

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

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

ON
THURSDAY, MAY 12, 2011

PRESENT WERE:

COMMISSIONERS

Mr. Charles Ross
Mr. Worrick Bogle

COUNSEL FOR THE COMMISSION

Hon. Justice Henderson Downer (Retired)

SECRETARY TO THE COMMISSION

Mr. Fernando DePeralto

ATTORNEY MARSHALING EVIDENCE FOR THE COMMISSION

Miss Judith Clarke - Attorney-at-Law

REPRESENTING JAMAICAN REDEVELOPMENT FOUNDATION

Mr. Gavin Goffe - Attorney-at-Law

REPRESENTING MR PATRICK HYLTON

Mr. Dave Garcia - Attorney-at-Law

REPRESENTING FINSAC LIMITED

Mr. Bryan Moodie - Attorney-at-Law
Ms. Danielle Chai - Attorney-at-Law

REPRESENTING DEBTOR1

Mr. Anthony Levy - Attorney-at-Law

GIVING EVIDENCE

Mr. Errol Campbell

1 **May 12, 2011**

2 **COMMENCEMENT: 9:30 P.M. 3**

4 COMM. BOGLE: Good morning ladies and gentlemen. This
5 enquiry is now in session and as usual
6 may I have the names of the attorneys
7 present.

8 MR. GARCIA: Dave Garcia, representing Patrick
9 Hylton.

10 MR. MOODIE: Morning sir, Brian Moodie and Danielle
11 Chai instructed by the firm Samuda and
12 Johnson representing FINSAC.

13 COMM. BOGLE: Thank you very much. This morning we
14 are supposed to continue with
15 Mr. Campbell. We had a short touch of
16 Mr. Campbell last week. Mr. Campbell is
17 now back with us spending some time with
18 us so I ask Mr. DePeralto to have him
19 sworn.

20 MR. MOODIE: Before you do that Chairman, there are a
21 few housekeeping matters I wish to
22 address. There were several requests
23 made of FINSAC in relation to providing
24 documents and information. Particularly
25 this Commission, through the

and Done

1 Secretariat, wrote to FINSAC on November 6,
2 2009 posing some eighty-five
3 questions which it wished to be
4 answered. FINSAC responded to those
5 eighty-five questions by letter dated
6 November 18, 2009. Additionally a list of
7 additional questions were submitted under
8 cover of letter dated
9 December 21, 2009 and FINSAC provided
10 additional answers under cover of letter
11 dated January 29, 2010. On July 5, 2010 the
12 Commission wrote to FINSAC asking for the
13 following outstanding information; minutes
14 of meetings of FINSAC and associated
15 companies, a list of special auditors,
16 forensic auditors and receivers and reports
17 filed by each of the parties, a list of
18 attorneys-at-law who represented FINSAC
19 among other information. I am advised that
20 the minutes of meetings of the FINSAC Board
21 and the FINSAC Credit Committee have been
22 provided to this Commission. We have today
23 copies of the list of attorneys-at-law
24 engaged and are

1 2 employed by FINSAC Limited as requested
3 4 specifically; we also have the list of
5 6 debtors forgiven, both those who were
7 8 approved and settled and those who were
9 approved but not settled in addition to
10 which we have the list of debtors forgiven.
11 As you know Commissioner and Chairman,
12 FINSAC has a certain perspective as it
13 relates to the confidentiality of
14 information in respect to persons who have
15 not come forward before this Commission to
16 make complaints and persons who have not
17 otherwise brought their complaints into the
18 public domain.

19 FINSAC's position is that, that
20 information should remain confidential
21 until those persons so indicate that they
22 wish their private banking information to be
23 made public. I understand the Commission has
24 made a ruling in this regard and in respect
25 to that ruling FINSAC will respect that
ruling and we will provide these documents
to the Commission. FINSAC

1 will not be seeking to enter these
2 documents into evidence. If the Commission
3 determines that the documents should be
4 publicized, then that is a matter for the
5 Commission but FINSAC wishes to place on
6 record its position as it relates to those
7 records particularly of persons who have not
8 agreed or consented to make their private
9 financial information available to the
10 public. And so those lists are available
11 which we are turning over to the Commission
12 this morning.

13 In addition Chairman, we are providing this
14 morning a list of forensic
15 auditors' reports, receivers' reports for
16 loan accounts as well as minutes of the
17 Oversight Committee Meeting for FINSAC. And
18 so for the record I just wish to observe that
19 we have substantially complied with most of
20 the information and requests that were made
21 of FINSAC.

22 I indicated to you Commissioner, that we were
23 given access to some of the
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Jamaican Redevelopment Foundation
records yesterday, we continue to have
access today and tomorrow and they have
agreed to allow what access they can as long
as they are not presently using those files.
So in respect to the board minutes, those
documents are with the Commission but I have
not had an opportunity as the legal counsel
to FINSAC to pick out those minutes in
respect of the complainants who appeared and
made allegations about FINSAC. Chairman, you
also indicated to me yesterday that you wish
FINSAC to take a look at some of the responses
provided by Mr. Hylton so far and to see if
it could shed any light on areas which were
not covered by Mr. Hylton. We intend to do
so. You indicated that provisions will be
made for Mr. Campbell to return and we intend
to do so and respond to the specific
complainants on that occasion once I have had
an opportunity to look through the
documents, take instructions from Mr.
Campbell and

1 advise him accordingly.

2 Please go ahead to swear Mr. Campbell.

3 COMM. BOGLE: Mr. Campbell will now be sworn in.

4 (Mr. Campbell sworn)

5 Mr. Moodie, just to mention that the

6 Commission has received and received

7 before as you said, quite a number of

8 documents and will be receiving

9 additional documents from you. We will

10 be going through them and to the extent

11 that there are gaps or additional

12 information, that we will communicate

13 with FINSAC and/or yourself.

14 MR. MOODIE: And we undertake to respond

15 appropriately, Chairman.

16 COMM. BOGLE: Thank you very much. Okay you may

17 begin, Mr. Moodie.

18 MR. MOODIE: Grateful Chairman.

19 For the record, could you please state

20 your name for the Commission.

21 A: I am Errol Campbell.

22 Q: You gave a statement in relation to the

23 proceedings before this Commission?

24 A: Yes, I did.

25 Q: Do you have a copy of that statement

1 with you?

2 A: Yes, I do.

3 Q: Could you take a look at the document
4 you have there and indicate whether in
5 fact that is your statement, whether the
6 contents of that document are true and
7 whether that is the statement that was
8 forwarded to the Commission on your
9 behalf.

10 A: Yes, this is the five page statement
11 that was submitted to the Commission on
12 my behalf.

13 Q: And the contents are true?

14 A: Yes, the contents are true.

15 COMM. BOGLE: And your signature at page 5, that
16 signature is yours.

17 A: My signature appears on Page 5, yes
18 Mr. Chairman.

19 MR. MOODIE: Thank you Mr. Campbell. Mr. Chairman you
20 will indulge -- it is clear that
21 Mr. Campbell has appeared before this
22 Commission before to answer questions
23 and some of the issues he deals with in
24 his statement would have already been
25 addressed so I ask for your indulgence

1 2 as he goes through that statement.
3 4 Before we start with the statement
5 6 Mr. Chairman, there was a list that was
7 8 provided to the Commission in relation to the
9 window of opportunity, I think that document
10 was prepared from as far back as December
11 2001 and was earlier provided to the
12 Commission. We had noted at the time that the
13 document may not have been totally accurate
14 and we were doing checks to ensure that the
15 document would have been as accurate as the
16 records reflected. Included in that document
17 was the name of Douglas Orane and having made
18 certain checks, FINSAC was able to ascertain
19 that there was an error in relation to that
20 entry. We gave a written apology to Mr.
21. Douglas Orane but we also gave him an
22 undertaking that we would read into the
23 record the content of that apology and so I
24 will ask Mr. Campbell before proceeding to
25 his statement to just formally read into the
record that aspect of the apology to Mr.
Orane as

1 was our undertaking to do at the time.

2 **A:** This **is** a letter dated February 18, 2010
3 addressed to Honourable Douglas R.
4 Orane.

5 **In relation to the captioned matter,**
6 **Incorrect information provided at the**
7 **FINSAC Commission of Enquiry.**

8 **In relation to the captioned matter, the**
9 **Commission requested information on debt**
10 **forgiveness provided by FINSAC. In this**
11 **regard, a document prepared in December 2001**
12 **for the "Window of Opportunity" was located,**
13 **copied and presented to the Commission on**
14 **February 3rd 2010, but it was not released**
15 **to the media. It was expected that this**
16 **document would have been kept confidential.**
17 **On Thursday February 4th, the attorney-at-law**
18 **representing former FINSAC debtors made an**
19 **application to the Commission to have the**
20 **document made public. The attorney-at-law**
21 **representing FINSAC argued strenuously that**
22 **the contents of the document should not be**
23 **released to the public because**
24

1 2 FINSAC could not vouch for its accuracy,
3 4 having regard to the time that had elapsed
5 6 since it was prepared. After hearing
7 8 submissions from both attorneys, the
9 Commission retired for some time to consider
10 the submission. They returned and ruled that
11 the contents of the document could be made
12 public.

13 Our file was reviewed, and it has been
14 determined that the reference to Douglas
15 Orane is entirely erroneous and should have
16 been Douglas C Orane Limited, a company in
17 respect of which neither you nor any member
18 of your family is shareholder or director.
19 Based on our records, we are fully satisfied
20 that this debt was in no way associated with
21 Douglas R. Orane

22 FINSAC unreservedly apologizes to you, your
23 family and the extended grace Kennedy
24 family for any embarrassment or

25 MR. MOODIE: inconvenience caused this error and assures
you that the matter will be referred to the
Commission of Enquiry. Thank you, Mr.

Campbell. Now

1 Mr. Campbell, might I ask you to take
2 the Commission through your statement
3 beginning with your address for the
4 purposes of this Commission.

5 COMM. BOGLE: Mr. Campbell just to be accurate, the
6 letter on page 2, the first paragraph on
7 page two said 'the said document', I
8 don't remember hearing you reading that
9 actual paragraph.

10 A: I didn't.

11 COMM. BOGLE: The implementation was there from my
12 introduction. If this is being
13 presented, then I expect it should be
14 read in its entirety.

15 MR. MOODIE: Certainly. Might I ask you to read that
16 paragraph preceding information, the
17 paragraph 'information was received'.

18 COMM. BOGLE: Read that entire back page, page 2 for
19 me.

20 A: **The said document that was presented to**
21 **the Commission includes an account in**
22 **the name Douglas Orane among the debtors whose debts were approved**
23 **for compromise by FINSAC.**
24 **Information was received that you were**

1 position with FINSAC.

2 A: My address for the purposes of this
3 enquiry is 1 Shalimar Avenue, Kingston 3
4 in the parish of St. Andrew and at
5 present I am General Manager of FINSAC
6 and have been since January 2008.

7 Q: Could you indicate your background and
8 training?

9 A: I am an Associate of the Chartered
10 Institute of Bankers. I have worked with
11 National Commercial Bank for nineteen
12 years and during that period of time I
13 qualified as an Associate of the
14 Chartered Institute of Bankers in
15 London. I have worked in a number of
16 branches and departments of the Bank and
17 my last assignment at the Bank was as
18 Manager at the Port Maria branch where I
19 was the Branch Manager.

20 Q: Please continue to go through the rest
21 of your statement?

22 A: The statement makes reference to the
23 debtor FINSAC. Financial Institution
24 Services was established in 1995 to take
25 over the operations of the Blaise

1 Financial Entities and a year later it
2 also took over the operations of Century
3 National Financial Entities based on a
4 Scheme of Arrangements approved by creditors
5 and depositors and sanctioned by the Supreme
6 Court. The Blaise depositors received 90% of
7 their
8 deposits over an 18 month period while
9 Century depositors were paid 100% in two
10 tranches over 6 months.

11 In January 1997, FINSAC which stands for
12 Financial Sector Adjustment Company Limited
13 was established to intervene in the wider
14 financial sector and a three-pronged
15 approach was agreed for its operations,
16 namely; intervention, rehabilitation and
17 divestment.

18 FINSAC's intervention was done by way of one
19 or a combination of the following methods;
20 acquiring shareholdings of or granting loans
21 to or purchasing non-performing loans or
22 non-core assets from, the various entities
23 into which it intervened, injection of
24 capital in some instances, appointment of
25 new Boards or

1 Management where necessary and
2 developing and implementing plans for
3 rehabilitation with the assistance of
4 consultants engaged.

5 In August 1997 and May 1998, FINSAC
6 established two companies which were used
7 as the vehicles to acquire non-performing
8 loans from various institutions, namely;
9 Recon Trust Limited and Refin Trust Limited
10 which I refer to as Refin subsequently.

11 Recon was used for the purchase of loans
12 from National Commercial Bank and Refin was
13 used for the purchase of loans from
14 Citizens' Bank and Union Bank and in
15 February 1999 Recon loans which are the NCB
16 ones were assigned to Refin.

17 FINSAC decided to set up a
18 Non-Performing Loan Unit to manage the
19 collection of loans from debtors who it was
20 discovered had borrowed from several of the
21 failed or intervened institutions in order
22 that a joint and consistent approach could
23 be adopted. The Unit's goal was to ensure
24 maximum recovery of

1 value for the distressed loans through a
2 fair process which included uniform
3 treatment of debtors with options determined
4 by their particular circumstances.

5 I was employed to FINSAC in July 1999, as
6 the Manager of administration and control
7 at the Non-Performing Loan Unit referred to
8 as NPL later and held that position until
9 January 2002 when the loans were sold. My
10 job included the following.

11 Allocating all the loans acquired/
12 purchased from the various institutions to
13 Credit Officers;
14 Corresponding with these institutions on
15 loans related matters where necessary;
16 Arranging the posting of these loans onto the
17 loan database;
18 Authorizing certain bills for payment;
19 Managing the clerical and non-clerical
20 staff and that excludes the credit
21 officers; and
22 Performing general administrative
23 functions.
24
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1 Q: Mr. Campbell, might I ask you between
2 July 1999 and January 2002, did you deal
3 with or administer individual debtor's
4 accounts at FINSAC?

5 A: Absolutely not.

6 Q: Please continue your statement?

7 A: Loans acquired from Century National
8 Bank and Workers' Savings and Loan Bank
9 and loans...

10 COMM. BOGLE: Just a minute. On that point, this
11 Non-Performing Loan Unit, what did that
12 unit do?

13 A: That was the unit that was established
14 as I said earlier, to manage the
15 collection of the loans so we had credit
16 officers who interfaced with each
17 debtor.

18 COMM. BOGLE: So the Unit you were in charge of --
19 were you in charge of that unit?

20 A: No, I was not.

21 COMM. BOGLE: As Administrative and Control Manager at
22 the Non-Performing Loan Unit, explain to
23 me what you did then?

24 A: I mentioned earlier the main functions
25 of my job. I allocated the loans to the

1 officers, I corresponded with the banks
2 that we bought the loans from, enquired
3 about missing files, anything. I had to
4 arrange for the posting of the loans
5 onto the data base so the credit
6 officers would have access to balances.

7 COMM. BOGLE: The credit officers, did they have a
8 Manager?

9 A: Yes.

10 COMM. BOGLE: Who was this Manager.

11 A: The Unit Head, as the title, was Dianna
12 Davis.

13 COMM. BOGLE: So Dianna Davis was the Unit Head.

14 A: That is right.

15 COMM. BOGLE: And the Unit Head would be Unit Head/
16 Manager. You see I am trying to...

17 A: Yes she's head of the Unit.

18 COMM. BOGLE: I am trying to understand your
19 relationship with this unit and you say
20 that you allocated the different loans
21 to various credit officers?

22 A: That is right.

23 COMM. BOGLE: Which I would think that the Manager of the
24 Unit would be the person who knows the
 workload of the various credit

1 officers, consequently that would be the
2 person that would be transferring and
3 allocating, but you are saying, you are
4 not the manager, you do not know their
5 workload but you were the one who would
6 still send the various loans to the
7 various credit officers?

8 A: That is correct. The Unit Head would
9 have been the one who would be
10 interfacing with each credit officer.
11 Any enquiries they have, she would be
12 dealing with them because there were
13 close to thirty credit officers at one
14 point.

15 COMM. BOGLE: What was your relationship with the
16 Unit? Where was the line, is it a
17 horizontal line?

18 A: Horizontal, and both reported to the
19 General Manager, Asset Management and
20 Divestment.

21 COMM. BOGLE: So once you allocated a loan to a credit
22 officer, you had nothing else to do with
23 that loan whatsoever?

24 A: Nothing else, accept that, as I
25 mentioned, where I mentioned I am a

1 member of the Credit Committee and
2 matters would be referred there but in
3 terms of dealing with them I had no
4 interface with the debtors.

5 Q: Please continue?

6 A: Loans acquired from Century National
7 Bank and Workers' Savings and Loan Bank
8 and loans purchased from Citizens' Bank,
9 Union Bank of Jamaica and loans with
10 principal balances over \$5M from
11 National Commercial Bank were
12 transferred to the NPL Unit. It was
13 decided that NCB would initially
14 continue to manage collections of the
15 under \$5M loans.
16 The American consulting firm, McKinsey &
17 Company was engaged to assist with
18 establishing the NPL. They recommended
19 a database for the loans and a framework
20 to value the loans based on four Cs,
21 namely, Cash Flow, Collateral, Contract
22 and Character. These factors were
23 applied to arrive at the Minimum
24 Expected Recovery for each loan.
In establishing the NPL Unit, McKinsey &

1 Company also recommended that a
2 Committee be established that would approve
3 valuation on the loans to facilitate speedy
4 action in recovery efforts. In this regard,
5 in conjunction with FINSAC/FIS Board, a
6 Credit

7 Committee was established, with
8 requisite approval rights to receive,
9 consider and approve submissions from the
10 credit officers.

11 While both teams were established to
12 undertake collections of the loans and
13 these credit officers interfaced directly
14 with the debtors, based on the officers'
15 research of files and discussions with
16 debtors, submissions were made to the
17 Credit Committee for approval of action on
18 accounts,
19 including the minimum expected recoveries,
20 write-offs, sale of assets, legal action, et
21 cetera. Where matters were perceived to be
22 sensitive or beyond the approval rights of the
23 Credit Committee, I was referred to a
24 subcommittee of the Board or the full

1 Board.

2 MR. MOODIE: Chairman, at this time it is appropriate
3 to indicate that attached to
4 Mr. Hylton's submission, I think as
5 pointed out by counsel representing Mr.
6 Hylton, my learned friend Mr. Garcia
7 yesterday, is a document which set out
8 the different levels of approvals for
9 different members of the committee, NPL
10 Committee, the Board et cetera.
11 Please go ahead.

12 A: The Credit Committee met regularly,
13 initially on a weekly basis, and was
14 chaired by the Managing Director. In his
15 absence, the General Manager for Asset
16 Management and Divestment chaired the
17 meeting.
18 Finally, an Oversight Committee was
19 established based on a National Industrial
20 Policy of the government. It required FINSAC
21 to refer to this Committee, entities within
22 the productive sector whose debts were
23 acquired by FINSAC for consideration to be
24 given to providing assistance in

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order that their operations could
continue.

Sometime in 2000, a decision was taken to
sell the loan portfolio and in preparation
the following were done.

1. An American consulting firm, OCWEN
Financial Corporation, was engaged to
prepare the loans for sale.
2. Temporary personnel were engaged to
make copies of all security documents.
3. The NCB under \$5 million accounts
were transferred to FINSAC; and
4. OCWEN commissioned valuations of all
properties held as collateral to arrive at
the value of the portfolio.

OCWEN created a database with the detailed
information on the loans, that

is,

1. Loan names and account numbers,
2. Principal and account balances and
collateral,
3. Payment history, et cetera.

Q: Is this information which was created by
OCWEN submitted to the Commission
previously by FINSAC?

1 A: A CD was submitted to the Commission
2 that had the valuation of the loans,
3 yes.

4 Q: And a list of the loans?

5 A: And a list of the loans sold, Exhibit A.
6 This was sent in February 2010.

7 COMM. ROSS: Just a question, was it the loans that
8 were valued or the collaterals that were
9 valued or both?

10 A: The loans were valued. Valuation
11 reports were obtained giving qualified
12 valuations and that was applied in
13 whatever form, to determine a value of
14 the loans.

15 COMM. ROSS: Are you saying that all securities, all
16 physical securities for all the loans,
17 valuations were done on them by
18 professional valutors, is that what you
19 are saying?

20 A: I don't want to commit to say, but I
21 expected that all were done, yes.

22 Q: As you indicated Commissioners, we are
23 still in the process of discovering all
24 of those documents.

25 A: I know we engaged a number of valutors

1 locally and they were assigned to
2 different areas of the island to obtain
3 valuations on the various properties
4 that were in those areas.

5 COMM. ROSS: You are making a statement here on a
6 matter, four of fifteen, which suggests
7 that all properties that were held as
8 collaterals were valued and I would
9 expect that the record should exist.

10 COMM. BOGLE: To confirm or deny.

11 COMM. ROSS: It would be certainly very interesting
12 for us to see that.

13 A: We submit to you a copy of a CD with the
14 list of all the loans and all the
15 related collaterals for each loan, yes.

16 COMM. BOGLE: What Commissioner Ross is saying he
17 would love to see the list of properties
18 and the complete valuations of those
19 properties, of securities. It is not
20 just the list, but the list accompanied
21 by how much it was valued, what each one
22 was valued at and what would be nice if that
23 could have been extended to who valued it,
24 because that is also very important of
-- course, it doesn't mean

1 that all the valuations should be done
2 by qualified valuers, this is why we
3 would love to see that.

4 A: We will endeavour to provide that to
5 you.

6 Q: Paragraph 17 Mr. Campbell, as soon as
7 the Commissioners are ready.

8 COMM. BOGLE: Yes, go ahead.

9 Q: Thank you. Sometime in early 2001, a
10 "Window of Opportunity" was announced by
11 the Minister of Finance giving debtors
12 up to March 2001 an opportunity to make
13 arrangements with FINSAC to settle their
14 debts and take advantage of a compromise
15 prior to sale of the portfolio. It was
16 expected that a purchaser would honour
17 these arrangements provided the debtors
18 were performing.
19 Many submissions were received during
20 this period and approved but some
21 debtors did not honour and thus their
22 loans were sold. Others paid and
23 benefited accordingly. And the
24 Commissioners are aware that I have
25 submitted a list of these debtors.

1 Unit sit on the Board between July 1999
2 and January 2002 when the loans were
3 divested?

4 A: No, I didn't sit on the Board at all,
5 the Board of FINSAC.

6 Q: The evidence you have given in relation
7 to what may have occurred, is that based
8 on documents which have come to your
9 attention since you have assumed the
10 role of General Manager?

11 A: That is correct.

12 COMM. ROSS: This sounds very general, but from my
13 recollection, and from particular
14 complaints received, I am really
15 searching for more substance, because we
16 see people receiving massive write-offs
17 with much smaller debts being given
18 relative consideration and reverting and
19 going on to be sold to JRF, so I think
20 we really need a little more information
21 as to what were the factors that the
22 Board would have considered, what were
23 the principles involved, you know, to
24 get an understanding of that very wide
25 disparity in treatment.

1 A: In my research Commissioner, I didn't
2 find any particular document which sets
3 out clearly what are the guiding
4 principles.

5 COMM. ROSS: Do you have any Minutes of meetings of
6 the Board where these issues were
7 discussed?

8 A: I would need to review the Minutes to
9 see if there are any specific references
10 to what were the guiding principles
11 there.

12 COMM. ROSS: That would certainly help us.

13 MR. MOODIE: Commissioner, I think I indicated at the
14 outset that we certainly intend to pull
15 the specific Minutes from the Board in
16 relation to those who have made
17 complaints to respond as far as possible
18 to the issues that have been raised. We
19 have discovered all of the Minutes and
20 we have made them available to the
21 Commission, but as FINSAC's legal
22 adviser, I have not been able to pull
23 the specific Minutes. These are Minutes
24 going from 1999 straight through to
25 2002.

1 Committee that Committee would then send
2 that on to the Board?

3 A: That's correct.
4 COMM. BOGLE: So therefore the Credit Committee should

5 have seen almost all, if not all of
6 these applications for window of
7 opportunity, write offs or whatever?

8 A: No, the window of opportunity was dealt
9 with directly by the Board.
10 COMM. BOGLE: So if a debtor comes in and say well, I

11 want to speak to a loan or credit
12 officer and say well, I would like to
13 apply for this under this window of
14 opportunity once the credit officer did
15 his or her work that file would bypass
16 the Credit Committee and go straight to
17 the Board?

18 A: Yes.

19 COMM. BOGLE: So the Credit Officer would then prepare
20 the necessary recommendations and all
21 that straight to the Board?

22 A: That's correct. And the reason for it Mr.
23 Chairman, if I may say, the window of
24 opportunity was January, February, March
-- 2001 and we were looking at that

1 time to start selling the loans by the
2 end of March so we wanted to just get
3 the Board doing the approval quickly so
4 that those who were qualified would get
5 whatever benefits would have been
6 accrued.

7 COMM. BOGLE: So there was no stratification of the
8 value up to X case at the credit bureau
9 as to why all such...

10 A: For the window of opportunity...

11 COMM. BOGLE: Applications went directly to the Board?

12 A: That's right. And to further facilitate
13 it the Board actually met at the NPL
14 Unit at the time so that they could deal
15 with them.

16 COMM. BOGLE: Please continue.

17 COMM. ROSS: Sorry, was this publicized in anyway,
18 were there notices in the Press?

19 A: I searched diligently and I really could
20 not find anything. I looked at the
21 Gleaner Website and saw that there were
22 actually some articles written by
23 persons making comments about it. I
24 really did not find any AD being sent
25 out, but I know it was announced by the

1 Minister, and certainly, it would have
2 been in Parliament, but I did not find
3 any notice or any advertisement.

4 MR. MOODIE: I think that issue was addressed by the
5 previous Minister when he gave evidence
6 before this Commission.

7 COMM. BOGLE: The thing is that there are two windows
8 and I know that when Minister Davies
9 came he did mention the window of
10 opportunity regarding residences. So I
11 don't know if he mentioned this
12 particular window of opportunity.

13 MR. MOODIE: We have been checking for anything that
14 we can get from the local Press. So far
15 we have unearthed, I think, editorials
16 and letters around the time which we
17 referred to, but we are still checking
18 with the relevant entities to see
19 whether any publications were made.

20 COMM. ROSS: Was it the full Board that had to
21 consider these matters or was it a
22 sub-committee Board?

23 A: It was a subcommittee, but there were
24 like eleven members and as many as eight
25 of them. So the reason the others were

1 not there probably because they were
2 unavailable on the day. It was not like
3 two or three on the Board it was seven
4 or eight out of the eleven, and copies
5 of the Minutes have been submitted to
6 the Commission.

7 COMM. BOGLE: So these were done in general Board
8 meetings, not special Board meetings?

9 A: It was a special Board meeting. Because
10 there were so many cases, so this was
11 what was dealt with to facilitate the
12 Board at the NPL Unit. There were times
13 for instance, when there were 200 cases
14 and they were sold some one day, some
15 the following day, some the following
16 day.

17 COMM. BOGLE: Therefore we should be able to see the
18 Minutes of those special Board meetings
19 as separate from the general Board
20 meetings?

21 A: Yes.

22 COMM. BOGLE: And those have been submitted?

23 A: Yes, sir.

24 MR. MOODIE: Paragraph 19, Mr. Campbell.

25 A: **Thereafter the loans were marketed by**

1 OCWEN. I am aware of two failed attempts
2 to conclude a sale due to happenings in
3 Jamaica in July 2001 and in New York in
4 September 2001. In addition, contacts made
5 with other prospective suitors round about
6 this time did not yield the desired result
7 as proposed terms were unfavourable for
8 FINSAC until
9 discussions were held with Dennis Joslin.
10 This led to an agreement being struck and the
11 Board and Cabinet approved sale of the loan
12 portfolio to Beale Bank of Texas on January
13 30, 2002 (with balances as at November 1,
14 2001). The Jamaican Redevelopment
15 Foundation, Inc. (JRF) was established as
16 its subsidiary in this regard and Dennis
17 Joslin Jamaica, Inc. (DJJ) was appointed the
18 servicer, as part of the agreement. I was one
19 of two former NPL staff who remained with
20 FINSAC. We were relocated to 'head office'
21 with other FINSAC staff and commenced
22 monitoring the various Agreements and
23 corresponding with JRF/DJJ on various issues
24 among other
25

1 things. The other NPL staff were
2 employed by DJJ and continued managing
3 the loan portfolio.

4 There was a further staff reduction at
5 the end of June 2002 where all the
6 senior staff left the company. The
7 former managing director remained in a
8 consultative capacity for a year and was
9 then replaced for six months by Michael
10 Muirhead. Thereafter, the management of
11 FINSAC was under the control of the
12 Finance & Administration Manager and
13 myself. I was the Operations Manager.
14 Following the sale of the loans...

15 COMM. BOGLE: Just a minute.

16 COMM. ROSS: Sorry, Mr. Campbell, I just want to take
17 you back for a moment. Imagine the
18 window of opportunity was a three-month
19 period in anticipation of the sale of
20 the portfolio.

21 A: Yes, sir.

22 COMM. ROSS: But the sale did not actually take place
23 until January 2002. In that period, were
24 any other special concessions made, were
25 there any other periods within which

1 people were granted special
2 consideration?

3 A: No, not really. The only thing that was
4 done from what I saw from the Minutes
5 are situations where persons who would
6 have been under the window of
7 opportunity got a month, or two, or
8 three to make the payment and they asked
9 for extension up to six months or so. I
10 have seen some submissions to the Board
11 in that area. But in terms of a
12 wholesale window of opportunity no,
13 there was none as such.

14 **Following the sale of the loans in 2002**
15 **DJJ moved into the office formally**
16 **occupied by Refin/Finsac at the Mutual**
17 **Life building Oxford Road. In reality,**
18 **Finsac moved out leaving all loan and**
19 **collateral files for DJJ.**

20 **Sometime thereafter, credit files for**
21 **loans repaid prior to sale of the loan**
22 **portfolio and non-loan related matters**
23 **from the NPL Unit were moved to various**
24 **locations for temporary storage, until**
25 **some years later a Records Centre was**

1 established to house these files. A
2 foremost database was then acquired to
3 record the files and staff were engaged for
4 this process, with these files eventually
5 moved into the Records Centre. I should
6 mention that there are about 11,000 boxes of
7 files, each with ten files on average stored
8 in a warehouse.

9 For operational efficiency, the Finsac
10 Board decided that I would be appointed as
11 a director of Refin and Recon in 2002. This
12 was primarily to facilitate the signing of
13 relevant documents to assist JRF/DJJ with
14 speedy responses to request for transfer of
15 security documents.

16 As the level of residual activity continued
17 over the years I was appointed as director
18 of other companies.

19 In May 2005 Dennis Joslin Jamaica, Inc. was
20 removed as Servicer for the loans and JRF
21 assumed that role. Finsac continues to
22 interface with JRF.

23 In November 2007 the Finance
24
25

1 that are owned by some subsidiaries or
2 it would have acquired as a means of
3 some litigation matters. It has nothing
4 to do with the loans that were sold to
5 JRF.

6 COMM. ROSS: So these would have come over to
7 institutions?

8 A: Yes, sir. I can give you two examples.
9 Ciboney which was previously owned by
10 Eagle is one of the entities that FINSAC
11 acquired. Ciboney had a property, a
12 16-acre property in Westmoreland right
13 outside Whitehouse beach, we are trying
14 to find a buyer for it. And Dyoll Life
15 is again one of the companies that we
16 assisted, they owned two lots in Drax
17 Hall, St. Ann, one of them on the beach as
18 well, we are trying to find buyers for that.
19 Those are just two examples.

20 COMM. BOGLE: Apart from real estate, do you have any
21 other form of property or anything that
22 is movable property?

23 A: We have some art work that we want to
24 try and sell as well.

25 COMM. BOGLE: You want to try and sell as well. I take

1 it that you advertised that for sale?

2 A: The process has been we try, we have an
3 auction and we have had two in the past
4 and we are in the process of planning
5 another one.

6 COMM. BOGLE: Because I understand the mandate, based
7 on what Mr. Hylton has said, is to try
8 and sell things as quickly as possible,
9 so I am surprised to know that we still
10 have art work.

11 A: Well, art is a particular market, Mr.
12 Chairman, and we don't want to flood the
13 market. We have an auction and I think
14 it is about time we can have another
15 one. What has in fact delayed us
16 somewhat is the fact that we have gotten
17 advice that the remaining art work that
18 we have is not sold so we are looking to
19 sort of join with an auctioneer so that
20 some of our pieces can go with them. So
21 it will take a little time.

22 COMM. BOGLE: Considering that FINSAC should have been
23 out of business probably some eight
24 years ago or more, I am surprised that
25 such things are still on the books and

1 not disposed of.

2 A: Well, like I said, we certainly don't
3 want to give them away. And while many
4 activities at FINSAC have been
5 accomplished there are residual
6 activities that we have that we need to
7 address and it takes time.

8 Q How many persons are employed to FINSAC?

9 A: Twelve on staff.

10 Q What are the things that FINSAC is now
11 engaged in?

12 A: We still have a lot of litigation
13 matters that we have to deal with and
14 those properties that we are trying to
15 sell every now and again we advertise
16 them and we are continuing to pay the
17 property taxes. We have some pension
18 related matters that we mentioned in the
19 statements here primarily from Mutual
20 Life and former Eagle and there are
21 general queries that come in from time
22 to time. Persons who had loans at the
23 legacy institutions and there is a
24 mortgage still on the property, then
25 that needs to be researched so that it

1 can be discharged, all those sort of
2 things. Of course, all the accounting
3 that goes with all of that and the filing
4 of returns for all the various
5 companies. Those are the things that
6 keep us busy.

7 COMM. BOGLE: So we still need 12 persons there? I am
8 just thinking of the public debtor in
9 terms of FINSAC is collecting some
10 residual moneys from JRF, but at this
11 point when we collect we seem to be
12 spending quite a large proportion of
13 that on administrative work, considering
14 again that FINSAC is supposed to be in
15 and out in seven years.

16 A: it is administrative work that is
17 unavoidable, Mr. Chairman. We don't want
18 to run the risk of reducing the staff
19 level so substantially that we cannot
20 get enough separation of duties to serve
21 so that we do not create any problem.
22 There are times persons have to work
23 late.

24 COMM. ROSS: Could you tell us something about the
25 pension matters.

1 that. So these are some of the matters
2 that we have to deal with from time to
3 time.

4 MR. MOODIE: Just to indicate Commission, several
5 persons who have appeared have
6 indicated, made allegations against
7 FINSAC. We have with the co-operation of
8 the JRF had access to some of those
9 files. The information was pulled, I
10 think, up to nearly 1:00 o'clock this
11 morning and so I intend to...

12 COMM. BOGLE: That is one of the situations that

13 Mr. Campbell mentioned that the staff
14 has to work very late. So when the
15 Commission is not sitting, I imagine
16 that they don't have to work.

17 MR. MOODIE: Certainly. Well might I add
18 Mr. Campbell and his attorneys.

19 (Laughter)

20 I just wish to indicate that in relation
21 to the following persons who have
22 appeared before this Commission, we do
23 intend to address them. Some documents
24 were brought to my attention this
25 morning and others we have access to.

1 DEBTOR2, who has made certain
2 allegations, we intend to address.
3 DEBTOR3, DEBTOR4, DEBTOR5, we are still
4 looking for the files and records in
5 relation to DEBTOR7 and DEBTOR6. We have
6 some of those files, but we think it is
7 important to give the Commission a full
8 picture; so we are ensuring to look through
9 everything else. DEBTOR8, we are still
10 looking for that information as well. We have
11 found a few documents as it relates to
12 DEBTOR1COMPANY and I think these documents
13 have already been submitted to the
14 Commission and I mean, in particular Board
15 Minutes in relation to the sale of the
16 assets. Some of those files,
17 however, because that matter is
18 currently being litigated, are within the
19 offices of Counsel representing the JRF and
20 we have been given access to those documents
21 subject to use them for preparation for
22 whatever purposes. And
23
24
25

1 so we intend to address that issue
2 directly when the Commission obliges us
3 by allowing Mr. Campbell to return to
4 address those specific issues or to
5 respond to questions which maybe raised
6 on behalf of these persons.

7 MISS CLARKE: I crave your indulgence, Mr. Chairman,
8 having regard to the list that my...

9 COMM. BOGLE: Just before you start, may we have your
10 name for the records.

11 MISS CLARKE: I am sorry Mr. Chairman. I am Judith
12 Clarke, appearing on behalf of the
13 Commission. I am to apologize also for
14 the fact that I came in late. Thank you,
15 sir.

16 COMM. BOGLE: Okay.

17 MISS CLARKE: My friend just read from a list and I
18 would just like to, with your leave,
19 urge him as to whether in searching for
20 records some attempts could be also made
21 to locate records relative to
22 DEBTOR9 and DEBTOR10.
23 These persons have also appeared and I
24 am sure we would want to hear whether
25 FINSAC can shed any specific light on

1 some of their concern.

2 MR. MOODIE: Chairman, in respect to a particular
3 response where the issues which FINSAC
4 would want to explore have already been
5 explored by Counsel cross-examining, for
6 example, Counsel on behalf of the
7 Jamaican Redevelopment Foundation, we
8 don't intend to extend this Commission's
9 time by again going over those issues.
10 or in respect of those documents. If
11 there are particular questions which
12 have not been addressed, I invite
13 Counsel to identify those issues so that
14 in my search I can be directed instead
15 of having to look through everything
16 which may not be relevant or which may
17 have already been addressed. So I am
18 certainly open to any invitation Counsel
19 may wish to give as to a particular
20 instances and she could do so during the
21 break.

22 MISS CLARKE: Mr. Chairman, the approach is
23 attractive, but it may not achieved what
24 some of these witnesses want in terms of
25 their concerns relative to continuity,

1 2 records, matters that documentation that
3 4 is not coherent. I believe if the entire
5 6 record can be found and brought, then perhaps
7 8 it may put to rest these concerns. If we are
9 10 able to peruse it, certainly it may put to
11 rest these concerns. So it is not just a
12 matter of whether questions were already
13 addressed. If there is documentary data that
14 can address the concern one way or the other,
15 there are general concerns, there are
16 specific concerns, if some kind of
17 continuity, some kind of fluidity can be
18 gleaned from looking at their entire record,
19 I am sure that these witnesses would be happy.
20 It is not a matter of whether or not matters
21 were addressed by JRF or not before anybody.
22 JRF has its brief, JRF has put certain
23 questions, based on the instructions JRF's
24 attorneys have had, we would now like to see
25 these records certainly with a view to
determining whether the concerns as
addressed, as my friend thinks, by JRF have
been adequately addressed as they

1 relate to FINSAC. I would ask if the
2 records can be found in their entirety
3 that they maybe brought.

4 COMM. BOGLE: The thing is that FINSAC is a major
5 player and FINSAC was named in our Terms
6 of Reference and to the extent that any
7 person who has given evidence here
8 through their attorneys as I said
9 before, wishes to put questions to
10 FINSAC we will allow that. The attorneys
11 for JRF have been here and they have
12 consistently said that they represent
13 JRF and they take brief from JRF and as
14 such while some of their answers might
15 overlap FINSAC I take their
16 representation to be on behalf of JRF
17 and therefore, I would expect FINSAC to
18 provide their answers. Some of the
19 answers may be same, but I think it is
20 fair that this Commission hears from
21 FINSAC.

22 MR. MOODIE: I certainly don't intend for FINSAC to
23 adopt the JRF's position. What I intend
24 to do is so far as documents from the
25 files have already been introduced into

1 evidence, I would not again refer to
2 those documents to extend the time.
3 COMM. BOGLE: If they have been put in evidence and
4 FINSAC is being asked about them, then
5 it is in FINSAC's interest to identify
6 that document so that proper reference
7 can be made to the document and we
8 therefore use it or it is understood by
9 everyone in this Enquiry.

10 MR. MOODIE: Certainly. Mr. Chairman, there is a
11 related issue which arises directly, in
12 fact, which I would need your guidance
13 on. It would appear that in the
14 ordinary course, and I have seen
15 indications from this Commission as to
16 its inquisitorial nature and the balance
17 it seeks to achieve by allowing certain
18 witnesses to be recalled, I would think
19 that the proper process would be for
20 persons who have made certain
21 allegations, where FINSAC is able to
22 bring documents before this Commission
23 for those persons to be recalled to be
24 cross-examined on the allegations they
25 had made. If it is that this Commission

1 is not going to take that route because
2 of its timetable or otherwise, then it
3 will seem that the alternative would be
4 for FINSAC to be allowed to make a
5 statement in relation to those issues to
6 be read into the record.

7 COMM. BOGLE: The first part of your request I do not
8 think that this Commission will grant.
9 The reason being, FINSAC was always
10 advised of the proceedings and meetings
11 of this Commission and it was in
12 FINSAC's interest to send
13 representatives here to the Enquiry so
14 that such persons could be examined.
15 Therefore, this Commission will not be
16 stretching out the sittings to
17 facilitate that. What I would say,
18 FINSAC is now here and to the extent
19 that the Commission will see fit for
20 Mr. Campbell to be recalled,
21 Mr. Campbell will be recalled and
22 Mr. Campbell will be expected to answer
23 based on allegations made. Mr. Campbell
24 has access; I am sure you have received
25 the transcripts and therefore, he can

1 fully inform himself and his attorney
2 can also inform himself of the
3 allegations. As I said before, these
4 may very well come via attorneys asking
5 questions arising from the submissions
6 in this Enquiry. So I would say that our
7 approach will be that the attorneys will
8 be allowed to put their questions and
9 concerns to FINSAC, but not that FINSAC
10 will be recalling or the Commission will
11 be recalling any witness that has come
12 here.

13 MR. MOODIE: I am guided Chairman. While I am sure
14 that the Commission appreciates that I
15 can't speak to what advice or
16 representation may have been provided
17 before, but I can indicate that since my
18 firm has been retained I hope the
19 Commission notes that it is our
20 intention to address all of the
21 allegations and to address each case
22 where a debtor has come forward and made
23 allegations of impropriety, collusion or
24 corruption against FINSAC. And so it is
25 in that light that I raised the issue of

1 being able to cross-examine these
2 witnesses. But being guided by you, Mr
3 Chairman, I will certainly undertake
4 that we will be in a position to respond
5 to the issues as raised and if
6 necessary, where those issues are not
7 covered by the attorneys if we deem it
8 prudent upon review of the documents
9 which have come to our attention, I
10 would ask that the Commission allows us
11 to make a statement to be read into the
12 records in relation to those issues.

13 COMM. BOGLE: That's right.

14 MS. CLARKE: I am sorry, Mr. Chairman, I would just
15 like to add one item that my friend, an
16 important one, seems to have omitted
17 when he spoke to the allegations and try
18 to classify them in terms of
19 allegations, of impropriety, collusion
20 or corruption. I believe one important
21 concern, because I am not going to
22 elevate this now to the level of an
23 accusation or allegation in respect of
24 which there needs be to be some kind of
25 response from FINSAC as to the integrity

1 of record which is a matter that has
2 really troubled many of the debtors who
3 have approached this Commission in terms
4 of how their situation came to be
5 assessed, computed and dealt with based
6 on what records. So the integrity of
7 the record is one of the major concerns
8 of the debtors.

9 MR. GARCIA: Two things, first thing, in the list
10 given by my friend Mr. Moodie, mention
11 was made of the fact of the relation to
12 DEBTOR1COMPANY and I just wanted to
13 indicate obviously Mr. Hylton was
14 cross-examined at some length yesterday
15 in relation to it and was able to be of
16 very limited assistance without the
17 benefit of that entire picture. I would
18 also wish the opportunity to be provided
19 to Mr. Hylton for him to be able to
20 review the clients found in relation to
21 that matter. That was one thing I
22 wished to raise.
23 The other is that I don't know when
24 exactly it is that Mr. Campbell is to be
25 available for cross-examination. I do

1 have one question arising from his
2 statement and I was wondering whether,
3 rather than wait until the period now
4 for cross-examination, whether I could
5 ask that one question at this time.

6 COMM. BOGLE: You will be allowed to ask the question
7 as Mr. Campbell is here and Mr. Campbell
8 is available. However we are just
9 trying to sort out matters being brought
10 up, and yes we would request that FINSAC
11 make available information to
12 Mr. Patrick Hylton so that on his return
13 he is able to more adequately deal with
14 the matter.

15 I know that, and I suspect, I should not
16 say I know, I suspect that Mr. Levy
17 representing DEBTOR1COMPANY may very
18 well wish to examine Mr. Campbell.
19 However in the interim I would ask, as
20 Mr. Garcia requested that if FINSAC
21 could make available whatever documents,
22 copies of documents that Mr. Hylton may
23 require.

24 MR. MOODIE: We undertake to provide them with copies
25 for inspection of all the documents.

1 want to review the Minutes of the Credit
2 Committee and the Board decisions where
3 those valuations were put and decisions
4 were made. So what I have is document
5 where the various persons and debtors
6 been have been referenced but in order
7 to get a full appreciation of that I
8 would ask that those issues be
9 addressed, and that is what I addressed
10 the Commission about.

11 COMM. BOGLE: Mr. Garcia, we will take your question.

12 MR. GARCIA: Thank you, sir.

13 Mr. Campbell, my question relates to
14 paragraph 22 of your statement and there
15 you refer to FINSAC moving out of the
16 building on Oxford Road leaving all the
17 loans and collateral files for Dennis
18 Joslin Jamaica and I just wanted to
19 clarify whether it is correct that a
20 representative of FINSAC remained in the
21 offices of Dennis Joslin Jamaica and
22 whether that representative had access
23 to the files.

24 MR. CAMPBELL: Yes, based on the various agreements
25 that FINSAC entered into with JRF and

1 Dennis Joslin Jamaica, there was a
2 requirement for a FINSAC representative
3 to be in the security rooms, security
4 department so that all collateral that
5 has been removed; whether they had been
6 sold or loans that had been repaid and
7 they released the collateral, released
8 the title, the FINSAC representative was
9 there to establish to verify all of that
10 and to authorize the removal of the
11 document.

12 Q: And it is not simply a requirement on
13 paper, the person has been and still is
14 present?

15 A: That is correct, even though they have
16 moved their office a little closer, we
17 still have our representative there.

18 COMM. BOGLE: Mr. Campbell, the last time you were
19 here I inquired whether or not you had a
20 list of all the securities that were
21 transferred to JRF. At that time you
22 said there was not a list. We heard in
23 evidence, Mr. Hylton saying that there
24 should be a list and so I would ask you to,
not necessarily reconsider your

1 answer that was given but rather that
2 you try to obtain that list, and also I
3 would like to see in addition to the
4 original list, some indication of the
5 type of reports that you received
6 monthly, or quarterly or daily or weekly
7 regarding the disposition of those
8 securities. I am not talking about now
9 the moneys that you are collecting, not
10 that part.

11 A: We get a monthly report from our
12 officers at JRF but what it does, it
13 just tells us the property has been
14 released, it does not say it was
15 released, it has been sold for ten
16 dollars.

17 COMM. BOGLE: What I am trying get at here is, List A
18 contains five hundred dollars security
19 and therefore I would like to see how
20 this is being accounted for because this
21 is a major aspect, I think, of the whole
22 agreement that FINSAC has with JRF to
23 the extent that FINSAC -- who pays the
24 persons that FINSAC has at JRF?

25 A: FINSAC.

1 or not we are being efficient. Over the
2 period by now we should have developed
3 such a relationship and hopefully trust
4 with JRF, that if we have a list then on
5 a monthly basis JRF should say well,
6 okay, I have moved out these four items.
7 Now we at the same time have the right,
8 and when I say 'we', I am talking FINSAC
9 has the right to go into JRF on a
10 monthly, on a quarterly basis, whenever
11 we choose and have a physical check so
12 why do we really need at this stage to
13 be paying somebody to sit at the door?

14 MR. MOODIE:

15 Mr. Chairman, if I could before
16 Mr. Campbell elaborates, indicate that
17 FINSAC has a responsibility, and I don't
18 think it would be sufficient for FINSAC
19 to say we will put our trust in someone
20 else. We must fulfill our obligation
21 and our responsibility and I think to
22 that end, it is relevant that, as it
23 regards to security that there be some
24 actual level of control over those
25 securities; joint control though it may
be.

1 Commission through the Secretariat had
2 requested from FINSAC, a list of all the
3 law suits which were brought by or
4 defended by FINSAC. We had some
5 assistance from the Jamaica
6 Redevelopment Foundation. At some
7 point, my instructions *are*, that all of
8 the matter were handed *over* to the
9 Attorney General's chambers. We have not
10 yet had all the information we have
11 requested from Attorney General's
12 Chambers and I intend to request from
13 them today whether they are in a
14 position to advise us of all the law
15 suits that they know about.

16 Before you is a list of the attorneys
17 who have represented FINSAC. We also
18 will be writing to all of those
19 attorneys for a list of the suits that
20 they have handled and perhaps the
21 outcome. So we do intend to get that
22 list to you as well.

23 COMM. BOGLE: At this time then we will have our usual
24 ten-minutes break.

25

BREAK

1 On Resumption at 10:55 A.M.

2 COMM. BOGLE: Ladies and gentlemen, this Enquiry is
3 now reconvened.

4 Mr. Campbell, please remember that you
5 are under oath. You said that you had
6 some documents, you want to present
7 them? I see Mr. Campbell has a big file
8 there he might want to get rid of those.

9 MR. MOODIE: We actually delivered those documents to
10 the Secretariat, we handed them with a
11 list earlier, indicating what was
12 delivered, a list of Attorneys-at-Law
13 engaged and/or employed by FINSAC; the
14 list of debtors forgiven, those approved
15 and settled; the list of debtors
16 forgiven; those approved but not
17 settled; and the list of debtors
18 forgiven in terms of zero rated
19 interest.

20 We have also provided the Oversight
21 Committee minutes; the list of Forensic
22 Auditors and Reports; the Receiver Reports
23 for the various loan accounts and as I
24 indicated to you previously, the FINSAC
-- Limited Oversight Committee

1 Minutes. Those documents were handed to
2 Mr. DePeralto this morning.

3 COMM. BOGLE: Mr. Campbell, after the transfer of, the
4 sale and/or transfer of debtors, loans
5 and securities to JRF, FINSAC retained
6 certain accounts, did they, or did they
7 transfer all?

8 MR. CAMPBELL: There were some exempted accounts which
9 FINSAC retained.

10 COMM. BOGLE: Can you tell us why?

11 A: Government related loans and loans for
12 some of the entities that were taken
13 over. So that there were some Ciboney
14 loans; there were some Sugar Company
15 loans: There were some loans from some
16 of the Century related entities; just
17 those types.

18 COMM. BOGLE: But no loan had been retained for any
19 regular debtor company also?

20 A: No but having said that we have a few.
21 We had sold them to building societies
22 but the collateral was not perfected and
23 they have since returned them so we have
24 about ten or thereabouts.

25 COMM. BOGLE: And what are you proposing to do with

1 capital was where the matter was
2 reflected.

3 COMM. BOGLE: Okay. You mentioned that...

4 A: There are just two others, if you just
5 allow me to comment on that. In
6 relation to Ciboney, the Ciboney
7 property in Ocho Rios was sold some
8 years ago and most of the proceeds of
9 the sale was applied to repay the
10 principal portion of the loan and it is
11 just the interest portion that remains
12 outstanding. No further interest is
13 accruing on that and it is expected that
14 in time when Ciboney sells the property
15 it has out in Westmoreland that the rest
16 of the money will be repaid then.

17 COMM. BOGLE: When Ciboney sells the property?

18 A: It is Ciboney, it is just that FINSAC
19 owns the majority of the shares so
20 FINSAC is dealing with it, yes.

21 COMM. BOGLE: So therefore, apart from those, FINSAC
22 did not retain any loans?

23 A: No.

24 COMM. BOGLE: And the only properties...

25 A: Sorry there is one loan for Jamaica

1 Agriculture Society as well it was
2 government related.

3 COMM. BOGLE: We'll leave that under government. So
4 therefore FINSAC did not retain any
5 security other than related to those
6 particular entities or loans?

7 A: That is correct.

8 COMM. BOGLE: During the periods of intervention just
9 about when FINSAC was taking over or
10 intervening in the banks or financial
11 institutions, would there have been any
12 large or small write offs of loans that
13 did not make the grade into FINSAC? Let
14 me repeat. FINSAC intervened in the
15 organization but before FINSAC actually
16 acquired the non-performing loans of
17 such institutions were there any write
18 offs or forgiveness of debts in those
19 institutions?

20 A: I really cannot speak to that, Mr.
21 Chairman. I certainly was not involved
22 in anyway with that sort of thing.

23 COMM. BOGLE: And none of the records of FINSAC would
24 indicate something like that I am sure.

25 A: I hardly think so because those would be

1 written off before they were taken over
2 by FINSAC.

3 COMM. BOGLE: I said after FINSAC had intervened or
4 FIS or Recon or Refin?

5 A: I don't see what records we have there
6 have that information in there, Mr.
7 Chairman.

8 COMM. BOGLE: It really would be interesting to
9 establish, as I said, whether or not
10 once Recon or Refin had intervened
11 whether there were any write offs or
12 forgiveness of debts before the
13 non-performing loan portfolio was
14 transferred to FINSAC, if you could find
15 any information on that?

16 A: Sure.

17 COMM. ROSS: The Century National depositors,
18 Mr. Campbell, can you remember if all of
19 them were paid out of the current
20 accounts and deposits accounts
21 depositors?

22 A: No, all the depositors weren't paid out
23 because some have not even submitted a
24 claim for the money. The balance sheet
25 of FIS has a liability for some

1 depositors still. Everybody is entitled
2 to their money. Most of them have
3 claimed but there are some who haven't
4 so there is still a deposit liability in
5 the accounts at FIS.

6 COMM. ROSS: So if there were a depositor out there
7 who had an account at Century, they
8 could approach FIS at the moment or
9 FINSAC and claim on that deposit?

10 A: Yes. We hope they will provide us
11 enough proof to say that they had this
12 account, yes.

13 COMM. ROSS: What sort of proof would you be looking
14 for?

15 A: Maybe a passbook or some other evidence
16 like it is a fixed deposit and they have
17 the original certificate of deposit.

18 COMM. ROSS: And current account, what would be
19 required?

20 A: Well, as I say, Mr. Chairman, we haven't
21 seen any request. In fact the last time
22 we did an advertisement was probably
23 about two years ago asking for persons
24 who might have had deposits in Century
25 National Bank to come forward and at

1 if FIS published a list? My mother
2 might have had an account there. She's
3 now dead. I didn't know about it but
4 because I see her name I can now
5 investigate it and probably get proof
6 that it is hers. So I think if FIS
7 really wants these persons to claim then
8 FIS should list names of the persons as
9 do the commercial banks?

10 A: I see the point, Mr. Chairman.

11 COMM. ROSS: One other question relating to Century.
12 Was there a set of assets or depositors
13 accounts versus loans -- I mean there
14 would have been people when the bank was
15 taken over who might have had overdrafts
16 or loans of one sort or the other, but
17 they might also have had deposits. Was
18 there any set off of one versus the
19 other or was there a freezing of, say,
20 deposits until liabilities were
21 honoured? How are those people in that
22 situation treated?

23 A: I was not involved directly with that
24 Mr. Commissioner, and I haven't seen any
25 files that speak specifically to it, but

1 my understanding is that in cases where
2 there were deposits and there were loans
3 in the exact name then there was a set
4 off.

5 COMM. ROSS: Would that set off have been done
6 immediately or is done after some time?

7 A: You are asking questions that you are
8 asking me also to speculate on. As I
9 said I wasn't involved directly so I
10 don't really know the specifics and I
11 have not found any files that spoke
12 directly to it.

13 COMM. ROSS: Were depositors' accounts, or was
14 interest accrued on depositor' accounts
15 that were frozen? Somebody had a CD or
16 savings account, did they continue to
17 earn interest on those accounts while
18 the bank was under temporary management
19 or did that stop?

20 A: Interest was paid up to the day of the
21 intervention, no further interest was
22 paid after that.

23 COMM. ROSS: But interest was still charged to the
24 borrower?

25 A: And so it was, sir.

1 some money to run government related
2 business. So if the claim were to come
3 now for payment of 170 million, we will
4 make representation for the moneys to be
5 made available.

6 COMM. BOGLE: So if we look on the balance sheet of
7 FIS we will see the liability of the
8 hundred and odd million?

9 A: Yes.

10 COMM. BOGLE: And the corresponding asset would be
11 Government of Jamaica?

12 A: It is there somewhere, Mr. Chairman.

13 COMM. BOGLE: Pardon me. I didn't hear what you said.

14 A: I do not have a copy of the balance
15 sheet. Maybe when next time I come I'll
16 take one for you.

17 COMM. BOGLE: Mr. Campbell! Mr. Campbell! Mr.
18 Campbell! Don't tell me that you can't
19 remember in rough what is on the FIS
20 balance sheet.

21 A: I really cannot. if you ask me about
22 FINSAC maybe I could tell you.

23 COMM. BOGLE: You are a Director of FIS, are you?

24 A: No.

25 COMM. BOGLE: You are not. But do you administer the

1 portfolio of the company FIS?

2 A: Yes.

3 COMM. BOGLE: And therefore the balance sheet would

4 pass through you, you would see them?

5 A: Absolutely.

6 COMM. BOGLE: And I am sure they are in your office,

7 copies are in your office.

8 A: Sure.

9 COMM. BOGLE: But you haven't looked at them in a long

10 while?

11 A: No, I wouldn't say that. Actually we

12 are in the process of starting the audit

13 for the year to March 2011.

14 COMM. BOGLE: And therefore you do not get a

15 preliminary report or anything to

16 indicate. Something as major as that -

17 I am not really nit picking but I am

18 just saying something as major as that I

19 mean if there is as liability of

20 \$170-odd million then one would expect

21 that there is some asset and I simply

22 trying to find out what is the

23 corresponding asset to this or really

24 whether or not we should pray and hope

25 that nobody comes forward and writes it

1 off. I am just trying to find out.

2 A: Mr. Chairman, like I said, it is a

3 liability of the government and if it

4 needs to be satisfied then appropriate

5 arrangements will be made to address

6 that.

7 COMM. BOGLE: You have Government Paper to back it up?

8 A: No we do not.

9 COMM. BOGLE: So we have a one-sided balance sheet;

10 liability, no asset. I mean it is

11 important you know, I think it is

12 important.

13 A: Mr. Chairman, may I suggest...

14 COMM. BOGLE: On your return you will bring it.

15 A: In fact, the Commission had asked me to

16 provide copies of financial statements

17 for FINSAC and FIS and we provided

18 copies of statements up to March, 2006.

19 And in fact the Commission had asked me

20 to provide copies of my receipts of

21 financial statements for FINSAC and FIS

22 and we provided copies of statements up

23 to March 2006.

24 COMM BOGLE: You see, one of the things is, when we

25 ask for documents we expect that persons

1 who provide us with those documents will
2 if necessary, come to the Commission and
3 answer to those documents. So
4 therefore, if that is a document that
5 you have already provided to us then we
6 are asking you questions which you must
7 answer and so finding that you do not
8 remember then we take that on your
9 return you will have answer to that.

10 A: Sure. I will actually go on to say that
11 on my return I will be able to provide
12 copies of financial statements for both
13 FINSAC and FIS for those additional four
14 years March 2007 to April 2010. So I
15 will give you a clear picture.

16 COMM BOGLE: And then you will still be asked to
17 answer the questions.

18 A: By then I will have the financial
19 statement right in front of me I could
20 refer to it.

21 COMM BOGLE: A problem that has come to this

22 Commission and as I am sure the attorneys
23 will possibly ask that question of you and I
24 am hoping that you will be able to answer
-- because it's

1 statement so invariably when a statement
2 was required it meant doing some
3 calculation or providing something on an
4 Excel spreadsheet form. And as I
5 mentioned earlier I didn't deal directly
6 with any of these accounts but imagine a
7 lot of the calculations would have been
8 done on the spreadsheets presented in
9 that sort of way.

10 COMM BOGLE: So you are saying that FINSAC took over
11 these loans had them, some of them two
12 years or three years or even one year
13 before the sale to Jamaica Redevelopment
14 Foundation (JRF)?

15 A: Right.

16 COMM BOGLE: They were adding on interest on what
17 basis, how did they do the calculations,
18 what mechanism did they use? Somebody in
19 back room seemed to take a pen and paper
20 and start to calculate or what it is?
21 Because you see, if a debtor gets in
22 touch with FINSAC and say well, I note
23 your letter to be on 'x' date stating
24 that I owe 'x' amount and that letter
25 communicated to FINSAC and say all

1 communication be directly or through his
2 attorney to say well, I would like to receive
3 a detailed statement. But after two, three,
4 four, five, six, ten months no statement is
5 forthcoming but on the other hand, the debtor
6 receives another letter stating that the debt
7 has now moved from what it was at 'x' when they
8 requested the statement to now 'y' but
9 still the debtor can't get any
10 statement. Just like we have seen
11 letters to the effect from persons here
12 indicating that, I wrote to you on such
13 and such a date and to date I have still
14 not -- why was there such a problem in
15 providing debtors with statements?
16 Because a debtor, if a debtor is to go
17 to the bank or goes to assess whether or
18 not the debt is through or prepare their
19 own financial statement, they need to
20 know what is the balance and how the
21 balance is arrived at and so on. So I am
22 a bit at a lost to find out why. So
23 maybe you can enlighten me.
24
25 A: I really cannot much Mr. Chairman, I

1 really do not know -- as I said, I
2 didn't deal directly with the debtors
3 and I would have expected that, yes, the
4 system does not provide a statement that
5 you can print but we can print a section
6 of the account that shows all the
7 transactions and can do a spreadsheet
8 and I know for sure that some
9 spreadsheets were done but as to why
10 statements would not have been provided
11 I cannot speak to that. I would imagine
12 persons must have gotten statements.

13 COMM BOGLE: Yesterday or when Mr. Hylton gave
14 evidence...

15 A: May I just say one other thing quickly.
16 And you were asking how the rates were
17 charged earlier, interest was only
18 charged on the principal amount.

19 COMM BOGLE: I understand. I am not at that point as
20 yet.

21 A: We can okay, oak.

22 COMM BOGLE: Mr. Hylton gave evidence that he was
23 wasn't involved in day to day
24 operations, he was at the policy and so
25 on, one has got to accept that. You are

1 now saying that well, you don't know
2 either about this. So who at FINSAC
3 should we call? Give us a name, we will
4 call the person you know, because these
5 are things that must be answered. So if
6 Mr. Hylton is saying no, at my had level
7 I would not be involved in such things.
8 You are saying well, you really can't
9 answer that because you really don't
10 know why that should be so. But I am
11 saying that persons have come --all I am
12 saying is that, was there a system that
13 would allow for the debtor to able to
14 get -- if you don't know, is there
15 somebody in FINSAC that we should have
16 ask to come to tell us why or how this
17 was done.

18 A: I can make two points in relation to
19 that, Mr. Chairman. One is that the
20 system was that a calculation would be
21 provided by Excel so the officer were
22 expected to do that. Now if these
23 particular statement the debtors, they
24 are saying that they requested and they
25 didn't get I could probably research

1 their file because JRF has kindly given
2 access to their files so we could
3 provide their files and see if copies of
4 those statements were presented to them.

5 COMM. ROSS: And this follow up question Mr. Campbell
6 would be, why didn't FINSAC maintain at
7 least the legacy ID systems from the
8 institutions that they took over because
9 surely those systems would have been
10 able to track transactions and generate
11 reports, statements.

12 A: No actually FINSAC introduced a new
13 system which is probably up to date than
14 what some of those banks had. ICBS, I
15 don't remember what ICBS stands for, I
16 don't remember exactly what it stands
17 for but certainly, more up to date than
18 some of what would have been in the
19 legacy banks.

20 COMM. ROSS: Mr. Campbell, I mean really now.

21 A: No, no...

22 COMM. ROSS: Every bank that I know of produces
23 statements which they send to their
24 clients on a monthly basis, at least. Now
-- I can't imagine that they have

1 spreadsheets, that's Microsoft Excel.
2 Now Mr. Ross, has said why didn't you
3 just retain one of the systems of one of
4 the intervened institutions? You then
5 said, oh we did better than that, we
6 have the ICBS system. So my question is
7 therefore, why couldn't this superior
8 system provide persons with statements
9 on demand?

10 A: Mr. Chairman, I am aware that we
11 started; when we started the NPL with
12 the loan system that was at Century
13 National Bank, with something named LDM,
14 Loan Demand Management but within a
15 short space of time it was malfunctioned
16 so we had to remove to something else.
17 So that's why I had said something more
18 superior that we introduced and this was
19 done like in October or September 1999.
20 Now, it may have been that the decision
21 was taken not to use, not to activate
22 that particular functionality and
23 providing statements because we were
24 capturing the transactions that were
25 listed, interest was being charged on

1 the principal balances and that is what
2 we relied on.

3 COMM BOGLE: Did FINSAC--go ahead, Mr. Garcia.

4 MR. GARCIA: I am sorry sir, to interrupt because my
5 interruption actually relates to a query
6 sir, that you raised a few moments ago
7 and not to the specific point that you
8 are on now but I wanted to do so before
9 we got further away from it.

10 MR. MOODIE: Commissioner, I had asked counsel
11 permission just to introduce
12 Mr. Christopher Samuda, who is joining
13 us on the record, from the firm of
14 Samuda and Johnson representation FINSAC
15 as well. Sorry Mr. Garcia.

16 MR. GARCIA: I think you asked a question about
17 relevant personnel who were at FINSAC
18 whose names could be provided and who
19 might appropriately be called in
20 relation to other issues and perhaps is
21 creating a difficulty at this point. And
22 I just wanted to point out that I had
23 written to the Commission on the 24th of
24 March, and in that letter I had set out
25 a list of the in-house attorneys and the

1 senior non-performing Loan Officers. It
2 seems to me that, that letter
3 categorically would be relevant once at
4 FINSAC during the relevant period. The
5 commission in response to that letter on
6 25th of March indicated that it reserves
7 the right to determine the witness that
8 will be called. But it seems to me that
9 the issue that I had then raised is very
10 much before you at this point.

11 COMM BOGLE: I remember that communication very well,
12 Mr. Garcia.

13 Miss CLARKE: Before you move on the point Mr.
14 Chairman, I have moved a little ahead but
15 there was something said and I believe
16 the witnesses who have come to me would
17 want me to drive home a certain point.
18 Mr Chairman, you said that the witness
19 will be approaching on the basis of
20 wanting perhaps to pay off their loans
21 or just to verify a ball figure which
22 was given. It must be noted based on the
23 approaches of these witnesses that many
24 of them might have approached for the
25 simple purpose of being able to defend a

1 lawsuit and the failure of this data as
2 we have seen it, has put them in a
3 position where there are now judgments
4 against them because for all practical
5 purposes, they have no database upon
6 which to say I did not owe this sum or
7 this sum is excessive or I paid off
8 because there are some gaps in time in
9 terms of even their receipts that they
10 retained, that without this detailed
11 statement they could not even make a
12 meaningful approach to the court. Some
13 of them are now as we have seen even
14 exposed to prison from where we see it
15 now.

16 COMM BOGLE: All right Miss Clarke, you are dealing
17 with specifics and I take it that when
18 you are doing your...

19 MS CLARKE: A general point sir.

20 COMM BOGLE: I take it that when you are doing your
21 notes you will. I am seeking and trying
22 to get an understanding of what obtained
23 and Mr. Garcia mentioned and I do
24 remember the communication Mr. Garcia,
25 regarding that matter. However, in view

1 of the fact that you represent
2 Mr. Hylton and Mr. Hylton really is no
3 longer at FINSAC I think it is correct
4 for Mr. Campbell if he is not able to
5 answer the questions as I put to him,
6 and it is not in any written policy or
7 written form then someone at FINSAC
8 should, and he is the best person to say
9 at this time who should come to this
10 Enquiry and explain and provide the
11 information. So I do know of the
12 communication but as I said Mr. Campbell
13 is here, we put two questions to
14 Mr. Campbell and if it has to do with
15 FINSAC and he cannot point us to a
16 document or quote from a document
17 indicating what obtained then somebody
18 at FINSAC must know what obtained and
19 therefore, such person should be called
20 if necessary, or Mr. Campbell should
21 have words with such person to get the
22 information so that it can be passed on
23 to this Enquiry.

24 MR. MOODIE: Could I ask for some clarity Mr.
25 Chairman? What you are requiring is for

1 Mr. Campbell to indicate who he assigned
2 particular loan files to?

3 COMM BOGLE: No, that's not the question. I had asked

4 Mr. Campbell why is it that persons
5 requested statements and it was so
6 difficult for them to get the
7 statements? Mr. Campbell tried to
8 explain that well, there was really no
9 set system however, persons could
10 calculate and work out the balances and
11 in some cases they possibly use
12 spreadsheets but he cannot answer as to
13 why they had difficulty receiving
14 statements.

15 MR. MOODIE: Or if he is saying he had those
16 difficulties receiving those statements
17 I think he would have expected.

18 COMM BOGLE: He said that he would have expected but
19 he doesn't know and he clearly did not
20 manage the area that was responsible for
21 sending out statements when the request
22 came because if he had managed that
23 section then I would imagine he would
24 know when the request came in and that
25 he would be able to say definitively

1 2 what procedure was in place at FINSAC
3 4 to provide persons with statements. That is
5 6 really what I want to know, not any specific
7 8 data. The attorneys or you may deal with the
9 10 specifics. I am simply trying to find out why
11 it is so many persons indicated that they had
12 difficulty obtaining statements and
13 therefore I expect FINSAC to be able to say
14 not so because each time a request came in
15 we provided them with statements. This is
16 what I expect to hear from FINSAC and if that
17 is so, Mr. Campbell is saying well he is not
18 sure. And so, this is where the question to
19 Mr. Campbell is if he is not sure will we get
20 details of the policy or will he get the
21 person who is in charge of that policy to come
22 to the Commission so that the Commission --
23 you see these are things that run right
24 across the number of persons and so it is the
25 policy that I am looking at not the
individual cases, all right.
So Mr. Campbell, you have the option to

1 obtain the information on the policy
2 regarding provision of statements to
3 debtors to the Commission; to obtain the
4 policy or to indicate to us the name of
5 a person at FINSAC and we could get in
6 touch with them and ask them to come and
7 provide that information, the
8 information we need.

9 A: The name of a person at FINSAC or who
10 used to be at FINSAC?

11 COMM BOGLE: Somebody at FINSAC should know, we have
12 twelve persons at FINSAC, somebody at
13 FINSAC should know.

14 A: I will endeavour to research the records
15 Mr. Chairman, and have the information
16 brought to the Commission.

17 COMM BOGLE: As to what obtained.

18 A: As to what obtained.

19 COMM BOGLE: Thank you very much.

20 COMM. ROSS: Mr. Campbell, on the matter of
21 litigation, could you tell us a little
22 bit about the process that was used to
23 decide what action to take and against
24 whom with regard to the intervened
25 institutions and owners or managers of

1 those institutions. I know that there
2 have been a number of suites against
3 either owners or senior personnel and I
4 just wondered if you could give us a
5 little idea as to how the decisions were
6 taken and what action to take and
7 against whom.

8 A: It's a pity you didn't ask this question
9 yesterday, Mr. Commissioner. I really
10 wasn't involved directly with that. My
11 understanding from the files was that
12 after intervention and the auditors went
13 in it was determined that there was some
14 amount of mismanagement and as a result
15 the decision was taken to sue the former
16 CEOs, Chairmen. Those are the people
17 you are talking about right now.

18 COMM. ROSS: You are saying Mismanagement...

19 A: But that is the reported information
20 based on what I have seen in the files
21 yes, and lack of fiduciary duty. Those
22 were the main reasons for the suites;
23 Mismanagement and lack of fiduciary
24 duty.

25 MR. MOODIE: Can I ask Mr. Campbell, would FINSAC

1 have received legal advice on those
2 duties?

3 A: Absolutely.

4 COMM. ROSS: We have to try and understand you know
5 -- well, you see you are saying it
6 wasn't based necessarily on criminal
7 actions or illegal actions, it was
8 really based as you say, mismanagement
9 or bad judgment.

10 A: Lack of fiduciary duty.

11 COMM. ROSS: The difference between mismanagement and
12 lack of fiduciary duty.

13 A: Those are the two issues, yes.

14 COMM. ROSS: So in other words, if the Board
15 determined that somebody made a decision
16 that cost the institution some money or
17 didn't work out that would be instead
18 the basis for suites? I am also
19 wondering about the interests, who were
20 they suing on behalf of? These actions
21 were taking place before FINSAC took
22 over the institutions?

23 A: Well, there were three suits like that.
24 One for Blaise, one for Century and one
25 for Eagle. And as I mentioned in my

1 statement Financial Institutions Services
2 (FIS) was formed initially to take over
3 the operation of Blaise and after the
4 projects the auditors did their thing
5 and it was determined that actions
6 should be taken against the Chairman,
7 the former Chairman and so they didn't.
8 And similarly FIS took action against
9 the former Chairman of Century National
10 Bank.

11 COMM. ROSS: Were these the only banks that were
12 judged on being mismanaged?

13 A: I cannot speak to that, those are the
14 ones which suits were taken out against
15 and also Eagle.

16 COMM. ROSS: Do you know who? Could help us to
17 answer that question?

18 A: Perhaps the former Managing Director.

19 COMM. ROSS: Certainly I will address Mr. Hylton when
20 he returns, but I think it's a very
21 interesting and important point that
22 should certainly expect some
23 inconsistency in the actions taken. And
24 while I find mismanagement a strange
25 sort of cause of action if it is, then

1 steps were taken by FINSAC to satisfy
2 FINSAC itself of the balances that they
3 were taking over were correct balances?
4 Because it's from that FINSAC now starts
5 to accrue additional interest and as
6 such requested that persons repay
7 principal plus additional interest. So
8 can you take us through the process,
9 please.

10 A: You are right Mr. Chairman, that
11 question was asked of me already. The
12 position is, I cannot speak definitively
13 to that, I never dealt directly with the
14 accounts. My understanding is that the
15 officers would comb through the files
16 based on statements that we have seen
17 and on that basis they wrote the
18 balances given. If however -- and they
19 advised the debtors that we have a
20 balance here from let's say Citizens
21 Bank and Citizens tells us that you owed
22 them 350,000 in principal 200,000 in
23 interest, 550,000. Now, we write to this
24 debtor and say to him, FINSAC has now
25 acquired this debt, they owe us this

2 3 money, come in, talk to me and let us see how
4 5 you will arrange to pay. Now, if the debtor
6 7 has a problem with the fact that FINSAC said
8 9 the balance is 550, a further detailed check
10 will be made through the file and if he can
11 provide evidence of any disparity in the
12 balances at that point the officer would
13 report to me and I in turn write to the bank
14 asking them for any clarification or any
15 evidence otherwise. But failing that we work
with 550 as was presented. If you recall you
had 20,000 accounts so it is not like we do
individual checks on each one.

16

17 A: And in fact the Commission had
18 asked me to provide copies of my receipts of
19 financial statements for FINSAC and FIS
20 and we provided copies of statements up
21 to March 2006.

22 COMM BOGLE: You see, one of the things is, when we
23 ask for documents we expect that persons
24 who provide us with those documents will
25 if necessary, come to the Commission and

1 answer to those documents. So
2 therefore, if that is a document that
3 you have already provided to us then we
4 are asking you questions which you must
5 answer and so finding that you do not
6 remember then we take that on your
7 return you will have answer to that.

8 A: Sure. I will actually go on to say that
9 on my return I will be able to provide
10 copies of financial statements for both
11 FINSAC and FIS for those additional four
12 years March 2007 to April 2010. So I
13 will give you a clear picture.

14 COMM BOGLE: And then you will still be asked to
15 answer the questions.

16 A: By then I will have the financial
17 statement right in front of me I could
18 refer to it.

19 COMM BOGLE: A problem that has come to this
20 Commission and as I am sure the
21 attorneys will possibly ask that
22 question of you and I am hoping that you
23 will be able to answer because it's
24 troubling, and that is one of providing
25 information. Quite a number of persons

1 have come here and have expressed that
2 they have tried on many occasions to get
3 information. I know that Miss Clarke
4 mentioned about the quality of
5 information. I am simple talking about
6 the information whether good, bad or
7 indifferent quality. But many persons
8 have come and say time and time again
9 they have requested a statements of
10 their account, they would get a letter
11 or something giving a balance -- and you
12 and I know that a balance is not a
13 statement. I am just wondering what
14 mechanism was or in FINSAC to provide
15 borrowers with adequate detailed
16 statements of their accounts. Can you
17 explain to us the process or something?

18 A: I suspect that some of these borrowers
19 probably mean JRF when they say FINSAC.

20 COMM BOGLE: I am talking about FINSAC now, JRF is
21 different.

22 A: The accounting system that FINSAC had
23 didn't as a matter of course, provide a
24 statement so invariably when a statement
25 was required it meant doing some

1 calculation or providing something on an
2 Excel spreadsheet form. And as I
3 mentioned earlier I didn't deal directly
4 with any of these accounts but imagine a
5 lot of the calculations would have been
6 done on the spreadsheets presented in
7 that sort of way.

8 COMM BOGLE: So you are saying that FINSAC took over
9 these loans had them, some of them two
10 years or three years or even one year
11 before the sale to Jamaica Redevelopment
12 Foundation (JRF)?

13 A: Right.

14 COMM BOGLE: They were adding on interest on what
15 basis, how did they do the calculations,
16 what mechanism did they use? Somebody in
17 back room seemed to take a pen and paper
18 and start to calculate or what it is?
19 Because you see, if a debtor gets in
20 touch with FINSAC and say well, I note
21 your letter to be on 'x' date stating
22 that I owe 'x' amount and that letter
23 communicated to FINSAC and say all
24 communication be directly or through his
attorney to say well, I would like to

1 receive a detailed statement. But after two,
2 three, four, five, six, ten months no
3 statement is forthcoming but on the other
4 hand, the debtor receives another letter
5 stating that the debt has now moved from what
6 it was at 'x' when they
7 requested the statement to now 'y' but
8 still the debtor can't get any
9 statement. Just like we have seen
10 letters to the effect from persons here
11 indicating that, I wrote to you on such
12 and such a date and to date I have still
13 not -- why was there such a problem in
14 providing debtors with statements?
15 Because a debtor, if a debtor is to go
16 to the bank or goes to assess whether or
17 not the debt is through or prepare their
18 own financial statement, they need to
19 know what is the balance and how the
20 balance is arrived at and so on. So I am
21 a bit at a lost to find out why. So
22 maybe you can enlighten me.

23 A: I really cannot much Mr. Chairman, I
24 really do not know -- as I said, I
25 didn't deal directly with the debtors

1 and I would have expected that, yes, the
2 system does not provide a statement that
3 you can print but we can print a section
4 of the account that shows all the
5 transactions and can do a spreadsheet
6 and I know for sure that some
7 spreadsheets were done but as to why
8 statements would not have been provided
9 I cannot speak to that. I would imagine
10 persons must have gotten statements.
11 COMM BOGLE: Yesterday or when Mr. Hylton gave

12 evidence...

13 A: May I just say one other thing quickly.
14 And you were asking how the rates were
15 charged earlier, interest was only
16 charged on the principal amount.

17 COMM BOGLE: I understand. I am not at that point as
18 yet.

19 A: We can okay, oak.

20 COMM BOGLE: Mr. Hylton gave evidence that he was
21 wasn't involved in day to day
22 operations, he was at the policy and so
23 on, one has got to accept that. You are
24 now saying that well, you don't know
25 either about this. So who at FINSAC

1 should we call? Give us a name, we will
2 call the person you know, because these
3 are things that must be answered. So if
4 Mr. Hylton is saying no, at my had level
5 I would not be involved in such things.
6 You are saying well, you really can't
7 answer that because you really don't
8 know why that should be so. But I am
9 saying that persons have come --all I am
10 saying is that, was there a system that
11 would allow for the debtor to able to
12 get -- if you don't know, is there
13 somebody in FINSAC that we should have
14 ask to come to tell us why or how this
15 was done.

16 A: I can make two points in relation to
17 that, Mr. Chairman. One is that the
18 system was that a calculation would be
19 provided by Excel so the officer were
20 expected to do that. Now if these
21 particular statement the debtors, they
22 are saying that they requested and they
23 didn't get I could probably research
24 their file because JRF has kindly given
25 access to their files so we could

1 provide their files and see if copies of
2 those statements were presented to them.
3 COMM. ROSS: And this follow up question Mr. Campbell
4 would be, why didn't FINSAC maintain at
5 least the legacy ID systems from the
6 institutions that they took over because
7 surely those systems would have been
8 able to track transactions and generate
9 reports, statements.
10 A: No actually FINSAC introduced a new
11 system which is probably up to date than
12 what some of those banks had. ICES, I
13 don't remember what ICES stands for, I
14 don't remember exactly what it stands
15 for but certainly, more up to date than
16 some of what would have been in the
17 legacy banks.
18 COMM. ROSS: Mr. Campbell, I mean really now.
19 A: No, no...
20 COMM. ROSS: Every bank that I know of produces
21 statements which they send to their
22 clients on a monthly basis, at least.
23 Now I can't imagine that they have
24 hundreds of people sitting down
25 generating Excel spreadsheets to send

1 out this information.

2 A: It would not have been difficult
3 because in a number of cases there is
4 only one transaction per month, one
5 payment that is being made.

6 COMM. ROSS: One out of five hundred? I really can't
7 accept that. You have a more superior
8 system that cannot generate statements
9 of accounts for a client or for a
10 client's account.

11 COMM BOGLE: No, I think Mr. Campbell, we seem to be
12 talking about two different things
13 Because you said, Excel spreadsheets,
14 when Mr. Ross said, but you could have
15 retained one of the systems you said you
16 have a better system. So the Excel
17 spreadsheet, we are talking about the
18 statement, we are talking about getting
19 statements to debtors. That's what we
20 are dealing with. The question was why
21 couldn't we? You said there was a really
22 no system, I mean persons would sit down
23 and work it out or they would use Excel
24 spreadsheets, that's Microsoft Excel.
25 Now Mr. Ross, has said why didn't you

1 just retain one of the systems of one of
2 the intervened institutions? You then
3 said, oh we did better than that, we
4 have the ICBS system. So my question is
5 therefore, why couldn't this superior
6 system provide persons with statements
7 on demand?

8 A: Mr. Chairman, I am aware that we
9 started; when we started the NPL with
10 the loan system that was at Century
11 National Bank, with something named LDM,
12 Loan Demand Management but within a
13 short space of time it was malfunctioned
14 so we had to remove to something else.
15 So that's why I had said something more
16 superior that we introduced and this was
17 done like in October or September 1999.
18 Now, it may have been that the decision
19 was taken not to use, not to activate
20 that particular functionality and
21 providing statements because we were
22 captioning the transactions that were
23 listed, interest was being charged on
24 the principal balances and that is what
25 we relied on.

1 categorically would be relevant once at
2 FINSAC during the relevant period. The
3 commission in response to that letter on
4 25th of March indicated that it reserves
5 the right to determine the witness that
6 will be called. But it seems to me that
7 the issue that I had then raised is very
8 much before you at this point.

9 COMM BOGLE: I remember that communication very well,
10 Mr. Garcia.

11 Ms. CLARKE: Before you move on the point Mr.
12 Chairman, I have moved a little ahead but
13 there was something said I and believe
14 the witnesses who have come to me would
15 want me to drive home a certain point.
16 Mr Chairman, you said that the witness
17 will be approaching on the basis of
18 wanting perhaps to pay off their loans
19 or just to verify a ball figure which
20 was given. It must be noted based on the
21 approaches of these witnesses that many
22 of them might have approached for the
23 simple purpose of being able to defend a
24 lawsuit and the failure of this data as
25 we have seen it, has put them in a

1 position where there are now judgments
2 against them because for all practical
3 purposes, they have no database upon
4 which to say I did not owe this sum or
5 this sum is excessive or I paid off.
6 Because there are some gaps in time in
7 terms of even their receipts that they
8 retained, that without this detailed
9 statement they could not even make a
10 meaningful approach to the court. Some
11 of them are now as we have seen even
12 exposed to prison from where we see it
13 now.

14 COMM BOGLE: All right Miss Clarke, you are dealing
15 with specifics and I take it that when
16 you are doing your.

17 MS CLARKE: A general point sir, within my...

18 COMM BOGLE: I take it that when you are doing your
19 notes you will. I am seeking and trying
20 to get an understanding of what obtained
21 and Mr. Garcia mentioned and I do
22 remember the communication Mr. Garcia,
23 regarding that matter however, in view
24 of the fact that you represent
25 Mr. Hylton and Mr. Hylton really is no

1 longer at FINSAC I think it is correct
2 for Mr. Campbell if he is not able to
3 answer the questions as I put to him,
4 and it is not in any written policy or
5 written form then someone at FINSAC
6 should, and he is the best person to say
7 at this time who should come to this
8 Enquiry and explain and provide the
9 information. So I do know of the
10 communication but as I said Mr. Campbell
11 is here, we put two questions to
12 Mr. Campbell and if it has to do with
13 FINSAC and he cannot point us to a
14 document or quote from a document
15 indicating what obtained then somebody
16 at FINSAC must know what obtained and
17 therefore, such person should be called
18 if necessary, or Mr. Campbell should
19 have words with such person to get the
20 information so that it can be passed on
21 to this Enquiry.

22 MR. MOODIE: Could I ask for some clarify Mr.
23 Chairman, what you are requiring is for
24 Mr. Campbell to indicate who he assigned
25 particular loans file to?

1 is really what I want to know not any
2 specific data. The attorneys or you may deal
3 with the specifics. I am simply trying to
4 find out why it is so many persons indicate
5 ed that they had difficulty obtaining
6 statements and therefore I expect FINSAC to
7 be able to say not so because each time a
8 request came in we provided them with
9 statements. This is what I expect to hear
10 from FINSAC and if that is so, Mr. Campbell
11 is saying well he is not sure. And so, this
12 is where the question to Mr. Campbell is if
13 he is not sure will we get details of the
14 policy or will he get the person who is in
15 charge of that policy to come to the
16 Commission so that the Commission -- you see
17 these are things that run right across the
18 number of persons and so it is the policy that
19 I am looking at not the individual cases, all
20 right. So Mr. Campbell, you have the option
21 to obtain the information the policy
22 regarding provision of statements to
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1 debtors to the Commission to obtain the
2 policy or to indicate to us the name of
3 a person at FINSAC and we could get in
4 touch with them and ask them to come and
5 provide that information, the
6 information we need.

7 A: The name of a person at FINSAC or used
8 to be at FINSAC?

9 COMM BOGLE: Somebody at FINSAC should know, we have
10 twelve persons at FINSAC, somebody at
11 FINSAC should know.

12 A: I will endeavour to research the records
13 Mr. Chairman, and information brought to
14 the Commission.

15 COMM BOGLE: As to what obtained.

16 A: As to what obtained.
17 CHAIRMAN: Thank you very much.

18 COM ROSS: Mr. Campbell, on the matter of
19 litigation, could you tell us a little
20 bit about the process that was used to
21 decide what action to take and against
22 whom with regard to the intervened
23 institutions and owners or managers of
24 those institutions. I know that there
25 have been a number of suites against

1 either owners or senior personnel and I
2 just wonder if you could give us a
3 little idea as to how the decisions were
4 taken and what action to take and
5 against whom.

6 A: It's a pity you didn't ask this question
7 yesterday, Mr. Commission. I really
8 wasn't involved directly with that. My
9 understanding from the files was that
10 after intervention and the auditors went
11 in it was determined that there was some
12 amount of mismanagement and as a result
13 the decision was taken to sue the former
14 CEOs, Chairmen. Those are the people
15 you are talking about right now.

16 COMM. ROSS: You are saying Mismanagement...

17 A: But that is the reported information
18 based on what I have seen in the files
19 yes, and lack of fiduciary duty. Those
20 were the main reasons for the suites,
21 Mismanagement and lack of fiduciary
22 duty.

23 MR. MOODIE: Can I ask Mr. Campbell, would FINSAC
24 have received legal advice on those
25 duties?

1 projects the auditors did their thing it
2 was determined that actions should be
3 taken against the Chairman, the former
4 Chairman and so they didn't. And
5 similarly FIS took action against the
6 former Chairman of Century National
7 Bank.

8 COMM. ROSS: Were these the only banks that were
9 judged on being mismanaged?

10 A: I cannot speak to that, those are the
11 ones for which suits were taken out
12 against and also Eagle.

13 COMM. ROSS: Do you know who, could help us to answer
14 that question?

15 A: Perhaps the former Managing Director.

16 COMM. ROSS: Certainly I will address Mr. Hylton when
17 he returns. But I think it's a very
18 interesting and important point that
19 should certainly would expect some
20 inconsistency in the actions taken. And
21 while I finding mismanagement a strange
22 sort of cause of action if it is then,
23 certainly should one would expect to be
24 applied across the Board.

25 A: I can cannot speak much to that,

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Mr. Commissioner.

COMM BOGLE:

I am continuing on my general area and this is part of the Terms of Reference of this Commission that we look at how the debtors were treated and look at the management of FINSAC -- I just looked awhile to ensure that I write it down before. Now when debtors balances et cetera et cetera were taken over and their non-performing loans were acquired from institutions -- this question might have been asked of me before but can you explain in as much detail as you possibly can what was done -- and I think that question was put to Mr. Hylton and he said well, that is not operational and I can understand that. What was done to prove those debts? What was done to proof those debts? In other words, you have taken over my debts from National Commercial Bank or from Eagle or from Century, what steps were taken by FINSAC to satisfy FINSAC itself if the balances that they were taking over were correct balances because it's from

1 the institution to put in place the
2 systems. Now, if a person writes to
3 FINSAC and says FINSAC, I do not owe
4 this money, I am sure of it, FINSAC says
5 bring in your records and the person
6 said quite frankly the house burned down
7 last week or two years ago and I do not
8 have all of my records, what would
9 FINSAC do in that case?

10 A: I have seen cases like that where
11 management said, and in my said
12 management, where a person says I owe
13 you three hundred thousand or three
14 hundred and fifty rather than the five
15 hundred and fifty that was mentioned,
16 there are cases like that and it is
17 submitted to the Board or Credit
18 Committee for consideration to be given
19 to writing off the rest of it.

20 COMM. BOGLE: But couldn't we have a proper system of
21 verification, shouldn't that be the
22 route that we take to verify that the
23 the three hundred that they say they
24 have is supported by proper records?

25 A: The proper system that you spoke of is

1 highly dependent on what existed in the
2 in the banks and we recognize that some
3 of those records were never always one
4 hundred percent accurate so that is why
5 FINSAC was always ready and willing to
6 consider compromises.

7 COMM. BOGLE: Therefore FINSAC recognized that the
8 record keeping of some of the financial
9 institutions that were intervened, that
10 their record keeping was way below what
11 it should be and therefore some of the
12 loans that were taken over could have
13 really been incorrect?

14 A: Yes.

15 COMM. BOGLE: And therefore whenever a person says
16 that is not my balance, then FINSAC
17 would request of the financial
18 institution the details to back that up?

19 A: And sometimes they can find it and
20 sometimes they can't. It goes back to
21 what the man is saying that you are
22 telling me about \$550,000 but my record
23 shows \$350,000 but we would work with
24 \$350,000.

25 COMM. BOGLE: But you paid the interest for the

1 \$550,000. You would have taken over
2 that debt at the understanding at face
3 value?

4 A: Meaning the principal.

5 COMM. BOGLE: Yes, you would have taken over that at
6 the principal that was reported to you
7 by the financial institution. Now, the
8 person comes and says no, no, that was
9 not my principal, my principal
10 outstanding was \$200,000 and so FINSAC
11 decided okay, fine, we will honour
12 \$200,000, what about the difference
13 between the \$200,000 and \$500,000 that
14 the taxpayers had to take up?

15 A: I am not aware there has been any of
16 those sorts of instances.

17 MR. TAYLOR: You said awhile ago if a person said...

18 A: The difference is, you mentioned
19 principal and interest, I am saying in
20 cases where there have been disputes, it
21 was not sufficient to take them below
22 the principal figure we acquired from
23 the bank.

24 COMM. BOGLE: Therefore, coming back to my point
25 Mr. Campbell, that the figure that you

1 took over from the bank, the figure that
2 you -- the bank said \$500,000 principal.

3 Q Three fifty and two hundred?

4 A: Three fifty principal is what the bank
5 said, you took that as gospel because
6 you would not be going below that but
7 yet you knew and you are now saying that
8 you knew at the time that the records of
9 the bank, many of them in many cases
10 were not up to par but you could not go
11 below what you had taken over at. I did
12 not say that.

13 COMM. BOGLE: Explain to me.

14 A: I am saying in cases where the debtor
15 says the balance is incorrect, the
16 figure he gives us is not less than the
17 principal we got, like in this example,
18 he comes to say the total he owes is
19 \$400,000, it would still cover the three
20 fifty we paid for it.

21 COMM. BOGLE: You are saying there is no case...

22 A: I cannot recall none of those and I must
23 tell you that there would have been very
24 few of those kinds of instances where it
25 was necessary for us to write back to

1 the bank to say that the balance you
2 have presented here, based on what the
3 client is saying, is totally wrong. I
4 recognize, based on submissions that I
5 would have seen at the Credit Committee
6 that there are instances where there are
7 complaints that the balance presented is
8 wrong, is much lower than what it ought
9 to be so the account is recalculated
10 taking into account whatever evidence is
11 presented and the lower figure is
12 presented and we work with that figure
13 and this is something that the debtor
14 signs off on as the amount owing by
15 them.

16 COMM. BOGLE: On what basis, you are saying that the
17 cases are few and far between, on what
18 basis you make the blanket statement
19 that many of the record keeping of the
20 institutions were less than on par, what
21 were you talking about?

22 A: Because, a lot of the customers
23 complained that the balances are
24 different. I am saying that based on
25 the nature of how it is, we don't

1 always write back to the banks because
2 they invariably they tell you the
3 balance is wrong and sometimes you
4 wonder if they were not happy with the
5 way the interest was compounded and when
6 they tell you a lodgement was made and
7 not reflected in the statement you got
8 but all those factors are taken into
9 account and invariably the loan is re-
10 calculated and a figure is agreed with
11 the debtor and then a submission is made
12 or a compromise is agreed based on that
13 and sent to the Credit Committee for
14 approval.

15 COMM. BOGLE: Did you have many of those cases?

16 A: We had a number, I wouldn't want to put
17 a figure to it.

18 COMM. ROSS: Let me see if I understand something
19 Mr. Campbell. You mentioned that
20 FINSAC -- it was mentioned yesterday
21 that FINSAC paid face value for the
22 loans, in other words, the banks were
23 compensated for the principal amount of
24 the loan at the time of acquisition by
25 FINSAC. Is that correct.

1 A: That is correct.

2 COMM. ROSS: So the banks were not compensating for
3 accrued interest that had not yet been
4 paid?

5 A: That is correct.

6 COMM. ROSS: Why then did FINSAC accrue interest from
7 the original date of the loan and seek
8 to recover those full amounts from the
9 debtors.

10 MR. MOODIE: To be fair Commissioner, that issue was
11 addressed by Mr. Hylton and he gave the
12 rationale from the policy level. You
13 are then asking Mr. Campbell to
14 speculate whether at the time the
15 interest was being accrued he was not in
16 that position to determine the policy?

17 COMM. ROSS: I am not asking him to speculate, I am
18 asking him a question, he agreed with
19 Mr. Hylton that it was the face values
20 of the loans that were acquired. We
21 have seen where people have been charged
22 interest on their loans by both FINSAC
23 and JRF from the date of inception and
24 the question I am asking Mr. Campbell
25 **is**, if FINSAC acquired the loan at face

1 value, its liability, costs of interest,
2 financing those positions would have
3 been from the date of that acquisition,
4 so why then did FINSAC seek to recover

5 interest from the date which the loan
6 was issued? I mean the argument
7 yesterday was made that there was a cost
8 to acquire the loans, therefore, FINSAC
9 had to seek to recover interest from the
10 debtors to compensate for that cost, but
11 it seems that FINSAC benefited from a
12 significant write-off of interest at the
13 time of acquisition but yet it didn't
14 seem too willing to pass on that
15 discount to the borrowers themselves.

16 A: Before I answer you Mr. Commissioner, I
17 just want to make sure I understand you
18 clearly. What is the date you speak of
19 when you say FINSAC charged interest
20 from the date, you mean the date the
21 loan was granted by the initial
22 institution?

23 COMM. ROSS: Yes?

24 A: FINSAC did not do that.

25 COMM. ROSS: But we are seeing, we have one or two

1 before that, whilst the loan is still in
2 the commercial bank interest is accruing
3 on that, both interest and principal,
4 interest in that is being compounded.
5 At the point when FINSAC gets the loan,
6 interest is being charged on principal
7 only, so the debtor in a sense gets some
8 reprieve, the loan is increasing but
9 increasing at a lower rate, so that is
10 the position Mr. Commissioner.

11 COMM. ROSS: Let me ask you then, because maybe I am
12 not understanding something. When
13 FINSAC takes over the loans from the
14 banks or took over the loans from the
15 banks, what compensation did FINSAC give
16 to the banks, was it just for the
17 principal amount of the loans?

18 A: Yes.

19 COMM. ROSS: Or was it for the principal plus the
20 interest accrued on the loan, and
21 remained unpaid.

22 A: Principal.

23 COMM. ROSS: It was just the principal. My question
24 still stands because we have seen, not
25 only FINSAC, I guess the question should

1 pass onto the situation that arises,
2 because certainly on all the complaints
3 we have seen coming forward, interest is
4 being accrued, and in some cases
5 compounded right from the very date of
6 inception and the last set or the first
7 date of non-payment.

8 A: Again you use the word date of
9 inception; the first date the man gets
10 the loan from the bank?

11 COMM. ROSS: No, from when the loan became
12 delinquent, in other words, all the
13 unpaid interest is being billed to the
14 client and the owner of the debt is
15 seeking to recover that amount.

16 A: Well, it is and Mr. Hylton mentioned the
17 rationale to deal with the interest and
18 that is the position that FINSAC took
19 but nonetheless FINSAC was prepared to
20 offer compromises and I am really not
21 allowed to speak for JRF but I am sure
22 they are prepared to offer compromises
23 taking into account that interest is
24 accrued.

25 COMM. ROSS: I understand but you are still ignoring

1 the point that between the time when the
2 loan became delinquent and the time when
3 FINSAC took it over, that period would
4 be a year or two or three years in some
5 cases and I am saying that in all cases
6 that we are seeing, the client, the
7 debtor has still been billed interest
8 for that period.

9 A: Yes.

10 COMM. ROSS: Although it was not a cost to FINSAC at
11 the time and it was not a cost to JRF or
12 anybody else either? It was a cost to
13 the institution but that cost was
14 absorbed by the institution.

15 A: Rationalized why interest accrued and it
16 was used as a negotiating tool to arrive
17 at the settlement at a later date.

18 COMM. ROSS: But they were not.

19 COMM. BOGLE: The rationale given for charging of the
20 interest was the fact that bonds were
21 accruing interest, FINSAC bonds, and so
22 while we can accept the rationale for
23 FINSAC charging interest, we will accept
24 that based on the submission of
25 Mr. Hylton, I think what Commissioner

1 Ross is saying is that if you bought a
2 debt at face value, principal balance of
3 one hundred thousand at that date, there
4 could have been accumulated unpaid
5 interest of three hundred thousand
6 dollars but you did not pay for that
7 three hundred thousand, you paid for the
8 hundred thousand, why still expect the
9 debtor to pay the three hundred
10 thousand? It is not any expense
11 incurred by you, it wasn't a cost for
12 FINSAC in anyway and FINSAC did not even
13 buy it at a discount, it's not even that
14 FINSAC bought that three hundred
15 thousand for three hundred and fifty
16 thousand, they just didn't buy that
17 fifty thousand.

18 A: I agree with you. Like I said the
19 decision was made to accrue an interest
20 and use it as a negotiating tool to
21 encourage people to settle.

22 COMM. BOGLE: That was the policy?

23 A: Yes.

24 COMM. BOGLE: All right, at this time Mr. Campbell, we
25 are going to take an early lunch and we

1 will be back here at 2 o'clock.

2 A: I thought it was going to be an early
3 day Mr. Chairman.

4 COMM. BOGLE: I would have loved an early day as well
5 but I think we have to continue this a
6 little longer.

7 A: Okay sir.

8 LUNCHEON ADJOURNMENT

9

10 ON RESUMPTION at 2:05 p.m.

11 COMM. BOGLE: Good afternoon ladies and gentlemen,
12 this Enquiry is now back in session and
13 for the records I note that we have been
14 joined by Anthony Levy, representing?

15 MR. LEVY: Today?

16 (Laughter)

17 DEBTOR1COMPANY and anybody else who
18 wishes to come forward to me I will
19 represent them.

20 COMM. BOGLE: Okay, sir.

21 Mr. Campbell, just to remind you that
22 you are still under oath.

23 A: Yes, Mr. Chairman.

24 COMM. BOGLE: Mr. Levy, have you got any questions for
25 Mr. Errol Campbell at this time?

1 MR LEVY: Mr. Campbell undertook to the Commission
2 to bring and produce certain documents,
3 I don't know if he has them because I
4 don't have a chance to look at them.

5 COMM. BOGLE: He has produced, I think, about 90
6 percent of them.

7 MR. DEPERALTO: Not the documents requested by Mr. Levy.

8 COMM. BOGLE: Oh, not the documents you requested,
9 okay, I am talking about the other
10 documents.
11 Mr. Moodie?

12 MR. MOODIE: I indicated to Mr. Levy yesterday that
13 obviously Counsel being new to the
14 matter it would greatly assist us if he
15 could give us a list of the documents he
16 had requested. Other than that
17 assistance I have ascertained what is
18 required in his regard based on the
19 cross-examination that has flowed from
20 Mr. Campbell so far. Those documents
21 include what he has so far requested.
22 Those requested through
23 cross-examination including any notices
24 that may have been given in relation to
25 the mortgages as well as any valuations,

1 I indicated to the Commission this
2 morning that in relation to the
3 DEBTOR1COMPANY's files we have disclosed
4 to the Commission and given copies to
5 the Commission copies of the Minutes of
6 Board meetings. We have some other
7 documents but those substantive files
8 which we were given access to, we hope
9 that they would have been in the office
10 of the Jamaican Redevelopment Foundation
11 yesterday, only to be told that because
12 the litigation is ongoing those
13 documents are actually being housed at
14 the offices of Myers Fletcher and
15 Gordon. They have agreed to give us
16 access to those documents. So the
17 DEBTOR1COMPANY issue is among the items
18 which we have undertaken to provide
19 whatever documents necessary, both to
20 Mr. Levy and to Mr. Garcia upon his
21 request and we intend to address that
22 specifically when we return.

23 COMM. BOGLE: Okay.

24 MR. MOODIE: So I think as long as the scheduling is
25 worked out with Mr. Levy, then certainly

1 we can accommodate you.

2 COMM. BOGLE: Sure.

3 MR. LEVY: For me to comply with Mr. Moodie's

4 request would require me to do exactly

5 what he would have to do; go through the

6 minutes, the recording of Mr. Campbell's

7 evidence and pick out the particular

8 things but from memory in relation to

9 the valuation and requests which he has

10 referred to. There was also a big blank

11 in a list of properties which

12 Mr. Campbell gave to the Commission

13 which were sold by FINSAC Real Estate.

14 We could not find the DEBTOR1COMPANY's

15 properties on that and that's one of the

16 things Mr. Campbell was actually asked

17 to bring back; the valuations of the

18 properties sold and notices given in

19 respect to the sale of properties. So I

20 can't help Mr. Moodie with anything more

21 than that.

22 COMM. BOGLE: I think by what Mr. Moodie said I think

23 he understands that by and large most of

24 what surrounds DEBTOR1COMPANY's

25 issues that Mr. Levy would be interested

1 in especially the disposition of the
2 properties and the business.

3 MR. MOODIE: Any documents we find we will certainly
4 make them available. We have no
5 difficulty. We note our position in
6 terms of confidentiality, but as we have
7 indicated that's a matter for the
8 Commission as to how it deals with any
9 documents which we would submit that
10 might be confidential.

11 MR. LEVY: Mr. Chairman, I resist any obligation
12 for confidentiality in respect of
13 DEBTOR1COMPANY. Mr. Moodie has nothing
14 to worry about.

15 MR. MOODIE: I don't think it was Mr. Levy's consent
16 I was worried about.

17 COMM. BOGLE: Okay.

18 MR. LEVY: In addition to that, sir, I wish to
19 bring to Mr. Levy's attention that there
20 are other lawyers involved so he doesn't
21 come back and say Myers, Fletcher &
22 Gordon doesn't have it, but I have just
23 learnt that Dunn Cox does.

24 MR. MOODIE: I think Mr. Levy, having not been here
25 this morning, he is not aware that we

1 have provided the Commission with a list of
2 all the attorneys who are in these matters and
3 also my undertaking that I will be checking
4 those attorneys to verify whether they ..

6 MR. LEVY: I just wanted to
highlight it because
7 there might be an oversight.

8 Mr. Campbell may not remind you.

9 MR. MOODIE: I thank you for your assistance sir.

10 COMM. BOGLE: Mr. Ross?

11 COMM. ROSS: Mr. Moodie, I think it was also
12 mentioned yesterday, the question was
13 raised as to the notice of default which
14 we were speculating ought to have been
15 given to DEBTOR1COMPANY.

16 MR. MOODIE: Are you speaking about the Demand
17 letter?

18 COMM. ROSS: Right.

19 MR. MOODIE: I do intend to refer to that document
20 when we continue because I think there
21 is some information there that is
22 relevant to some of the assertions that
23 have been made and so I do intend to
24 refer to that document.

25 COMM. ROSS: Thanks.

1 being in default in the previous few
2 months from NCB to them, NCB, Mutual
3 Security.
4 COMM. BOGLE: Okay.

5 MR LEVY: I would also ask him to provide his
6 former boss copies of them so that he
7 can refresh his memory.

8 COMM. BOGLE: I am going to pose a question to the
9 attorneys present and ask them if they
10 will address this question the next time
11 or soon after this evening as you will
12 be able to address it. And it is, in the
13 circumstances of the cases before this
14 Enquiry where debts have been assigned
15 or sold, do the assignees or purchasers
16 have a right to charge interest? Have
17 you got that or would you like me to
18 repeat?

19 MR. LEVY: You could repeat, Mr. Chairman, because
20 you were looking down.

21 COMM. BOGLE: In the circumstances of the cases before
22 this Enquiry where debts have been
23 assigned or sold, do the assignees or
24 purchasers have the right to charge
25 interest? And I would like to ask the

1 attorneys to address that question for
2 this Commission.

3 MR. LEVY: You would like a submission?
4 COMM. BOGLE: You could make a short submission on it
5 to the Commission.
6 MR. GOFFE: Mr. Chairman, the understanding that we
7 have had, we representing Jamaican
8 Redevelopment Foundation at least, was
9 that there would be a time given to all
10 attorneys for legal submissions.

11 COMM. BOGLE: Fine. It is just for this particular
12 question. I understand that there will
13 be a time just about at the end of the
14 sitting where attorneys will be afforded
15 the opportunity to make summaries, but
16 if you can in the interim address this
17 point for the Commission, the Commission
18 would appreciate it.

19 MR. GOFFE: Sorry, let me understand what you are
20 saying, that without prejudice to
21 that...

22 COMM. BOGLE: Without prejudice to that.

23 MR. GOFFE: ...we can make the submission at this
24 time?

25 COMM. BOGLE: Yes, without prejudice. It is not a

1 matter that you will preclude it from
2 the summary and you could also include
3 what you are going to give to the
4 Commission, let us say next week you
5 could include that in your summary at
6 the end.

7 MR. MOODIE: I think Chairman, on the part of Counsel
8 for FINSAC you had asked on the next
9 occasion if we could do so, but I would
10 think that this Commission would be
11 better served if my energies are focused
12 on the documentation and the outstanding
13 items in relation to FINSAC and I think
14 you have some indication of the time
15 periods that we will continue. So I
16 think we would want to take the
17 opportunity at the end to address it in
18 our substantive submissions when you
19 have indicated you will allow Counsel.

20 COMM. BOGLE: While I appreciate that and I understand
21 your being under some severe pressure
22 regarding time to provide quite a number
23 of things, somehow, I do have the
24 feeling that the firm that you do
25 represent has the resources that it

1 could address this in the mean time.

2 MR. MOODIE: I think you are looking at the resources
3 before you.

4 (Laughter)

5 COMM. BOGLE: No, there was a third person this
6 morning.

7 MR. GARCIA: I was the first person.

8 (Laughter)

9 COMM. BOGLE: You know, it is not a matter that we are
10 saying that you must provide it, we are
11 simply asking you to address it. So it
12 is not a prerequisite to come back here,
13 it is not a matter that if you don't
14 have the information you can stay away.
15 No, we will not allow you to stay away
16 on the understanding that you do not
17 have this. So it is not a prerequisite,
18 it is not anything, we are simply asking
19 you to address it.

20 MR. MOODIE: I am grateful, sir.

21 COMM. BOGLE: Mr. Garcia?

22 MR. GARCIA: Thank you sir. In some communication that
23 I had with the Secretary I had indicated
24 that I have some difficulties in relation to
timing for the rest of

1 this month. I will not be able to attend
2 next week and I also am not going to be
3 here on, I think, the 30th of May that
4 Mr. Downer is scheduled to give
5 evidence.

6 COMM. BOGLE: Yes.

7 MR. GARCIA: So in relation to this point, I am eager
8 to make some submissions, but obviously
9 I will not be able to make those
10 submissions next week. But as the
11 Commission will be hearing submissions
12 later on I will...

13 COMM. BOGLE: Yes, by all means, if you can't make it
14 next week and you can make it some other
15 time that's fine.

16 MR. GARCIA: Perhaps I could indicate at this point
17 in relation to JRF, I think ,TRE' is
18 scheduled to give evidence...

19 COMM. BOGLE: Monday and Tuesday.

20 MR. GARCIA: . next week and I am assuming that as
21 usual the Commission will indicate to
22 the relevant witness that the Commission
23 might recall the person if necessary and
24 so what I am hoping to do is to receive
25 the transcripts and review it and if I

1 have any questions for the
2 representative I will request that the
3 Commission allow the person to be
4 recalled.

5 I do have a little bit more of a
6 difficulty in relation to Mr. Downer,
7 given what I have so far seen,
8 particularly in relation to
9 DEBTOR1COMPANY. I would imagine I will
10 need to cross-examine him, but as I said

11 I am not going to be available on the
12 30th of May and I am again making the
13 request to find out whether or not it is
14 possible for him to be scheduled for
15 sometime in June instead.

16 COMM. BOGLE: The problem with Mr. Downer, as you well
17 know, we had been trying to have
18 Mr. Downer here for sometime, he was out
19 here, but he made certain submission of
20 DEBTOR1COMPANY at the time but that
21 submission was not complete and it was
22 felt that we would await the completion
23 of that submission. Mr. Downer has been
24 and possibly is still off the island and
25 through his attorney we understand that

1 he will be back and be available on the 30th
2 of May. We do not have a schedule of Mr.
3 Downer's to say he will be here for four days,
4 five days, ten days. The Secretariat of
5 course, will be in discussion and will work
6 with

7 Mr. Downer's attorney to try to ensure that
8 we have the maximum time available with Mr.
9 Downer as a number of persons, well, not a
10 number of persons, but I know that Mr. Levy
11 on behalf of DEBTOR1COMPANY has a lot of
12 interest in examining Mr. Downer. So I am
13 sure that to the extent that it is all
14 possible that the Secretariat will ensure
15 that, that is done.

16 You mentioned that you will be off. Just to
17 remind persons that we will be sitting next
18 week Tuesday, Wednesday, Wednesday it will
19 be half day and next week Wednesday we will
20 go until 12; we will not be here on Thursday.
21 We break after the midday Wednesday until the
22 30th of May. So we will be here Tuesday and
23 a half day on Wednesday and then we
24
25

1 break until the 30th of May. The
2 Secretary is trying to get across that
3 we are trying - a number of persons have
4 requested that we try to get
5 Mr. Crawford to give evidence. A request
6 is out and we are at the moment trying
7 to work out the mechanics to have
8 Mr. Crawford via video conferencing as
9 we did with Dr. Chen-Young. Any date so
10 far?

11 MR. DEPERALTO: Tentatively the 2nd of June.

12 COMM. BOGLE: Tentatively the 2nd of June.

13 MR. GARCIA: I have the same difficulty, sir.

14 COMM. BOGLE: Because one of the things in setting up

15 these things for the video conferencing
16 because it is coordination between the
17 company that we get the conferencing
18 equipment from locally, as well as of
19 course, we have to connect with the one
20 abroad. So it is very difficult even to
21 get a date. So when you do get a date
22 it is more difficult to get it adjusted.
23 I see your problem, but since you will
24 be coming back in two days you probably
25 can cut short your holiday.

1 MR. GARCIA: It is not a holiday, sir, and I don't
2 have any control over the plan. I have
3 been here for quite some time and you
4 know, a lot is being rescheduled around
5 Mr. Crawford's convenience to push him
6 to come to the island.

7 COMM. BOGLE: It is not like that Mr. Garcia.

8 MR. GARCIA: It is not that he wishes to come to the
9 island, sir?

10 COMM. BOGLE: I don't think that is it, but I will
11 leave it at that.

12 Mr. Levy?
13 MR. LEVY: Might I enquire, Mr. Chairman,
14 Mr. Dunbar McFarlane, has a date been
15 set for him to come?

16 COMM. BOGLE: No.

17 MR. LEVY: I spoke to him months ago the same time
18 I requested Mr. Crawford to come, I
19 requested him. I understand he works in
20 Cayman at a prestigious Jamaican
22 be happy to make him available.

23 COMM. BOGLE: Mr. Secretary, have you requested
24 Mr. McFarlane?
25 MR. DEFRALTO: We wrote to him from 2000

- 1 COMM. BOGLE: I understand that we wrote to him in
2 2009. If you can give us an address for
3 him, then if necessary we will send a
4 request directly if you have an address
5 for him.
- 6 MR. LEVY: You can send to his boss in writing.
- 7 COMM. BOGLE: Okay, we will pursue that to try and get
8 Mr. McFarlane.
- 9 MR. LEVY: Is Mr. P.J. Patterson coming to give
10 evidence at this Enquiry?
- 11 COMM. BOGLE: No, we have not requested Mr. P.J.
12 Patterson because I think that in terms
13 of the policy as we see our Terms of
14 Reference we got the Bank of Jamaica and
15 we got the Minister...
- 16 MR. LEVY: Sorry, sir, I am not hearing you.
- 17 COMM. BOGLE: In terms of policy and in terms of our
18 Terms of Reference, we got the Bank of
19 Jamaica and we got the Minister of
20 Finance and we do not see it necessary
21 to ask the Honourable P.J. Patterson to
22 be here.
- 23 Mr. Moodie, you wanted to say something?
- 24 MR. MOODIE: No, sir.
- 25 COMM. BOGLE: Okay, Mr. Campbell, we are going to

1 adjourn now and I am sure you will be
2 happy because you have a lot of homework
3 to do and we do hope that you will take
4 full advantage of the time allowed for
5 your homework.

6 MR. CAMPBELL: I will, Mr. Chairman, thank you.

7 MR. MOODIE: Might Mr. Campbell liaise with
8 Mr. DePeralto to set the date for his
9 return?

10 COMM. BOGLE: Sure. Mr. Levy?

11 MR. LEVY: On the Schedule Mr. Chairman, I see
12 Jamaican Redevelopment Foundation, but
13 there is no name. Do you know who is
14 coming from the Jamaican Redevelopment?
15 COMM. BOGLE: Do we know?

16 MR. DEPERALTO: No, I have asked Myers Fletcher and
17 Gordon to advise and I have been
18 promised that they will advise.

19 COMM. BOGLE: We have not got the name of the person
20 who will be representing Jamaican
21 Redevelopment Foundation. We have one of
22 the attorneys here, I don't know if he
23 can shed some light on it. Mr. Goffe?

24 MR. GOFFE: Mr. Commissioner, I certainly intend to
25 ensure that the statement is circulated

1 as quickly as possible and I am sure
2 that Mr. Levy will get the copy of the
3 statement.

4 COMM. BOGLE: Do you know who will be representing
5 JRF, can you say?

6 MR. GOFFE: I can't say Commissioner.

7 COMM. BOGLE: Just the name of the person who will be
8 representing the organization?

9 MR. GOFFE: Sure, Mr. Jason Rudd.

10 COMM. BOGLE: Mr Jason Rudd?

11 MR. GOFFE: Yes, sir.

12 MR LEVY: And how long Mr. Jason Rudd has been
13 there?

14 COMM. BOGLE: When he comes we will ask him.

15 MR LEVY: Mr. Chairman, what I am trying to avoid
16 is a man who has just come to the
17 company coming to give evidence of
18 things which happened five years ago.

19 COMM. BOGLE: Well, put it this way, we have Mr.
20 Campbell and Mr. Campbell is giving
21 evidence about something that was before
22 his time.

23 MR LEVY: Mr. Campbell can't even give evidence
24 enough of his own company.

25 COMM. BOGLE: No, let us not go there.

1 MR. LEVY: Mr. Chairman, I just want to put you on
2 notice.

3 COMM. BOGLE: However, we will deal with that question
4 on Tuesday morning.

5 MR. LEVY: Yes, sir.

6 COMM. BOGLE: And you Mr. Goffe, please submit the
7 statement as early as possible.

8 MR. GOFFE: I just wish to remind the Commission
9 that JRF submitted a statement in 2009,
10 June 2009 JRF submitted a statement.
11 And in light of the information which
12 has come to light then we are doing a
13 revised supplementary. I am not sure if
14 Mr. Levy has been provided with this
15 statement from June 26, 2009, but
16 perhaps he could get to work on that if
17 the Commission is so minded to assist
18 him.

19 COMM. BOGLE: Okay, we will look into that matter and
20 obtain a copy so that Mr. Levy can get
21 that while you work on the update or the
22 additional one.

23 MR. LEVY: Thank you, sir.

24 COMM. BOGLE: Okay ladies and gentlemen, we will then
25 adjourn until Tuesday morning at 9:30.

1 2

At that time the representative from Jamaican
Redevelopment Foundation should be here.

3 4

Thank you very much. Have a good afternoon.

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ADJOURNMENT

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