over you are dealing
2 with international laws, issues that
3 other folks might not be comfortable
4 dealing with, you are dealing with
5 certain quality of collateral, some of
6 the collateral of this portfolio isn't
7 very valuable, it is a pure gamble on
8 what you are going to be collecting and
9 what you are not. And in an open market
10 given the nature of the portfolio, I
11 don't think that FINSAC's valuation is -
12 it certainly does not shock me to hear
13 that it was a closely guarded secret
14 within FINSAC. Again, this is something
15 that I do every single day; it's look at
16 banks that are selling non-performing
17 loans and try to determine what that
18 loan is worth to us.

19 COMM. ROSS: I was just interested in finding out a
20 bit of a background to the valuation
21 that allowed you, because hindsight is
22 20/20, you notice that the portfolio is
23 worth more than that?

24 A: What you will find in every case when
25 any one purchases a non-performing loan

1 is that if you only look at the
2 successful results clearly hindsight is
3 going to be 20/20. On the flip side I
4 can show you over 3,000 loans that we
5 collected zero on. So hindsight on loans
6 is also 20/20 and those were clearly
7 worth zero. You know, the nature of
8 this business, just to be quite frank,
9 is when you are successful you are
10 extremely successful; when you fail you
11 fail miserably. That's mean it is to
12 some degree an all or nothing business.

13 COMM. ROSS: An interesting perspective. I wouldn't
14 expect it to go any other way.

15 COMM BOGLE: Mr. Levy?

16 MR. LEVY: Mr. Rudd, in some parts of your
17 statement you have used a rather broad
18 brush to paint certain situations and I
19 would like to illustrate some of them
20 here and ask you to clarify.

21 MRS. PHILLIPS: Could you ask Mr. Levy to specify which
22 one of his three clients he is
23 cross-examining on behalf of at this
24 point in time?

25 MR. LEVY: I don't have to sir. I am just

1 cross-examining the witness who has
2 given evidence before this Commission.
3 This is not a court of law. I am not
4 representing just clients, I am
5 representing the truth.

6 MRS. PHILLIPS: No. Well, I will take an objection. I
7 am going to take an objection.

8 COMM BOGLE: And the objection is?

9 MRS. PHILLIPS: My objection is that my learned friend,
10 Mr. Levy, announced this morning that he
11 is here on behalf of, and I want to be
12 accurate, Donovan Crawford, DEBTOR1 and
13 DEBTOR1COMPANY. Donovan Crawford has not
14 given one word of evidence touching and
15 concerning Jamaican Redevelopment
16 Foundation, not one.
17 DEBTOR1 in the evidence he gave to this
18 Commission on March 17, 2011 at page 68,
19 line 13 was asked by Commissioner Bogle,
20 **"DEBTOR1, do you in front of this**
21 **Commission, are you placing any complaint,**
22 **any claim against JRF in front of this**
23 **Commission?"**

24 A: DEBTOR1: **No, I don't have any complaint.**

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Again at page 70, lines 19 to 23
Commissioner Bogle pointed out to the
witness's attorney, **it still stands he
has no complaint against JRF**. And again
on page 71 at line 7 of the transcript.
So there is no basis for this attorney
in the capacity in which he appears to
cross-examine this witness. And the
precedent is that where no one has given
evidence against our client we have not
been allowed to cross-examine.

COMM BOGLE:

On the basis of the objection, Mr. Levy,
I think I will have to uphold the
objection because I know that in this
enquiry so far I know where the person
who wishing to cross-examine the witness
had not said anything against or
impacting on their client and we have
ruled that there is no necessity for
them to cross-examine. I am sure I did
it to Mrs. Phillips on one occasion, if
I can remember, where she was not
allowed to cross-examine because the
witness had said nothing regarding her

1 client. And so on that basis, on the
2 precedent set right here in this
3 Commission, I will have to agree with
4 Mrs. Phillips.

5 MR. LEVY: Mr. Chairman, I will just respond to
6 that and then I will move on, okay. My
7 response is, this witness has given
8 evidence before this Commission. I
9 appear before this Commission to find
10 out the truth. If the witness needs to
11 elaborate I ought to have a right to
12 test his evidence on cross-examination.
13 That is a basic principle. But Mr.
14 Chairman, I also represent DEBTOR6.

15
16 COMM BOGLE: You do represent DEBTOR6?

17 MR. LEVY: I do.

18 COMM BOGLE: So you are now going to examine on the
19 basis of your representation of
20 DEBTOR6?

21 MR. LEVY: I am just adding DEBTOR6 to the
22 representation, yes, I am.

23 COMM BOGLE: We will allow you to cross-examine on
24 the basis of representing DEBTOR6
25 and not the other three persons or

1 MR. LEVY: Page 12 of your testimony, Mr. Rudd, you
2 made the statement "**These individuals**
3 **often borrowed money that they should**
4 **not have borrowed on terms that they**
5 **should have known better than to agree**
6 **to. Some individuals that have testified**
7 **before this Enquiry signed loans with**
8 **originating legacy banks and financial**
9 **institutions at rates as high as 70% and**
10 **then appeared before this Commission and**
11 **attempted to blame JRF for their**
12 **financial ruin.**

13 COMM BOGLE: What page is this is on?

14 MR. LEVY: Pages 12 and 13.

15 COMM BOGLE: Unless you have a different page 12 from
16 me.

17 MR. LEVY: The bottom part of page 12.
18 COMM BOGLE: What paragraph is that?

19 MR. LEVY: Go down to line 17.

20 MRS. PHILLIPS: You are looking at the transcript or the
21 statement?

22 MR. LEVY: It is the transcript.

23 COMM BOGLE: Oh, it is the transcript.

24 MR. LEVY: Yes.

25 COMM BOGLE: Okay.

1 MR. LEVY: I will read it again. I am talking
2 generally and I will preface it by
3 saying he is using a broad brush. **These**
4 **individuals often borrowed money that**
5 **they should not have borrowed upon terms**
6 **that they should have known better than**
7 **to agree to. Some individuals that have**
8 **testified before this Enquiry signed**
9 **loans with originating legacy banks and**
10 **financial institutions at rates as high**
11 **as 70% and then appeared before this**
12 **Commission and attempted to blame JRF**
13 **for their financial ruin.**

14 Were there other individuals, Mr. Rudd,
15 who borrowed money in the ordinary
16 course of the business and they didn't
17 fail, the banks failed and they became a
18 legacy bank business?

19 A: I am sorry?

20 Q: Were there any individuals who became
21 Finsac'd, to use the common term, not
22 because they failed in their business
23 but because their banks failed and the
24 banks were unable to carry out the
25 commitments made to them, for example,

1 to complete a development because of
2 their failure and that's why they had a
3 problem, not because they borrowed money
4 at excessive rates?

5 A: Based on my knowledge of the files I am
6 not aware of any of those situations.

7 MR. LEVY: Sorry, I didn't hear that.

8 A: Based on my knowledge of the files I am
9 not aware of any situation where a bank
10 failing to advance funds would be the
11 failure of a borrower to make a payment.
12 Certainly, there may be some folks who
13 feel that way.

14 MR. LEVY: DEBTOR6 has given evidence, sir,
15 that his bank was taken over by FINSAC
16 in the midst or as he was completing
17 certain projects and their commitments
18 to finance the projects could not be
19 carried out because of their failure.
20 That put him into a major problem. It
21 wasn't because his business was failing
22 or that he was running a bad business,
23 but his bank failed and could not carry
24 out its undertakings to him.

25 A: But I think that what DEBTOR6

1 testified was that his failure to have a
2 banking relationship contributed to his
3 business failure, however, at the same
4 time I believe he also testified that he
5 actually did have a banking
6 relationship...

7 Q: I am sorry, I am not hearing you.

8 A: He actually did have a banking
9 relationship with NCB. DEBTOR6 also
10 testified, I believe if you go back to
11 his transcript, that he was well aware
12 prior to the bank's failure that he was
13 required to make monthly interest
14 payments.

15 Q: He was what?

16 A: He was required to make monthly interest
17 payments, which DEBTOR6 in his
18 testimony before the Commission
19 acknowledged that he did not make. Now,
20 DEBTOR6 seemed to share what I would
21 call a lack of understanding to simply
22 rely on the fact that the only payments
23 he was ever required to make were for a
24 lot releases at the time he sold one or
25 he sold property. However, that is

1 clearly in conflict with the documents
2 that he signed which clearly specified
3 that he is required to make monthly
4 payments, which DEBTOR6 again
5 acknowledged that he simply was not able
6 to meet. So I would say that
7 DEBTOR6's own testimony would
8 indicate that the bank's failure to
9 advance funds is not what kept him from
10 making interest payments, what kept
11 DEBTOR6 from being able to perform under
12 the terms of his loan was his inability
13 to sell property fast enough.
14 Let me put it in a different context,
15 Mr. Rudd. Where a developer is
16 developing say 30 apartment units, he
17 has a commitment from the bank to
18 finance it and payments will be made out
19 of the sales of these units and the bank
20 fails and is not able to have allowed
21 him, to give him the financing necessary
22 to complete his development, did he fail
23 or did his bank fail?

24 MR. GOFFE: Sorry. Mr Commissioner, if I could just
25 interject here. I am not certain if my

1 friend is giving a hypothetical
2 situation to the witness.

3 MR. LEVY: Yes.

4 MR. GOFFE: Because what has happened is that he
5 stated DEBTOR6's evidence, what his
6 understanding of it is, the witness
7 responded to state his recollection of
8 what DEBTOR6 said and now my friend
9 is, it seems, challenging that evidence
10 which was given on one hand and
11 alternatively he is now going into a
12 hypothetical situation not related to
13 DEBTOR6. So I would ask my friend to
14 clarify if in fact he is challenging
15 the statement. I know he just recently
16 said DEBTOR6 said that if a
17 person were to have a commitment and
18 their arrangement was that they would
19 only make payments when units were sold,
20 when the witness had said that was not
21 DEBTOR6's arrangement, so if I
22 could, through you Mr. Commissioner,
23 enquire if we are still discussing
24 DEBTOR6's case or if we are now going
25 into a hypothetical situation. I think

1 course, that's an issue which my friend
2 seems to have a difficulty with, the
3 issue of whether his client was in
4 default or not, but that is the root
5 question and until we can resolve that
6 question I don't think it is proper to
7 move on to the second question which is
8 whether the reason for the borrower's
9 failure was as a result of the banks
10 failure. That's as far as...

11 MR. LEVY:

I will rephrase the question,

12

Mr. Chairman.

13

Let's take a hypothetical case Mr. Rudd.

14

A developer has a commitment from a bank

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to finance the developer; the terms of

16

his repayment commitment are that we

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will repay out of the proceeds of sale

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of the units. Three-quarters way into

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the development the bank fails, it's

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taken over by FINSAC; cannot and does

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not meet its obligations; who is failing

22

there, is it the bank or is it the

23

developer?

24 MR. GOFFE:

I must take the objection again because

25

my friend is again saying he is

1 representing DEBTOR6 but he
2 is actually misrepresenting the position
3 as it relates to DEBTOR6.

4 COMM BOGLE: Mr. Goffe, I think he has stated it's a
5 hypothetical case, I think we can allow
6 the hypothetical case that he is putting
7 forward. It is not DEBTOR6's case,
8 it is a hypothetical case.

9 MR. GOFFE: In that event Mr. Chairman, is the
10 witness required to answer the
11 hypothetical question?

12 COMM BOGLE: The witness?

13 MR. GOFFE: Yes, the witness.
14 MRS. PHILLIPS: But can't you just rule? Unless it's
15 related to someone specific.

16 COMM BOGLE: I think he said this is a hypothetical
17 question, I think we can allow it
18 because on a number of occasions we did
19 hear of persons who said such a thing
20 and at this time the question is not
21 really a question that if JRF caused
22 them to fail, the question is a
23 hypothetical case regarding the
24 situation, so I think we will allow
25 that.

1 in my opinion if you go into a business
2 deal where the only way you can succeed
3 is to be able to continue to borrow
4 money, that right there should be a red
5 flag. I mean, you simply, as we say in
6 America and you guys might say here, you
7 cannot borrow yourself out of debt.

8 Q: No, Mr. Rudd, but the actual fact, and
9 it certainly doesn't only happen here,
10 any real estate development project is
11 capital intensive. Generally, the
12 developer has a good project, he has a
13 free clear title, he presents a proposal
14 to the bank, a business plan which
15 includes the bank financing him through
16 to the end of the project and repayment
17 to bank, principal and interest comes
18 out of the sale of the project because
19 it's a work in progress. He is not
20 expected to have cash in another bank
21 account to finish the project if the
22 bank fails and this is the situation Z
23 am talking about.

24 A: I guess I fear that right now you are
25 not talking about hypothetical any more.

1 I mean if we are not going to be able to
2 go the actual terms of a loan, it's hard to
3 discuss because even in your hypothetical
4 situation at some point there is going to be
5 payments whether it be lot releases, whether
6 it be -- I mean, I don't know of any
7 development loan in America where they just
8 string it up forever and say, you know as long
9 as eventually you start selling lots we will
10 just take lot releases. Eventually that loan
11 is going to mature whether in one year, two
12 years, five years, and if at the end of five
13 years you have not started selling lots in
14 accordance with your business plan, that
15 bank might say we are not renewing this loan,
16 find somebody else or pay us. They are not
17 going to keep advancing payments and I think
18 in the case of DEBTOR6
19 clearly, and you know I don't know why the
20 legacy bank quit funding DEBTOR6 but clearly
21 under his own admission he was in default of
22 the loan and which ended up in sale, would
23 be sufficient
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1 reason to stop advancing additional
2 funds.

3 Q: I am talking about a hypothetical case,
4 Mr. Rudd. You made a broad statement
5 here, painted with a broad bush that
6 some individuals did so and so. I am
7 saying, we are talking about not a
8 development of a thousand lots in the
9 evidence that takes 20 years to sell, I
10 am talking about development of
11 apartment building with 20 or 30
12 apartments where there is a timeframe
13 for development; projection as to the
14 cost of the development; the funding of
15 it and the bank commits to the funding
16 and then three-quarter ways through the
17 bank then goes bust and he is not able
18 to fund them but has the man's
19 securities, that's the hypothetical
20 situation we are talking about. Are you
21 saying that the developer ought to have
22 had other resources to complete his
23 development on the contingency that the
24 bank might fail, is that what you are
25 saying?

1 say: "Nor are we qualified to make
2 recommendations with regard to banking
3 regulations that could possibly help
4 protect borrowers from potentially
5 predatory lending."

6 I think we need to ask you to help us
7 with this predatory lending. You come
8 from a jurisdiction where there is
9 tremendous consumer protection and
10 legislation which protects borrowers
11 from predatory lending. Can you make any
12 suggestions to this Commission, because
13 this Commission is charged with finding
14 out how can we avoid this situation
15 again, the FINSAC'd type situation.
16 What can you recommend to the Commission
17 that they should consider with regard to
18 predatory lending and regulations
19 dealing with it.

20 MR. GOFFE: Before the witness even tries to
21 speculate as to that, again, Mr. Levy is
22 here representing DEBTOR and...

23 COMM BOGLE: Mr. Levy, please control yourself.

24 MR. LEVY: I am trying to get the truth out, I am
25 trying to get the witness to give advice

1 to the Commission and to clarify his
2 statement.

3 COMM BOGLE: Mr. Levy! Mr. Levy! That behaviour
4 won't get the truth out, I am sure.

5 MR. LEVY: Okay, Mr. Chairman, I am not prepared to
6 sit down and listen to that kind of
7 stupidity without responding.

8 COMM BOGLE: Well, it is your privilege to sit or not
9 sit, however, that behaviour will not
10 get the truth. Go ahead, Mr. Goffe.

11 MR. GOFFE: Thank you, Mr. Commissioner, I think I
12 was saying that DEBTOR6, the issues
13 between DEBTOR6 and JRF have nothing
14 to do with predatory lending and the
15 policies which ought to have been
16 applied by the government of the day or
17 which have been applied by the
18 Government in any other country to avoid
19 such practices. That said, I don't think
20 it is proper, the Commissioner having
21 given Mr. Levy limited scope to
22 cross-examine the witness in relation to
23 DEBTOR6's testimony, for him to use
24 that as a basis for asking very general
25 questions which in any event are perhaps

1 outside of the scope of Mr. Rudd's
2 personal expertise and the purpose for
3 which he was called to give evidence.

4 COMM BOGLE: The thing though Mr. Goffe, in fairness,
5 Mr. Rudd himself alluded to predatory
6 lending which means that he must have
7 some information regarding the lending
8 of the period because he said that it
9 would have become potentially predatory
10 lending, that's his statement, that's
11 what he has stated. Now can we get some
12 clarification on that?

13 MR. GOFFE: Well Mr. Commissioner, if the Commission
14 would like to treat Mr. Rudd as an
15 expert in relation to banking policies
16 and if the Commission wishes that
17 information from him, then by all means.
18 The first thing though, my objection is
19 that it is not open for Mr. Levy to be
20 questioning along those lines and
21 secondly, that I don't think Mr. Rudd
22 expected, even though he may have put
23 this statement, that that would have
24 opened him up to being treated as an
25 expert on US banking policies.

1 would have accumulated. So I mean,
2 there clearly was a lack of
3 understanding and you know, whether
4 there was potential predatory lending or
5 that was just the going interest rate of
6 the day, one of the failures, and you
7 can place that failure on -- I think it
8 has to be placed on borrowers as well,
9 but certainly there has to be a level of
10 education, a level of knowledge so that
11 people do understand exactly what they
12 are getting themselves into.

13 As I said in my testimony, debt is a
14 dangerous thing and it must be handled
15 that way both by those who borrow, by
16 those who lend and by those who collect.

17 COMM BOGLE: Mr. Levy?

18 MR. LEVY: Mr. Chairman, going on to page 15 of the
19 public testimony, Mr. Rudd said that
20 borrowers voluntarily signed loan
21 agreements with financial institutions
22 and accepted the terms on which the
23 money was lent to them.

24 MRS. PHILLIPS: I am having a difficulty hearing.

25 MR. LEVY: Mr. Rudd has made a statement that

1 borrowers voluntarily signed loan documents
2 and mortgage documents with financial
3 institutions and accepted the terms to which
4 money was lent to them. This is a hypothetical
5 question so as to avoid the objection because
6 every question I ask there is an objection and
7 I don't think Mr. Rudd has a problem in
8 answering these questions, I just want to
9 clarify his evidence.

10 Let's take a hypothetical situation Mr.
11 Rudd. You are a banker, I borrow money from
12 you at 20%, I am carrying on with my
13 business, I need more money to develop my
14 project. Suddenly the rates of interest
15 climb to 70%, maybe not so suddenly but over
16 a period of months. I need money to complete
17 my project, you recognise that I do not have
18 this money to pay, you as the banker, you
19 say I will make you a new loan to bring your
20 arrears current in order that you can
21 compete and in order that my bank does not
22 appear to be in default of the regulations
23 of the Bank of Jamaica
24
25

1 because you have current loans but it's
2 70% for you to get out of this hole. Is
3 that a voluntary situation or is that
4 gun at my head by you as the banker if
5 you were the banker?

6 A: Again still dealing with a hypothetical
7 situation?

8 Q: Yes.

9 A: I still maintain that that's a voluntary
10 situation. I mean, at some point you
11 still have to make a fundamental
12 decision whether you want to move
13 forward with that project or whether you
14 want to walk away and oftentimes knowing
15 when to walk away is just as important
16 as knowing when to start and you see
17 right now in America, all the time right
18 now you see people, due to the economic
19 situation in America, particularly
20 developers who are walking away from
21 projects because of exactly what you are
22 saying. They know that if they renew
23 those loans on the terms, on the rates
24 that are commercially available, that
25 they are wasting their time, that they

1 are just going to drag on forever and a
2 better option for them is to walk away
3 from that project, let the lender have
4 the project and let the chips fall where
5 they may. And I know that a lot of
6 people would say you know, at a point,
7 that they were part committed so to
8 speak, to use an appropriate term if you
9 will, but yet still you have to know
10 when to walk away and I think in some of
11 these situations I believe that there
12 is, even some persons who testified
13 before this Commission have testified
14 that they would have been better off
15 giving up their property than letting
16 their interest continue to accrue.

17 Q: In hindsight, yes. May I just make a
18 comment here, Mr. Rudd, page 17 of your
19 testimony you talked about: "*JRF has an*
20 *enviable success record in the*
21 *independent and honourable courts of*
22 *Jamaica.*"

23 I don't share your view that they are
24 either independent or honoured. I just
25 want to make that statement. Any

1 objection to the statement, Chairman? I
2 made it.
3 MRS. PHILLIPS: I certainly object to that statement.

4 COMM BOGLE: And the objection is sustained.

5 MR. LEVY: The statement has been made, sir, that's
6 what it is all about, not requiring an
7 answer.
8 MRS. PHILLIPS: Which is precisely why when you give
9 licenses Commissioner, you need to keep
10 it within the boundaries that you have
11 prescribed, sir.

12 COMM BOGLE: Mr. Levy is a problem.

13 MRS. PHILLIPS: You are in charge, sir.

14 MR. LEVY: Mr. Rudd, going on to page 30 of the
15 evidence, you said: *"The Government of
16 Jamaica collects a higher and higher
17 portion of the collections as higher
18 recovery thresholds are attained by JRF,
19 thus preventing JRF from receiving a
20 windfall from this investment."*
21 What percentage of your collections does
22 the government get now?

23 MRS. PHILLIPS: Sorry. Commissioner, I think you have
24 already explored that. I do not know on
25 behalf of which of his clients and

1 certainly that just can't relate to any
2 particular client. That's a matter
3 relating to the contract between FINSAC
4 and JRF.

5 MR. LEVY: Mr. Chairman, the client that I am
6 representing here wants the truth, and
7 nothing but the truth and it ought to be
8 brought out here. If I don't ask the
9 question maybe you would consider asking
10 it, sir.

11 COMM BOGLE: Mr. Levy, at the same time we would like
12 to assist you, how we are going to get
13 the truth and that matter really was
14 addressed before.

15 MR. LEVY: Pardon me?

16 COMM BOGLE: That particular question was asked
17 before.

18 MR. LEVY: So why is there an objection because I
19 didn't hear the answer to that question
20 even if you were asked before. What
21 percentage of the collection is given to
22 the government?

23 MRS. PHILLIPS: Objection, asked and answered; asked by
24 the Commissioners and answered by the
25 witness. If he wants to know what it

1 was he can consult the transcript.

2 COMM BOGLE: Objection sustained, Mr. Levy.

3 MR. LEVY: Mr. Chairman, I assure you, if I have
4 questions to ask I will ask. Whether
5 there is an objection to the truth
6 coming out or not by Mrs. Phillips, I
7 really don't care.

8 COMM BOGLE: But I would ask that your questions be
9 relevant to your client. Mr. Levy, you
10 keep saying about the truth, that it is
11 the responsibility of the Commissioners
12 to enquire into. You are here to
13 represent your client, client or clients
14 and the Commissioners are here to
15 enquire into the truth and to be able to
16 write their report. So will you please.
17 We, I am sure, will be able to do our
18 job if you will do your job within the
19 context of your clients.

20 MR. LEVY: Yes, Mr. Chairman, but when you tie my
21 hands behind my back with what I
22 consider to be ridiculous regulations, I
23 have to continue to try to do my job
24 even if I am drowning with my hands tied
25 behind my back. I move on, sir.

1 sold.

2 MR. LEVY: I am speaking about a situation where as
3 mortgagee JRF sells a property, is it
4 their policy to provide a statement upon
5 request or as a matter of course
6 routinely when you complete the sale as
7 to how much it was sold for, how much
8 the proceeds of sale were and how they
9 are applied? That's the question, unless
10 there is an objection to that one.

11 MRS. PHILLIPS: No, it seems to be a vendor's statement
12 of account he is speaking about.

13 A: Well, first of all I would stand on my
14 testimony that it's a matter of standard
15 to issue a statement of account when
16 someone ask for it. With regards to what
17 Mr. Levy is referring to, I believe he
18 is referring to a vendor's statement of
19 account and that also is our standard
20 practice and that's what we did. When
21 we sold a piece of property, we did
22 provide a vendor's statement of account
23 that itemizes how much the property was
24 sold for, what expenses were incurred,
25 what the net amount received was and how

1 that was applied to the account. If
2 there was any over we return the money
3 to the borrower.

4 MR. LEVY: Mr. Chairman, I am tired of hearing the
5 word objection, sir, I have no further
6 statements/questions for Mr. Rudd.

7 MRS. PHILLIPS: I am glad you qualified the statement.

8 COMM ROSS: Mr. Rudd, you mentioned that you had
9 extensive experience collecting,
10 purchasing bad loans in US and
11 elsewhere. Could you tell us whether
12 it's generally good practice that the
13 purchaser of the bad debt also acquires
14 the right to continue accruing interest
15 on the loan until it is resolved or
16 collected?

17 A: We would not purchase debt if we were
18 not allowed to do that. I am aware of no
19 situation where when you purchase a loan
20 all you are receiving is the principal
21 balance. I mean, that's not what you
22 are buying, you are buying the contract
23 and the contract includes interest; it
24 includes penalties and it includes the
25 right to collect fees.

1 MRS. PHILLIPS: And in his statement Commissioner Ross,
2 the actual term of the sale is included
3 which shows what was purchased and
4 including the right to collect interest.

5 COMM ROSS: I didn't ask him about that, I was
6 asking him about the practice elsewhere,
7 which is what he has answered.

8 MRS. PHILLIPS: Okay. Certainly in this case it did
9 include it.

10 COMM BOGLE: Mr. Rudd, you had promised - when we
11 took a break you had promised that there
12 were two outstanding matters that you
13 would have taken for us but at this
14 time, we will take the break with the
15 view that when we return shortly that
16 you will be able to provide the
17 information.

18 A: Yes.

19 COMM BOGLE: So we will have a ten-minute break, ten
20 minutes should be okay?

21 A: If you could hold on one second sir, I
22 could answer it right now. I mean, I am
23 looking. Let's take a break and I will
24 make sure it is the right one that I am
25 looking on.

1 balances from those loans that weren't
2 there in the spreadsheet. So the
3 combination of those two things is what
4 makes up that discrepancy in the number
5 that I gave you earlier.

6 COMM ROSS: And that figure would have been from the
7 seventeen hundred accounts that have
8 been resolved?

9 A: Well, some of those collections would
10 have also come from - I mean there are
11 active accounts that are still paying
12 money, so it is a combination of both
13 resolved accounts and accounts that are
14 current and active and still collecting
15 on, you know, on a regular, semi-regular
16 basis.

17 COMM BOGLE: Just a question. Based on your estimate,
18 how long do you think that this process
19 at JRF will continue, and it has nothing
20 to do with JRF itself, why I asked the
21 question.

22 A: Not to evade the question, but it is
23 just impossible to estimate. I just
24 don't have a good estimation for that.

25 COMM BOGLE: I will accept that.

1 A: Thank you.

2 COMM BOGLE: This will therefore bring to an end the
3 hearing for today, the fact that JRF was
4 the only organization, or the only
5 person who was supposed to give
6 testimony today.

7 For the rest of the week there will be
8 no Enquiry. Next week unfortunately we
9 will not be having any Enquiry because
10 of the passing of the mother of the
11 Secretary to the Commission and that is,
12 Mr. DePeralto. His mother passed on and
13 the funeral for his mother will be in
14 the country. It will be next week
15 Wednesday and therefore it will be
16 difficult for the Commission to sit next
17 week. So we will not be having a
18 sitting next week.

19 We should resume therefore on Monday,
20 the 4th of July when Mr. Errol Campbell
21 is expected to be back with us. We
22 expect Mr. Campbell to be here on
23 Monday, the 4th of July, and Tuesday the
24 5th of July. Also we are expecting
25 Mr. Patrick Hylton to be here on

1 Tuesday, the 5th of July, and on
2 Wednesday, the 6th of July.
3 So there will be no further sitting this
4 week. There will be no sitting next
5 week. But the following week Monday, the
6 4th, Mr. Errol Campbell from FINSAC and
7 on the Tuesday, again Mr. Errol Campbell
8 from FINSAC and Mr. Patrick Hylton, the
9 former head of FINSAC, will be here
10 Tuesday and also Wednesday the 6th.

11 MR. LEVY: Mr. Chairman, International Assets
12 Services...

13 CHAIRMAN: Can you give me just one second, let me
14 just take Mr. Garcia if it has to do
15 with the scheduling?

16 MR. GARCIA: Yes, it has to do with the scheduling,
17 sir. I was wondering about when
18 Mr. Crawford is going to be scheduled to
19 return.

20 COMM BOGLE: We had hoped we would have Mr. Crawford
21 some time next week. That has not been
22 fully scheduled as yet because there are
23 some technical problems, some
24 negotiations that the Secretariat is now
25 involved in with the persons who will be

1 providing the tele-conference from
2 Atlanta. So that you will be informed
3 as soon as we have a date set. There is
4 no date set for that as yet.

5 MR. GARCIA: But it is anticipated that it will no
6 longer be next week.

7 COMM BOGLE: Yes, at this point it is unlikely that
8 it will be next week. It is more than
9 likely it will be possibly the second
10 week of July, bearing in mind that the
11 first week is the week that we are
12 talking about, the 4th, the 5th and the
13 6th. So it is unlikely that it will be
14 that week but the following week, but
15 you will be informed as soon as a date
16 is arrived at?

17 MR. GARCIA: Thank you, sir.

18 COMM BOGLE: Mr. Levy?

19 MR. LEVY: Mr. Chairman, has International Assets
20 Services been called to give evidence?

21 COMM BOGLE: No, International Assets Services has
22 not been called because the Commission
23 so far sees no need to call
24 International Assets Services and we
25 have not heard any evidence that would

1 indicate that it would be necessary for
2 us to call International Assets Services
3 and we do not believe that they would
4 have much to add to our Terms of
5 Reference.

6 MR. LEVY: Mr. Chairman, I have been informed on
7 my request from the Secretary, but I
8 haven't received a response from the
9 Commission, that the Commission has
10 decided not to call Mr. PJ Patterson.

11 COMM BOGLE: That is a decision that this Commission
12 has made.

13 MR. LEVY: Will the Commission be prepared to give
14 reasons for that decision, Mr. Chairman?

15 COMM BOGLE: Just that as far as this Commission is
16 concerned the person or persons involved
17 in the financial situation at the time,
18 for example, Dr. Omar Davies, we called
19 them and we called Bank of Jamaica and
20 we do not see at this time much merit in
21 calling Mr. PJ Patterson.

22 MR. LEVY: Might I suggest, Mr. Chairman, that is
23 being short sighted. Mr. PJ Patterson
24 was the Minister of Finance when the
25 liberalization of foreign exchange took

1 place and I understand also against
2 advice of others why it should not have
3 been liberalized at that time. That is
4 what triggered the run on the dollar and
5 the collapse of the economy; the
6 beginning of the matter. And I urge you
7 to reconsider, Mr. Chairman, because
8 this to me is very short sighted.

9 COMM BOGLE: We have looked at the situation, we have
10 looked at all the information we have
11 surrounding the period and all the
12 publications, et cetera, surrounding the
13 period and we think that we do have
14 enough information for the Terms of
15 Reference that we are required to speak
16 to.

17 MR. LEVY: Mr. Chairman, can you refer me, because I
18 don't have this information that you are
19 talking about, to where this information is
20 and who gave evidence as to the facts
21 surrounding the liberalization of foreign
22 exchange, the termination of the Trade Board
23 which led to a great demand for foreign
24 exchange, which led to the beginning of the

25

1 financial crisis.

2 COMM BOGLE: Thank you very much, you are now giving
3 evidence.

4 MR. LEVY: I am asking question about the facts
5 that I know, Mr. Chairman. I am asking
6 if anyone has given evidence before the
7 Commission dealing with this and if so
8 whom?

9 COMM BOGLE: Mr. Levy, suffice it to say that we will
10 not be calling Mr. Patterson. So if you
11 have another question, please go on to
12 the other question.

13 MR. LEVY: Yes, Mr. Chairman. Dr. Gladstone
14 Bonnick, first Chairman of FINSAC, I
15 have invited you, I have written to the
16 Commission asking them to call him
17 because when I read his 1998 report
18 there seems to be a great conflict with
19 how FINSAC was operating after his
20 departure with during his term. Has the
21 Commission decided whether they will
22 comply with my request that Dr. Bonnick
23 be called, and also Mr. Dennis Booth,
24 the first Managing Director who was
25 responsible for the initial FINSAC

1 operations because the second Managing
2 Director who is dancing around
3 questions, I would like to see the first
4 Managing Director and the first Chairman
5 called also. What has your decision
6 been on that?

7 COMM BOGLE: The first Chairman, Mr. Bonnicks, he
8 doesn't reside in Jamaica now,
9 however...

10 MR. LEVY: What?

11 COMM BOGLE: As far as I know he resides abroad.
12 However...

13 MR. LEVY: Neither does Mr. Chen-Young.

14 COMM BOGLE: However, we have papers written by
15 Dr. Bonnicks which indicate much of what
16 you are talking about regarding the
17 setting up of FINSAC under his watch and
18 so we will be using that paper. And you
19 may, there is a paper 'Storm In A Tea
20 Cup' I think is the name.

21 MR. LEVY: Pardon me sir?

22 COMM BOGLE: 'Storm In A Tea Cup' is what the paper
23 is titled.

24 MR. LEVY: Mr. Chairman, I ask you to use your
25 micro-phone. Could you pull it a little

1 closer to you? (Laughter)

2 COMM BOGLE: I will so do.

3 'Storm in a Tea Cup', a paper that was
4 presented by Dr. Bonnicks and we think
5 that paper adequately documents his
6 thoughts on the setting up of FINSAC.

7 MR. LEVY: And Mr. Booth?

8 COMM BOGLE: Mr. Booth, there is a matter concerning
9 Mr. Booth which we have looked into and
10 which this Commission has ruled that we
11 will not call him on that basis.

12 Unfortunately I cannot state exactly
13 what that reason is.

14 MR. LEVY: Mr. Chairman I just find
15 incomprehensible that the subsequent
16 Managing Director of FINSAC is called,
17 subsequent Managing Directors have been
18 called, but the initial one who had
19 dealt with the problems initially is not
20 going to be called. I just find it
21 incomprehensible.

22 If we are trying to get to the truth you
23 need to get to the truth with the people
24 who were dealing with the situation at
25 the time, not starting midstream.

1 Enquiry Act is to report on what they
2 have enquired into, as I understand the
3 Legislation. So to the extent that you
4 may require using material which we have
5 not had the benefit of, then if you
6 could provide us with a list of that
7 material and also table the material in
8 the proceedings so that we don't fall
9 into...

10 COMM BOGLE: That we can do, we can give you a list
11 of the documents that we are looking at;
12 can table, but also when you are looking
13 at the Act and looking at our Terms of
14 Reference you will recognize that some
15 of the Terms of Reference, what is
16 required would not only, or would not be
17 available through the public enquiry.
18 When we are looking at the Terms of
19 Reference as regards to comparing what
20 happened in Jamaica with other
21 countries, et cetera, those situations
22 we would have to rely on documentations
23 and writings and certain publications
24 that would have affected other
25 countries. These, of course, as I said,

1 whatever we have we can make them
2 available to you.

3 MRS. PHILLIPS: The general point I am making is that
4 so far as I am aware, your report can
5 only relate to what you have enquired
6 into and what you have enquired into is
7 a matter of public record under the
8 Commissions of Enquiry Act. So if it is
9 that you intend to rely on something,
10 material which we have not had the
11 benefit of, or we don't know about, or
12 the first time that we are going to hear
13 about it is when we read the report,
14 then it may be wise...

15 COMM BOGLE: The list of documents that we have been
16 using will be made available and even in
17 the document or the final report it will
18 be appended thereto because as I said
19 before, the Terms of Reference is very,
20 very wide and a lot of the information
21 and a lot of the areas that we will have
22 to speak to will not be coming out of
23 this Enquiry, because as I said, for
24 instance, comparing what was done here
25 with other countries would not

1 necessarily come out here for
2 comparison.

3 MRS. PHILLIPS: But you can always get expert evidence.
4 An economist can always be called to say
5 what happens.

6 MR. LEVY: Well it is the economies who would have
7 had a lot of varieties including World
8 Bank, including IMF, just giving an
9 example, that we have writings and
10 papers on this situation.

11 MRS. PHILLIPS: I am not at odds with the Chairman you
12 know, sir, I am just saying that we
13 should have an opportunity to peruse
14 anything that we would like to peruse
15 that may be something that you may be
16 relying on before we see it appended to
17 your report so that in the event that
18 there is material relevant to what you
19 are using that you don't have, we
20 certainly may be able to provide.

21 COMM BOGLE: We will provide you with as complete a
22 list as possible and where possible with
23 copies of the documents.

24 MRS. PHILLIPS: Obligated.

25 MR. LEVY: Mr. Chairman, for the first time in my

1 life I agree with Mrs. Phillips.

2 (Laughter)

3 COMM BOGLE: I am very glad to know that there is

4 harmony.

5 MR. LEVY: But, Mr. Chairman, I would like to take

6 it a little further. I would like to

7 have access to these documents to which

8 you say you would be relying on at the

9 earliest possible time because if they

10 are relevant to the Commissioners, they

11 are relevant to us in dealing with the

12 cross-examination and examination of

13 witnesses and they should not be

14 concealed until after.

15 COMM BOGLE: Mr. Levy, the documents that we are

16 talking about, you will be provided with

17 a list, as I said, before and where

18 possible with copies of them.

19 MR. LEVY: When sir?

20 COMM BOGLE: This Commissioner will not be able to

21 tell you when but I can assure you that

22 it will be provided.

23 MR. LEVY: Before Mr. Patrick Hylton gives

24 evidence, sir?

25 COMM BOGLE: No. There is one which you can get now

1 and that is, 'A Storm In A Tea Cup' and
2 that is the major one that has to do
3 with FINSAC. You can have a copy of
4 that. The office can make a copy of
5 that available to you.

6 MR. LEVY: Can it be e-mailed to me?
7 COMM BOGLE: Yes. That would have been the major one
8 as it relates to FINSAC and Mr. Patrick
9 Hylton.

10 MR. LEVY: Mr. Chairman, I understand from the
11 Secretary sometime ago that the
12 Commission has condescended to accept my
13 proposal that Dr. Karl Blythe be called.
14 Is this correct?
15 COMM BOGLE: Yes.

16 MR. LEVY: And if so when is he going to be called?

17 COMM BOGLE: A date has not been set as yet but we
18 are attempting to get Mr. Karl
19 Blythe.
20 MR. LEVY: On what basis though?
21 COMM BOGLE: On the basis that we believe that he may
22 have information pertinent to this
23 Commission.

24 MRS. PHILLIPS: But he was Minister of Water and Housing
25 so he could not be any more relevant

1 than the person who you have just said
2 that you won't be calling who was
3 Minister with responsibility for NIBJ.
4 COMM BOGLE: He was part of the Cabinet and we
5 believe that he might very well have
6 information.
7 MRS. PHILLIPS: On that basis then, on that basis, I
8 don't understand the distinction between
9 the decision you gave previously and
10 this one. I don't see how Dr. Blythe
11 could have more relevant information
12 than the person who you have just said
13 you are not calling.
14 COMM BOGLE: Dr. Blythe was also a debtor.
15 MRS. PHILLIPS: Yes, but he has not given a complaint in
16 relation to his debt.
17 COMM BOGLE: Let me put it this way, that the
18 Commission has to make certain
19 decisions. The Commission has to look at
20 the information in front of it and make
21 certain decisions and that is one that
22 the Commission made that they would try
23 to get Dr. Blythe.
24 MRS. PHILLIPS: Yes. I wish to know if you will hear
25 submissions on that though because all

1 the debtors that have been called to
2 date have given evidence before JRF and
3 that was the procedure that was put in
4 place, so that JRF could respond. JRF
5 has now completed its evidence, given
6 evidence, and been cross-examined and
7 now it is proposed to call Dr. Blythe on
8 the basis that he is a debtor.

9 COMM BOGLE: No, no, I did not say that, that is the
10 basis. I said to you that we believe
11 that he has information that will be of
12 assistance to this commission.

13 MRS. PHILLIPS: But as the Minister of Water and Housing
14 at the relevant time how could he be of
15 more relevance than the Prime Minister?

16 COMM BOGLE: He was a part of the Cabinet, wasn't he?

17 MRS. PHILLIPS: I think the Prime Minister presided over
18 him.

19 COMM BOGLE: Wasn't he a part of the Cabinet?

20 MRS. PHILLIPS: Didn't he serve under PJ Patterson?

21 COMM BOGLE: All right, let me put it this way. We
22 have made a ruling and that is what we
23 are going to stand by and therefore the
24 ruling is that we are trying to get
25 Dr. Blythe. I also gave a ruling of the

1 other persons and this Commission stands
2 by that ruling at this time. If at a
3 later date this Commission feels or sees
4 the need to reverse that ruling then
5 this Commission will do so, but at the
6 moment that is the ruling of the
7 Commission.

8 MR. LEVY: Mr. Chairman, this gives me a lot of
9 concern. For the second time I agree
10 with Mrs. Phillips.

11 MRS. PHILLIPS: Mr. Chairman, can you give us an idea
12 how long this Commission is going to
13 continue, when is it proposed that it
14 will come to an end? You will appreciate
15 that there are economic matters which
16 are of concern.

17 COMM BOGLE: The public enquiry, we are hoping that,
18 that will come to an end by the middle
19 of July.

20 MRS. PHILLIPS: Thank you.

21 COMM BOGLE: Okay. Thank you very much.

22 Mr. Levy you look like you wish to give
23 your summing up.

24 MR. LEVY: I am very concerned, Mr. Chairman.
25 Mr. Campbell is put off until the

1 following week. How you are going to
2 complete by the middle of July?

3 COMM BOGLE: We are hoping to complete by the middle
4 of July, Mr. Levy.

5 MR. LEVY: And you haven't got a date for Dr.

6 Blythe yet and today is the 21st?
7 COMM BOGLE: We are very much aware of today's date,

8 however, that as it may, the Commission
9 will do what it can because the
10 Commission is projecting that it should
11 complete the public enquiry by about the
12 middle of July.

13 Thank you very much, ladies and
14 gentlemen, this Enquiry is now adjourned
15 until the 4th of July.

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17 ADJOURNED

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