

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
WEDNESDAY, 17TH NOVEMBER, 2010

PRESENT WERE:

COMMISSIONER

Mr. Charles Ross

MEMBERS

Mr. Worrick Bogle

COUNSEL FOR THE COMMISSION

Hon. Justice Henderson Downer (Retired)

SECRETARY TO THE COMMISSION

Mr. Fernando DePeralto

REPRESENTING THE BANK OF JAMAICA AND HON. OMAR DAVIES

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

REPRESENTING JAMAICA REDEVELOPMENT FOUNDATION

Mrs. Sandra Minott-Phillips - Attorney-at-law

REPRESENTING FINSAC'D ENTREPRENEURS

Mr. David Wong Ken - Attorney-at-law

REPRESENTING MR. DEBTOR 18 DIRECTOR

Mr. Anthony Levy -- Attorney-at-law

REPRESENTING MRS. DEBTOR 16

Mr. Alexander Williams - Attorney-at-law

REPRESENTING MR. PATRICK HYLTON

Mr. Dave Garcia -- Attorney-at-law

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Wednesday, November 11, 2010

CHAIRMAN:

Good morning, ladies and gentlemen. This
Enquiry is now in session.

-----you---know, the omission s ou y now
been have been completed. We however hope we
will be able to press on with the sitting.
Sitting at the head table of course is,
myself and Charles Ross, Commissioners, and
the Honourable Mr. Justice Downer, retired,
will provide counsel to the Commission.
Just to remind persons in attendance of the
Commission's Terms of Reference, I'll now
read extract from such as it pertains to
witnesses and submissions which will be
presented by the witnesses to be called over
the next few days. The extracts are:
To review the operations of FINSAC in
relation to the delinquent borrowers and
determine whether debtors were treated
fairly and equally;
To review the probity and propriety in
FINSAC's management, sale and/or

1 disposal of assets relating to
2 delinquent borrowers;
3 To review the terms and conditions of the
4 sale of non-performing loans to the
5 Jamaican Redevelopment Foundation;
6 To review the practices of the Jamaican
7 Redevelopment Foundation in the treatment
8 of delinquent borrowers and, in
9 particular, the management, sale and/or
10 disposal of their assets.

11 So those are the
sections, points that I

12 am sure will apply as we look at our
13 witnesses over the next few days.

14 At this time therefore, I'll call the
15 first witness and ask Mr. DePeralto to
16 swear the first witness.

17 (MRS. DEBTOR 16 CALLED AND SWORN)

18 Thank you.

19 Mr. Williams, you may begin taking your
20 witness through.

21 MR. WILLIAMS: May it please you, Mr. Chairman, I took the
22 liberty of preparing these submissions on
23 behalf of Mrs. DEBTOR 16 and it is my
24 intention to just simply take her through
25 those submissions, Mr.

1 Chairman, and then...

2 Just before you continue, could we have the name of

3 Counsel.

WILLIAMS: If it pleases you, 'r.

5 Chairman, my name is Alexander

Williams and I represent Mrs. DEBTOR 16.

7 MR. POWELL: Kevin Powell. I am

8 instructed by

Michael Hylton and Associates and I am here
as Counsel for Dr. Omar Davies and

10 the Bank of Jamaica.

11 CHAIRMAN: Go ahead, Mr. Williams.

12 MR. WILLIAMS: If it pleases you sir, Mrs. DEBTOR 16
13 can you hear me?

14 MRS. DEBTOR 16: Yes, I am hearing you.

15 MR. WILLIAMS: And you need to speak up so we can all
16 hear what you have to say.

17 Where do you live, Mrs. DEBTOR 16?

18 A: I now stay at HOME ADDRESS

19 .

20 Q: And when you say you stay at HOME ADDRESS
21 , is that your residence, is that
22 where you live?

24

23 A: Well I have to say

25

Q: that is where I live because I don't have any

house.

You used to have a house?

1 A: Yes, I used to.

2 Q: And that house was located where?

3 A: At SPANISH TOWN

wn.

5 Q: How is it that you no longer have this
6 house?

7 A: I got a letter in 2008 from a lawyer that
8 I must come out of the house, I must give
9 up the house because it was sold, it was
10 bought by a lady.

11 MR. WILLIAMS: May it please you, Mr. Chairman, do you
12 mind if I lead the witness a bit?

13 CHAIRMAN: Yes, it is important for you to do so.

14 MR. WILLIAMS: That particular property was mortgaged?

15 A: I paid mortgage for it.

16 Q: What I am saying is, did you -- was it
17 mortgaged to National Commercial Bank
18 some years before that?

19 A: Yes.

20 Q: That mortgage was to secure a debt for
21 your daughter's company?

22 A: Yes.

23 Q: That company, you remember the name? It
24 was National...

24 A:

25 Q:

Well, the company that your daughter was

1 involved with ---- may I, M' Lord?

2 CHAIRMAN: Yes.

3 Q: DEBTOR 16'S DAUGHTER'S
Corporation Limited?

5 Q: es

6 You were guaranteeing a loan for that

7 A: company?

Yes, for her.

8 Q: You remember how much money was the
9 subject of the loan for which you were
10 guaranteeing?

11 A: Yes, I do remember.

12 Q: How much?

13 A: It was XXX million Jamaica dollars or
14 XXXX thousand US Dollars.

15 Q: Can you say, Mrs. DEBTOR 16, if the loan
16 was serviced, was it paid?

17 A: She started to pay it but she couldn't
18 so she contacted -- we heard that it was
19 now in the hand of Jamaican
20 Redevelopment Foundation, so she
21 contacted them because it was not really
22 them that she borrowed the money from.

24 Q: As a result of your
-- daughter contacting

them are you aware -- when you say
'them' you mean she contacted Refin?

1 A: She contacted Jamaican Redevelopment
2 foundation Inc.

3 Q: Jamaican Redevelopment Foundation?

A. es

5 Q: As a result of her contacting them, are
6 you aware of any letters, any letters
7 thereafter?

8 A: Yes, I do.

9 Q: Any particular letter comes to mind?

10 A: Yes.

11 Q: Which letter is that?

12 A: A letter dated the 8th of May 2003.

13 MR. WILLIAMS: May it please you, Mr. Chairman, do I
14 need to formally tender it as it is a
15 part of the submission?

16 Q: I would suggest that you formally tender
17 it.

18 When that is tendered we will put that
19 as Exhibit 1 (DEBTOR 16-), DEBTOR 16, so
20 that we will not confuse this with
21 another case.

22 MRS. DEBTOR 16: Can I read the letter?

23 CHAIRMAN: Yes, by all means?

24 A: The address:

25 **Dennis Joslin Jamaica, Inc.,**

1 6 St. Lucia Avenue,
2 2nd Floor, P.O. Box 54,
3 Kingston 5, Jamaica W.T.

DEBTOR 16'S DAUGHTER

5 DEBTOR 16'S DAUGHTER ADDRESS

6 Re: Indebtedness to Jamaican
7 Redevelopment Foundation, Inc.

8 9 Dear Ms. DEBTOR 16'S DAUGHTER:

10 After your meeting with us last week, We
11 have discussed your situation in depth.
12 It appears to us that your financial
13 situation with the addition of a substantial
14 monthly note payment would become
15 untenable. With that in mind we have a
16 possible solution that our Credit Committee
17 might consider if you and your mother would
18 agree to it. If your mother would deed the
19 house to us we could give her a lifetime
20 dowry in the house wherein she (and all
21 of your family) could remain there for as
22 long as she lives without payment except
23 for any taxes or insurance. Upon her death,
24 we would sell the house at a... possible
25 price. Upon the sale of the house we

1 2 would retain the total of our JSXXX mortgage
 plus interest. The 3 remaining portion
 of the net proceeds

wou • •e •zspere

5 restructure, the JSXXX will be converted to
 6 US dollars and the interest would accrue at
 7 12% annual percentage rate.

8 We are sympathetic to your situation.

10 This plan offers your

family the

11 opportunity to remain in your home
 12 without having to worry about payments.
 13 Please respond to this suggestion with
 14 due haste as we must make a decision
 15 forthwith.

16 Sincerely

17 Mrs. Patterson.

18 Loan Recovery Manager.

19 MR. WILLIAMS: Mrs. DEBTOR 16...

20 MRS. PHILLIPS: Mr. Chairman, I am Counsel for Jamaican
 21 Redevelopment
 22 Foundation.

23 Just to say that there are some words that
 24 were omitted from what was read.

--

In the sentence 'upon her death we would sell the house', the words,
'for the

1 best' were omitted before 'possible
2 price'.

3 CHAIRMAN: Fine.

•image':_";,....

..**

5 MR. WILLIAMS: As I understand it the entire letter
6 would be in evidence as an exhibit even
7 if Mrs. DEBTOR 16 doesn't read it
8 properly, it is there in evidence.

9 CHAIRMAN: Yes. Continue, Mr. Williams.

10 MR. WILLIAMS: Mrs. DEBTOR 16, it says, 'please respond
11 to this suggestion...'

12 A: Yes.

13 Q: Are you aware of any response?

14 A: Yes, sir.

15 Q: Who responded?

16 A: The response - Robert Best....

17 Q: Sorry. The question was asked who
18 responded?

19 A: My daughter.

20 CHAIRMAN: What is her name?

21 A: DEBTOR 16'S DAUGHTER.

22 CHAIRMAN: Okay, go ahead.

23 MR. WILLIAMS: Did she do so by letter?

24 A: Yes.

25

Q:

That letter is dated when?

1 A: The 12th of May, 2003. She wrote them
2 the 12th of May, the letter dated...

3 CHAIRMAN: Just a minute. Exhibit DEBTOR

16-2. t7o ahead.

5 A: Dennis Joslin Jamaica Inc.
6 6 St. Lucia Avenue.
7 2nd Floor.
8 P.O. Box 54, Kingston 5, Jamaica WI.
9 Dear Sir & Madam.
10 I am in receipt of your offer dated May
11 8,2003.
12 Re indebtedness to Jamaican
13 Redevelopment Foundation Inc.
14 As stated giving my mother a lifetime
15 dory in her house to **remain** for as long
16 as she lives without payment except for
17 taxes and insurance, only selling the
18 house on her death and retaining the
19 total JA\$XXXX mortgage. I
20 appreciate your consideration with the
21 extraneous situation. I am pleased to
22 confirm that my mother and my family are
23 prepared to agree to the proposal and
24 hereby formally write to accept the same.

25

assist her in finding what you want her

1 to look at.

2 A: The one that says "**To the Secretariat,**
3 **FINSAC Commission of Enquiry**"?

4 Q: 'I`nis document (Document shown to witness)

5 MR. WILLIAMS: May we enquire whether the Commission
6 has a copy? If it pleases you Mr.
7 Chairman, it appears Mrs. DEBTOR 16 does
8 not have the complete submission. I am
9 wondering for ease if I should hand her
10 a copy of our complete submission.

11 CHAIRMAN: I suggest that you do so, so she can

12 proceed with her submission.
13 MRS. PHILLIPS: With your leave, sir, I have not received
14 a copy.

15 CHAIRMAN: And that we will put right shortly but
16 at the same time I suggest that we
17 proceed and that you will get a copy of
18 the submission during the course of the
19 day but I suggest that we can proceed
20 without your having the actual document
21 in front of you because areas of the
22 submission will be read as we go along.

23 MRS. PHILLIPS: Very well Mr. Chairman, so noted. And I
24 just wish to remind you that I believe
25 that there was an assurance that where

1 persons were coming to give evidence that
2 touched and concerned my client,

3 that I would have received copies of

5 e
6 ir s a e m e n t s a s a n d w h e n t h e y w e r e r e c e i v e d
7 by the Commission. It is a little difficult
8 to treat with the evidence in
9 circumstances where I am actually learning
10 what it is as the witness is speaking.

10 CHAIRMAN: We got the submission a bit late but
11 you will get a copy of the submission
12 today and if necessary any witness that
13 we call will be subject to recall and so
14 if you, after reading it, wish to ask
15 questions as it relates to your
16 representation of your client then we
17 will make the recall but I suggest, in
18 other words, to get the enquiry moving
19 that we proceed as we are now and we
20 make every effort to get the copies.

21 MRS. PHILLIPS: Very well.

22 CHAIRMAN: Proceed.

23 MR. WILLIAMS: I am just going to point her to the
24 Page. Yes.

25 CHAIRMAN:

1 MR. WILLIAMS: Mrs. DEBTOR 16, in front of you is a
2 letter from Jamaican Redevelopment
3 Foundation?

4 A: Yes, sir.

5 Q: It is dated 7th of April 2008?

6 A: Yes, sir.

7 Q: What does that letter say,
8 Mrs. DEBTOR 16? First of all you recall
9 seeing that letter?

10 A: No, I have never had anything like this.

11 Q: What does that letter say,
12 Mrs. DEBTOR 16?

13 A: It says Jamaican Redevelopment
14 Foundation Inc.
15 I write on behalf of Jamaican
16 Redevelopment Foundation Inc.
17 Having acquired the non-performing loan
18 portfolio from...

19 CHAIRMAN: Could you try and read as the letter
20 states.

21 A: It is that I am reading from.

22 CHAIRMAN: You need to read Jamaican Redevelopment
23 Foundation having acquired...

24 A: Yes.

25 CHAIRMAN: Go ahead.

1 A: Having acquired the non-performing loan
2 portfolio from Financial Institutions

~~Services Limited, Workers Savings and Loans Sank and Ref-in Trust Limited, has~~

now assumed the conduct of this matter: The
captioned debt forms part of the
aforementioned portfolio.

6

7

Please be advised as follows:

8

1. As at April 7 2008, DEBTOR 16'S DAUGHTER'S

9

Corporation Limited was indebted to

10

Jamaican Redevelopment Foundation Inc., *in*

11

the sum of XXX Jamaican Dollars XXXX Cents

12

(\$XXXX), with interest accruing at the rate

13

of Thirty percent (30%) per annum, or

14

JS11.61 per diem, and XXXX United States

15

Dollars and Fifty-one cents (US\$XXXX),

16

with interest accruing at the rate of

17

Fifteen Percent (15%) per annum/or daily

18

accrual

19

USD82.28.

20

You have guaranteed the liability of the

21

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CHAIRMAN:

tendered as Exhibit 3.
Yes, Exhibit DEBTOR 16-3. This is the
letter from Jamaican Redevelopment
Foundation dated April 7, 2008.
continued

1

2 Q: if you turn the page Mrs. DEBTOR 16.

3 A: I have it, sir.

4 Q: Do you see another letter from Jamaican

5 Redevelopment Foundation dated 7th

6 April 2008?

7 A: Yes, sir.

8 Q: Could you read that letter,

9 Mrs. DEBTOR 16?

10 A: Do I need to read the caption?

11 Q: Yes.

12 A: **Jamaican Redevelopment Foundation, Inc.**

13 **By Registered Mail**

14 **April 7, 2008**

15 **Miss DEBTOR 16**

16

17 **St. Catherine.**

18 **Dear Miss DEBTOR 16**

19 **Re: Indebtedness of DEBTOR 16'S DAUGHTER'S**

20 **Co-operation Limited to Jamaica**

21 **Redevelopment Foundation Inc.**

22 **I write on behalf of Jamaican**

23 **Redevelopment Foundation Inc.**

24 **Jamaican Redevelopment Foundation, Inc.**

25 **having acquired the non-performing loan**

1 portfolio from Financial Institutions
2 Services Limited, Workers Savings and
3 Loan Bank and Refin Trust Limited, has now
4 assumed conduct of this matter. The
5 captioned debt forms part of the
6 aforementioned portfolio.

7 Please be advised as follows.

8 **As at April 7, 2008 DEBTOR 16'S DAUGHTER'S**
9 **Corporation Limited was indebted to**
10 **Jamaican Redevelopment Foundation Inc. in**
11 **the sum of XXX Million, XXX Thousand, XXX**
12 **Jamaican Dollars and XXX (J\$XXX), with**
13 **interest at the rate of Thirty Percent**
14 **(30%) per annum compounding monthly or**
15 **daily accrual J\$XXX.**

16 You have guaranteed the liability of the
17 said DEBTOR 16'S DAUGHTER'S Corporation
18 Limited, under and by virtue of an
19 Instrument of Guarantee dated January
20 26, 1995.

21 DEBTOR 16'S DAUGHTER'S Corporation
22 Limited is in default of its
23 obligation.

24 We hereby make formal demand upon you for
25 payment of the sum of XXX Million,

1 XXXX Jamaican dollars and XXXX Cents
 2 (J\$XXX) plus per diem interest of XXXX
 3 hundred and ~~XXXX~~ cents (J\$XXXX), in
 4 accordance with the
 5 7 said Instrument
 6 of Guarantee, within
 8 fourteen days of the date hereof. In
 9 the event of your failure to comply, we
 10 **shall have no alternative but to**
 11 **commence legal proceedings to recover**
 12 **the debt without further reference to**
 13 **you.**

14 **Yours Truly**
 15 **Jamaican Redevelopment Foundation Inc**
 16 **Joe W. Gibson IV**
 17 **Asset Manager**
 18 **Jamaica Branch**

19 Q: if it pleases....

20 MRS. PHILLIPS: Before the request to tender,
 21 Mr. Chairman, I don't recall my friend
 22 Mr. Alexander Williams having
 23 established for us the connection
 24 between this witness and DEBTOR 16'S

DAUGHTER'S

25 Corporation Limited. Through you I ask

1 that that be done.

2 MR. WILLIAMS: At the beginning I established that

3 Mrs. DEBTOR 16 guaranteed the debt of

4 DEBTOR 16'S DAUGHTER'S Corporation Limited.

The

5 mortgage was as over her property as

6 guarantor for the debt of DEBTOR 16'S

DAUGHTER'S

7 Corporation Limited, I did so establish

8 at the start.

9 MRS. PHILLIPS: Very well.

10 CHAIRMAN: Okay thanks. Go ahead you were about to

11 say Mr. Williams.

12 MR. WILLIAMS: Might it so please you, might that be

13 tendered as DEBTOR 16-4.

14 CHAIRMAN: Okay, moving along.

15 Q: Mrs. DEBTOR 16, did you guarantee any

16 debt of DEBTOR 16'S DAUGHTER'S Corporation

Limited

17 other than the XXXX Million Dollars in

18 2003, was there any other guarantee that

19 you gave to anyone in respect of

20 DEBTOR 16'S

DAUGHTER'S Corporation Limited?

21 A: Yes, I gave them

22 a piece of land I had for they say my money

23

24 Q:

25 A:

was not enough to pay the debt.

You gave other property for a debt? Yes, the same debt.

1 Q: So what I am asking you is, apart from
2 the XXXX Million Dollars or US...

3 A: XXXX thousand.

4 Q: Equivalent of US\$XXXX in 1993, I am
5 sorry, I beg your pardon. Was there any
6 other money that you guaranteed DEBTOR 16'S
7 DAUGHTER'S
8 Corporation's debt?

8 A: No, sir.

9 Q: So that XXXX Million Dollars in 1993
10 which was defaulted on became \$XXXX
11 Million in respect of the 7th of
12 April 2008?

13 A: Not ten.

14 Q: Well, there are two letters, one letter
15 saying \$XXXX Million and another one
16 saying in excess of \$XXXX Million?

17 A: \$XXXX Million.

18 Q: And there are two letters from
19 Redevelopment Foundation Inc, one saying
20 \$XXXX and one saying \$XXXX Million. What
21 I am asking you is, the only debt which
22 you guaranteed was the XXXX Million
23 Dollars in 1993?

24 A: Yes, sir, that is the only debt with
25 DEBTOR 16'S DAUGHTER'S . Corporation.

1 Q: At some point did you engage an
2 attorney, did you get an attorney at some
3 point?
4 A: For what?
5 Q: Alright, you are no longer in the house? No,
6 A: I live on the street. Your house was sold?
7 Q: Yes, sir.
8 A: Sold by the mortgagee?
9 Q: Yes but they didn't....
10 A: At that point did you get an attorney?
11 Q: After the house was sold. Did you engage
12 A: me as your attorney,
13 Q: Mrs. DEBTOR 16?
14 After the house was sold. Question,
15 A: you engaged me as your attorney?
16 Q: After the house was sold.
17 For the first time after the house was
18 A sold?
19 Q: Yes.
20 Did you engage me to make enquiries about
21 A: this debt owing to the mortgagee? Yes, sir.
22 Q: Could you look at the next letter
23
24 A:
25 Q:

1 Mrs. DEBTOR 16?

2 A: It is you why I hear of many little
3 things because I did not hear of those
4 things before, it was you who informed
5 me about all that is happening to me.

6 Q: Mrs. DEBTOR 16, could you look at the
7 next letter before you -- well, can I
8 ask you this, you know how much the
9 house was sold for, you recall?

10 A: I think it is you who told me XXXX
11 Million XXXX Hundred Thousand, you told
12 me.

13 Q: Very well. There is a letter there
14 Mrs. DEBTOR 16, you see that letter
15 dated 24th September, 2009?

16 A: Yes, sir.

17 Q: That is addressed to whom now?

18 A: It was Mr. Alexander Williams.

19 Q: That is the letter from Jamaican
20 Redevelopment Foundation addressed to
21 -- could you read it please,
22 Mrs. DEBTOR 16?

23 A: **Attention Mr. Alexander Williams**
24 **Usim, Williams & Company.**
-- **Attorneys-at-law.**

1 **52 Duke Street**
2 **Kingston**
3 **Attention: Mr. Alexander Williams.**
4 **Dear sirs:**
5 **Re: Mortgage No. XXXX registered on**
6 Duplicate Certificate of Title at Volume
7 **XXX Folio XXX.**
8 **Reference is made to your letter dated**
9 **the 16th instant.**
10 **We attach hereto copy letter dated April**
11 **15, 2009 and the attached Vendor's**
12 **Statement which was sent to your client.**
13 **We also attach a copy of the Valuation**
14 **Report which indicates an appraised**
15 **market value of \$XXXX. Please note**
16 the property was sold for \$XXXX an
17 amount in excess of **the market value**
18 indicated.
19 Yours truly
20 **Jamaican Redevelopment Foundation Inc.**
21 **Jamaica Branch.**
22 Q: If it pleases you Mr. Chair, DEBTOR 16- 5?
23 A: Continue, sir?
24 Q: Moment, DEBTOR
25 CHAIRMAN: 16- 5?

Go ahead Mr. Williams.

1 Q: Now, overleaf Mrs. DEBTOR 16, you see a
2 letter from Jamaican Redevelopment
3 Foundation Inc.?
4 A: Yes, addressed...
5 Q: To you?
6 A: Yes.
7 Q: Read it.
8 A: **April 15, 2009.**
9 **DEBTOR 16,**
10
11 **Spanish Town**
12 **Dear Mrs. DEBTOR 16**
13 **Re: Sale of XXX,**
14 **St. Catherine registered at**
15 **Volume XXX, Folio XXX.**
16 **The referenced property has been sold**
17 **under the powers of sale contained in**
18 **the mortgage. The property registered**
19 **at Volume XXX Folio XXX was sold for**
20 **\$XXXX with the net proceeds of**
21 **J\$XXXX applied to the**
22 **account(s), the Vendor's **Statement of****
23 ****Account is attached. As at today's date,****
24 **the balance on the account is**
25 **\$XXXX with interest accruing**

1 at 30% per annum compounding monthly.

2 Sincerely,

3 Jamaican Redevelopment Foundation Inc.

4 Joe W. Gibson IV

5 Asset Manager

6 Jamaica Branch

7 Q: Now that letter says that there is a
8 Vendor's Statement of Account enclosed
9 in that letter. You see that? It
10 refers to a Vendor's Statement of
11 Account, could you look overleaf
12 Mrs. DEBTOR 16?

13 CHAIRMAN: Are you putting this in evidence?

14 Q: There are enclosures with the letter and
15 I am hoping to put them in as one if it
16 pleases you, Mr. Chairman. You see that
17 Vendor's Statement of Account?

18 A: Yes, I see it.

19 Q: And -- well, first of all, do you see
20 the figure of \$XXXX on the
21 Vendor's Statement of Account?

22 A: No, I have not seen that, sir.

23 Q: Can you tell from the Vendor's Statement
24 of Account, that same Vendor's Statement
25 of Account how the figure of

1 \$ XXXX Million to reduce the XXXX hundred
2 and odd million dollars to \$ XXXX
3 Million, was anything else sold to
4 reduce the debt down to \$ XXXX Million
5 that you are aware of?

6 A: No, sir.

7 Q: Do you know how the figure of XXXX
8 hundred million was arrived at?

9 A: No, sir, I have not been hearing
10 anything at all from Redevelopment
11 Corporation, nothing at all.

12 Q: Do you know how the figure of \$ XXXX
13 Million was arrived at?

14 A: No, sir. And it was you who told me for
15 you investigated after the house was
16 sold.

17 CHAIRMAN: Did you request a statement from
18 Jamaican Redevelopment Foundation at any
19 time?

20 A: I put it in my lawyer's hand.

21 Q: As a matter of fact, Mrs. DEBTOR 16...

22 A: That is how I get to know what is going
23 on, you investigated for me and told me
24 what was going on because I don't hear
25 anything from them.

1 Q: In fact Mrs. DEBTOR 16, you were advised
2 by me that this account which is
3 enclosed dated the 15th April 2009 was
4 what I received as the account of your
5 debt?

6 A: Yes, sir.

7 Q: Mr. Chairman, I wonder if it is
8 necessary to put in the copy of the
9 title, I believe the mortgage itself is
10 a part of your bundle, I don't know if I
11 should formally tender the copy title
12 and the mortgage?

13 CHAIRMAN: If you so wish, if you deem it important
14 enough.

15 Q: I think it's necessary for the
16 background, the copy Title Volume XXX
17 Folio XXX and then there is the mortgage
18 which is Mortgage Number XXXX; the
19 copy title perhaps could be DEBTOR 16-7.
20 CHAIRMAN: Yes, DEBTOR 16-7.

21 Q: And then the mortgage which is mortgage
22 number XXXX would be DEBTOR 16-8 and if it
23 pleases you Mr. Chairman, I have no
24 further questions.

25 CHAIRMAN: Okay just before we go to that, I think

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it is that time when we take our coffee
break and we take fifteen minutes coffee
break and come back.
10:25
continued

6

1 ON RESUMPTION

2 CHAIRMAN: Okay, we are back in business now.

3 Mr. Williams?

4 MR. WILLIAMS: It it pleases you Mr. U`nairman, the

5 complaint that Mrs. DEBTOR 16 wishes the

6 Commission to enquire into would

7 include:

8 First of all, **Why was the property sold,**
9 **despite the principal debtor's agreement**
10 **to the proposal set out in letter dated**
11 **8th May, 2003 from Dennis Joslin Jamaica**
12 **Incorporated.**

13 And I would pause here to say Mr.

14 Chairman, that that letter, Dennis

15 Joslin Jamaica, Incorporated held itself
16 out as an agent of Jamaican

17 Redevelopment Foundation.

18 The second thing is: **How was the**

19 **property sold in the absence of a**

20 **statutory notice under the Registration**

21 **of Titles Act, but apparently based on a**
22 **threat of legal action?**

23 And Mr. Chairman, if you were to look at

24 the letters of 7th April, 2008, DEBTOR 16-3

and

25

DEBTOR 16-4, Mr. Commissioner, you will note

1 that both letters are on the same date and
2 signed by the same person saying in one
instance that the debt is \$ XXXX M and

4 e o e r i n s a n c e . e . is a
5 But more to the point though, and it
6 would be my submission, could not
7 be statutory notices, because they end by
- saying: "**shall have no alternative**
9 **but to contenance legal proceedings to**
10 **recover the debt without further**
11 **reference to you.**" There is no threat of
12 a sale in either letters of 7th April
13 2008. Both were sent by registered
14 mail. What these letters are purporting
15 to do is to commence litigation to
16 recover the sums of \$ XXXX M and \$ XXXX M.
17 The next question is: **How did a**
18 **principal debt of \$ XXXX which was**
19 **disbursed in December 1993 become**
20 **\$ XXXX in April of 2008?**

21 CHAIRMAN: Can we have some silence please. Go
22 ahead Mr. Williams.

23 MR WILLIAMS: Fourthly: **How did an alleged debt of**
24 **\$ XXXX between April of 2008**
25 **be reduced to \$ XXXX in 2009**

1 **after selling the property for \$**

2 XXXX?

3 And frankly, Mr. Chairman, I can't seem o •o

4 earl **metics** in my head, now in a short space

5 of just over a year after you stated \$ XXXX

6 M you managed to apply Three point three to

7 that debt and reduced the debt to \$ XXXX,

8 which presumably caused me to question

9 whether the debt was XXXX Million in the

10 first place. And if I might add Mr. Chairman,

11 the Statement of Accounts which was enclosed

12 in the letter of September of 2009 with the

13 enclosure - sorry, the letter of 15th April,

14 2009, the cover letter says that the debt

15 after the sale was \$ XXXX. It is just simply

16 stated in the cover letter. There is

17 attached a Vendor's Statement of Account,

18 which on the face of it is basically dealing

19 with the sale itself rather than the

20 comprehensive statement as to how that

21 figure of XXXX Million Dollars was arrived

22 at as being

23

24

25

1 outstanding.

2 **And fifthly: Was a statutory notice**
3 **issued for the sale of the property?**

4 these are the questions that we are asking
5 the Commission to consider. May it so please
6 you.

7 CHAIRMAN: Thank you Mr. Williams.

8 Mrs. Minott-Phillips, you wish to
9 address us?

10 MRS. PHILLIPS: Thank you Mr. Chairman. Firstly, I wish
11 the record to show that the letter to
12 the Commission in relation to this
13 complaint is dated June 28, 2010, and
14 the Submission itself to the Commission
15 is dated August 31, 2010 and today is
16 November 17, 2010 and that I received
17 this as the witness was giving her
18 evidence. This witness so far as I am
19 aware, her name first emerged on a list
20 of witnesses on a list that I received
21 by e-mail from the Commission yesterday,
22 It follows from that that I had no time
23 to consult with my client in relation to
24 any of these allegations and so I would
25 wish, if there should be a need, we

1 reserve the right to have this witness
2 recalled. As you had indicated it would be
3 an opportunity afforded in the

4 circumstances of me receiving
5 information while the witness is giving
6 her evidence.

7 However, that said, there are a few
8 questions which I wish to ask. Could I
9 be shown Exhibit DEBTOR 16-3, it was one of the
10 letters handed up this morning.

11 CHAIRMAN: April 7, 2008 letter.

12 MRS. PHILLIPS: I don't think we have a copy of that.

13 CHAIRMAN: It is April 7, 2008 to Mr. Lloyd
14 DEBTOR 16 and Mrs. DEBTOR 16.

15 (Letter passed to Mrs. Phillips)

16 MRS. PHILLIPS: Thank you Mr. DePeralto. I have now
17 been loaned a copy.

18 Would you agree with me, Mrs. DEBTOR 16,
19 that the debtors in addition to the name
20 of the company that you mentioned

21 DEBTOR 16'S DAUGHTER'S Corporation Limited, I
believe, were also JANE DOE

22 and DEBTOR 16'S DAUGHTER?

23 MRS. DEBTOR 16: Yes.

24 Q: If you look at the letter of May 12,

25

2003, which I believe was Exhibit DEBTOR 16-2, 1

1
2
3

don't have a copy - oh, I think it is in the
bundle actually, if you look in your - did
she get the whole bundle?

4 CHAIRMAN: Yes.

5 MRS. PHILLIPS: All right, turn to the second page.

6 A: Yes.

7 Q: You see the letter dated May 12, 2003?

8 A: Yes, I do.

9 Q: Do you agree with me that there is no
10 signature there on behalf of JANE DOE
11 ?

12 A: (No answer)

13 Q: Do you agree that there is no signature
14 there on behalf of JANE DOE?

15 A: Yes.

16 Q: Do you also agree that there is no
17 signature there on behalf of DEBTOR 16'S
DAUGHTER'S
18 Corporation Limited?

19 A: (No answer)

20 Q: Do you agree that there is no signature
21 there on behalf of DEBTOR 16'S DAUGHTER'S
Corporation
22 Limited?

23 A: Signature in what?

24 Q: The letter dated the 12th of May, 2003
25 you don't see any there?

1 A: I don't see any.

2 Q: Okay, thank you. Now, would you look for me

3

5 at Exhibit DEBTOR 16-8, that is the

6 instrument of Mortgage -- Mr. Williams,

7 perhaps you could help her for me to find

8 MR WILLIAMS: the Instrument of Mortgage, so kindly.

9 MRS. PHILLIPS: Yes.

 Show her the signature for me please.

 (Signature shown)

10 Mrs. DEBTOR 16, do you agree with me that

11 your signature appears on the Instrument

12 of Mortgage, dated December 13, 1993 over

13 Volume XXX Folio XXX? Please repeat.

14 Do you agree with me that your signature

15 A: appears on that document?

16 Q: Yes.

17 Thank you. I draw the attention of the

18 A: Commission to - well, first of all, the

19 Q: first page of that document, do you agree

20 with me Mrs. DEBTOR 16, that the Instrument

21 of Mortgage reflect a mortgage given by you

22 and I assume your husband?

23

24

25

1 A: Yes.

2 Q: To National Commercial Bank, Jamaica

3 Limited in 1993?

4 A: Yes.

5 Q: And do you agree with me that you - you can

6 show her the Schedule for me. Do you agree

7 that you guaranteed a loan that was

8 originally borrowed from National

9 Commercial Bank in 1993?

10 A: Yes.

11 Q: And do you accept that you agreed to pay

12 National Commercial Bank 20% above the

13 Prime Rate, the then existing Prime Rate as

14 interest on the debt?

15 A: I can't answer you.

16 Q: I know you read very well, so look at the

17 part marked Schedule. You are on that

18 page?

19 A: Yes.

20 Q: Let us go down to the item marked Original

21 Rate of Interest. Do you see that item?

22 Yes, I see it.

23 A: And do you see beside the item "**Original Rate**

24 **of Interest 20% above Prime Rate**",

25

1 do you see that?

2 A: Yes.

3 Q: Okay. So do you agree that that is the
4 interest rate a you agree. to pay
5 National Commercial Bank?

6 A: (No answer)

7 CHAIRMAN: Mrs. DEBTOR 16, do you agree with that?

8 A: (No answer)

9 CHAIRMAN: The thing is that it is in the document
10 that you signed and therefore, by
11 extension I would imagine that you
12 agreed?

13 MRS. PHILLIPS: Well, I would like to have her answer.

14 CHAIRMAN: Okay.

15 MRS. PHILLIPS: Because maybe it will go to her
16 credibility. Do you agree that that is
17 the interest rate you agreed to pay?

18 A: Yes.

19 Q: Thank you. Now, if you would look at
20 page 4 of the Instrument of Mortgage.

21 A: Yes.

22 Q: I draw the Commission's attention to
23 Clause (e) firstly and with your leave, I
24 will read it.
25 **"The Bank shall be entitled to charge**

1 compound interest on any sum which may be
2 owing hereunder or hereby secured
3 calculated on daily balances with
4 monthly res s an• e ra e c arge• rom
5 time to time shall be such rate as the
6 Bank may charge in its sole discretion.
7 The Bank shall not be obliged to notify
8 the Mortgagor in advance of any change
9 in the rate of interest but on a written
10 request from the mortgagor the Bank
11 shall be obliged to specify the rate of
12 interest being charged at the time of
13 such request. This agreement shall
14 continue notwithstanding the death,
15 insanity, bankruptcy of the Mortgagor"

16 Do you agree with me, Mrs. DEBTOR 16,
17 that you and your husband agreed to pay
18 compound interest to National Commercial
19 Bank in 1993?

20 A: (No answer)

21 CHAIRMAN: Mrs. DEBTOR 16?

22 A: Yes.

23 MRS. PHILLIPS: Thank you. I next draw the attention of
24 the Commission to Clause (g) on that
25 same page:

1 **"Upon any default after any demand for**
2 **payment of the moneys hereby secured or any**
3 **part thereof or upon any other default in**
4 **non-compliance with any of the covenants,**
5 **conditions or obligations on the part of the**
6 **Mortgagor herein contained or hereunder**
7 **implied and after such default shall have**
8 **continued for three days, the Bank shall be**
9 **at liberty to give the Mortgagor notice in**
10 **writing to repay the moneys hereby secured**
11 **and if such default shall continue for three**
12 **days after the service of such notice the**
13 **statutory powers of sale and of appointing**
14 **a receiver and all ancillary powers**
15 **conferred upon the Mortgagee by the**
16 **Registration of Titles Act may be exercised**
17 **by the bank."**

18 So do you agree with me Mrs. DEBTOR 16, that
19 you agreed with the Bank that in the event
20 that the money secured by this Mortgage was
21 not repaid it could sell the property after
22 three days of serving you with a notice that
23 the debt was in default and making a demand
24 for payment,

1 yes?

2 A: (No answer)

3 Q: Do you agree with me Mrs. DEBTOR 16, that _____

that was your agreemen wi

5 National Commercial Bank?

6 A: No, I don't.

7 Q: You don't?

8 A: I don't.

9 Q: Okay. Do you agree with me that your
10 attorney has not put in evidence what
11 prime rate was in 1993, do you agree?

12 A: (No answer).

13 Q: There is no evidence before the
14 Commission of what the prime rate was in
15 1993 in relation to this Mortgage. Do
16 you agree?

17 MR. WILLIAMS: Mr. Chairman, I don't know if
18 Mrs. DEBTOR 16 can answer that question
19 or she needs to answer that question as
20 to whether or not evidence has been put
21 forward as to prime rate. I don't know
22 if she can ask Mrs. DEBTOR 16 to answer
23 that question; that is a matter for the
24 Commission.

25 CHAIRMAN: Point taken.

1 MRS. PHILLIPS: May I respond to the objection Chairman?

2 CHAIRMAN: Just a minute. I know that Mrs.

3 DEBTOR 16 is represented by counsel, but

4 a e same ime, we nave to remember

5 that she is not a lawyer and as such

6 some of the questions that you have

7 asked, it is difficult for her to answer

8 because she is not a lawyer.

9 MRS. PHILLIPS: I appreciate that, but I have tried to

10 make the questions as simple as possible

11 precisely because she is not a lawyer,

12 and that is why I took her first to her

13 signature and I asked her if this is the

14 agreement she entered into and she said

15 yes. And I have read the clauses for

16 her.

17 CHAIRMAN: Fine, but so many times unfortunately,

18 and it is not necessarily an excuse, but

19 so many times persons will sign document

20 and it is not explained to them, but on

21 an occasion like this they hear you, but

22 they still do not understand like when

23 you read the clause. So you know, from

24 that point of view, I say that it is

25 sometimes difficult for the witnesses to

1 answer because they do not necessarily
2 understand the legal terminology. Well...

3 MRS. PHILLIPS:

ac is as we

at

5 prime rate was not put in evidence.

6 MRS. PHILLIPS: Thank you.

7 CHAIRMAN:

And so therefore your question regarding
whether or not a prime rate was put, no prime
8 rate was put in evidence.

9

10 MRS. PHILLIPS: Well, that

certainly assist because now

11 we don't know what the interest rate
12 was, all we know it was 20% of prime,
13 but we do not know and no evidence has
14 been led to say what the prime rate was,
15 but we know they agreed to pay 20% above
16 prime rate compound; we know that was
17 their agreement. I think we can safely
18 assume that prime rate in 1993 was...

19 CHAIRMAN:

I regard it as nothing since it is not
20 stated here.

21 MR. WILLIAMS:

Can I assist, Mr. Chairman? It is
22 stated in the submissions: I **am unable**
23 **to state the interest rates levied on**
24 **the loan, but the effective dates appear**
25 **to be compounded monthly.** And the

1 Chairman is correct, we did not put prime
 2 rate, we don't know what the rate was.
 3 e wi no specu
 a e on e prime
 ra e at this time.

6 MR. WILLIAMS: That is one of the questions for the
 7 Tribunal.

8 MRS. PHILLIPS: I think it would be safe to say,
 9 however, that in charging or informing
 10 the debtors of a rate of 30% in 2008
 11 that Jamaican Redevelopment would have
 12 been making a concession in relation to
 13 the actual interest rate agreed to.

14 CHAIRMAN: That is an assumption?

15 MRS. PHILLIPS: It is.

16 CHAIRMAN: Right.

17 MRS. PHILLIPS: It is. And unless and until we have
 18 evidence that the prime rate in 1993 was
 19 10% or less, then it is an assumption,
 20 which needs to be made in favour of the
 21 Redevelopment Foundation Inc.

22 CHAIRMAN: Well, you have made your point.

23 MRS. PHILLIPS: Obligated. I don't think it was 10% or
 24 less.

25 CHAIRMAN: You may move on.

1 MRS. PHILLIPS: I am obliged.
2 Now, Mrs. DEBTOR 16, if you look at the
3 letter of April 7, 2008...
4
5 +the ave two letters, which **one** are you
6 referring to?
7
8 MRS. PHILLIPS: The one that is addressed to her. Can I hand
9 her a loose copy?
10
11 CHAIRMAN: Please refer to them by exhibit number for
12 me so that we know which exhibit. Well, I
13 don't know if a separate exhibit number was
14 given.
15
16 MRS. PHILLIPS: Yes.
17
18 CHAIRMAN: Well, maybe you could help me.
19 One of them is Exhibit Number 3 and the other
20 is Exhibit Number 4, that is why I am saying
21 it depends on which one, both were on the
22 same date, signed by the same person.
23 Well, I will take each of them in turn. Okay.
24
25 MRS. PHILLIPS: Mrs. DEBTOR 16 - can I show her... Can
26 CHAIRMAN: you tell me which one?
27
28 MRS. PHILLIPS: DEBTOR 16-3.
29
30 CHAIRMAN: Okay.
31
32 MRS. PHILLIPS: Mrs. DEBTOR 16, do you agree with me
33
34 CHAIRMAN:
35 MRS. PHILLIPS:

1 that this is one of the letters that
2 your lawyer took you through when he was
3 adducing evidence from you; do you agree with
me that **this** letter is notice to
5 you that the debt owed by JANE DOE
6 and DEBTOR 16'S DAUGHTER which you have
7 guaranteed is in default?

8 A: (No answer)

9 Q: Has not been paid, do you agree that
10 this is a notice that the debt owed by
11 JANE DOE and DEBTOR 16'S DAUGHTER which
12 you guaranteed has not been paid? You
13 agree that that is there?

14 A: Not for JANE DOE.

15 Q: All right, you see the paragraph with
16 the Number 2 beside it?

17 A: This one?

18 Q: No, that same letter with the Number 2
19 beside it?

20 A: Yes.

21 Q: Can you read that for me please.

22 A: **You have guaranteed the liability of the**
23 **said JANE DOE and DEBTOR 16'S DAUGHTER,**
24 **under and by virtue of an Instrument of**
25 **Guarantee dated December 13, 1993."**

1 Q: And it goes down to the next paragraph
2 Number 3, can you read that one.

3 A: **JANE DOE and DEBTOR 16'S DAUGHTER are in**
4 **e au o eir o iga ion** _____

5 Q: So do you agree with me that this is
6 notice to you that the debt of JANE DOE
7 and DEBTOR 16'S DAUGHTER which you have
8 guaranteed has not been paid?

9 A: For DEBTOR 16'S DAUGHTER, not JANE DOE.

10 Q: Okay. Let us go down to the next line
11 underneath paragraph Number 3. Do you
12 see where it says:

13 We **hereby make formal demand upon you**
14 **for payment of the sum of**

15 **\$XXXX**. You remember your lawyer
16 reading that line?

17 A: Yes.

18 Q: So would you agree with me that that is
19 a demand for payment?

20 A: Yes, it would be a demand.

21 Q: Okay. Look for me at Exhibit DEBTOR 16-4. May

I

22 assist the witness in finding it?
23 CHAIRMAN: Yes.

24 MRS. PHILLIPS: I am showing the witness for the

25
which

purposes of the record Exhibit DEBTOR 16-4

1 is a letter dated April 7, 2008,
2 addressed to her specifically.

3 CHAIRMAN: Yes.

MRS. 2"s. . Tonaldson, your lawyer I think also
5 took you through this letter and the
6 date of this letter is April 7, 2008,
7 correct?

8 A: Yes.

9 Q: And going down now to the same paragraph
10 with the number 2 beside it, can you
11 read that for me.

12 A: **You have guaranteed the liability of the**
13 **said DEBTOR 16'S DAUGHTER'S Corporation**

Limited, under

14 **and by virtue of an Instrument of**
15 **Guarantee dated January 26, 1995.**

16 Q: And paragraph 3.

17 A: **DEBTOR 16'S DAUGHTER'S Corporation Limited**

is in

18 **default of its obligation.**

19 Q: And the line immediately below that?

20 A: We **hereby make formal demand upon you**
21 **for payment of the sum of \$7,128,363.79.**

22 Q: So do you agree with me that you were
23 given notice that DEBTOR 16'S DAUGHTER'S was

in

24

default of its obligation owed to

25

National - well, under the debt that

1

2 A: Please read it again for me.

3 Q: You agree that this is saying that
4 Meximerl Corporation owes JRF money and
5 it has not been paid, the money that it
6 is owed?

7 A: Yes.

8 Q: Okay. And you agree that it is also
9 making a demand on you for payment of
10 the monies owed because you guaranteed
11 the debt?

12 A: Yes.

13 Q: Thank you. And you agree with me that
14 the property was sold, let us say, long
15 after three days had passed since
16 service of this notice on you? You got
17 this notice when, in 2008?

18 A: Don't get any notice at all.

19 Q: The mortgaged property is 92 Central
20 Close, Spanish Town, St. Catherine?

21 A: Yes.

22 Q: And you see an indication that the
23 letter was sent by registered mail to
24 the mortgaged property?

25 A: But it was sold already.

1 Q: Really?

2 A: Yes, on the 7th of April.

3 Q: Mrs. DEBTOR 16, was not the property
4 sold in 2009?

5 A: My memory is so bad sometimes I can't
6 remember, sometimes I can't remember.
7 2009, 2008.

8 COMM. ROSS: Mrs. Phillip, to speed it up a bit maybe
9 you could make the point, otherwise if
10 the document is here and she cannot
11 remember, do make the point that the
12 document is here and put it forward.

13 Q: Well, I wish I could. (document handed
14 to Mrs. Phillips) I am indeed obliged to
15 my friend, Mr. Williams, thank you.
16 If you look at, and I am drawing the
17 Commission's attention to the
18 Certificate of Title which is Exhibit

1 9 1 * the second to last endorsement, top
20 right hand side, which speaks about the
21 exercise of the power of sale on the 5th
22 day of February, 2009, it was registered
23 on the title on the 5th day of February,
24 2009. So you would agree with me that
25 there is eleven months between the date

1 of April 7, 2008 and the date of
2 February 5, 2009. You would agree with
3 that?

4 A: Yes.

5 Q: I have no further questions for her at
6 this time but I reserve my right to have
7 her recalled given the fact that I was
8 not given notice of her testimony before
9 she started.

10 MR. WILLIAMS: If I might just say, Mr. Chairman, for
11 the record, these submissions were
12 submitted, were actually hand delivered
13 on the 1st of September, to the
14 Commission so they should have had them.
15 As to the recall of Mrs. DEBTOR 16, just
16 to indicate that she is mostly abroad.
17 She actually stays abroad so, I don't
18 know. Counsel would have to keep in
19 contact with me when she needs her.

20 MRS. PHILLIPS: I will contact her if I need her.

21 MR. WILLIAMS: I am just advising the Commission that
22 Mrs. DEBTOR 16 really stays abroad.

23 MRS. PHILLIPS: I am glad that my friend has indicated to
24 the Commission that the letter was hand
delivered to the Commission on the

1 1st of September but today is November
2 the 17 and I am just getting them today,
3 so I am not sure why that is happening.
4 I would urge the Commissioners to avoid
5 difficulties such as this and the need
6 to recall persons, that it would
7 certainly be in good order and certainly
8 unquestionably fair, if when evidence is
9 being given against my client or
10 touching and concern my client that I be
11 made aware of it at the earliest
12 possible opportunity.

13 MR. WILLIAMS: If I can suggest, Mr. Chairman, I know
14 there is a schedule of dates that was
15 sent to me. Maybe I could just speak
16 with Mrs. DEBTOR 16 to see if she can
17 make herself available within one of
18 those scheduled dates. If my learned
19 friend feels that she can be in a
20 position to...

21 CHAIRMAN: Both of you can talk later.
22 MRS. PHILLIPS: Before you release her, just one more
23 question that I would like to ask her,
24 if I may do that.
25 Do you agree with me, Mrs. DEBTOR 16,

1 looking at the facts before us and if it
2 is a fact then it is a fact.

3 MRS. PHILLIPS: Do you accept that it is a fact that the
4 debt borrowed from National Commercial
5 Bank was transferred to Refin Trust
6 Limited by National Commercial Bank?

7 CHAIRMAN: It is difficult for her to answer that.
8 If there is a document that states that,
9 I mean, the document to her states that
10 it was transferred, she can't know
11 without the documents.

12 MRS. PHILLIPS: With respect, Mr. Chairman, I have had
13 no part in the documents that have been
14 selected for submission to the
15 Commission. There is a document which
16 says that and I will take her to it, if
17 you don't mind.

18 Could you look at
the Certificate of

(BB7)

19 Tittle which is

20 MR. WILLIAMS: You are looking for the transfer to
21 Refin Trust?

22 MRS. PHILLIPS: The endorsement gives us a clue because
23 it shows that the mortgage is
24 transferred and the date of the

25

transfer. It doesn't say anything about

1 the underlining debt.

2 Would you agree with me, Mrs.

3 DEBTOR 16...

4 MR. WILLIAMS: I am sorry. Counsel, I am seeing the

5 transfer to the Jamaica Redevelopment

6 Foundation. That is the one that you are

7 speaking to?

8 MRS. PHILLIPS: No, I am speaking to the transfer to

9 Refin Trust Limited.

10 MR. WILLIAMS: Oh, the miscellaneous entry.

11 MRS. PHILLIPS: Yes. Show her the date. Would you agree

12 with me, Mrs. DEBTOR 16, that the debt

13 to which this mortgage was collateral,

14 security, was transferred to Refin Trust

15 Limited in 1998?

16 A: (No answer)

17 Q: You have heard about FINSAC before?

18 A: Yes.

19 Q: You heard the name FINSAC?

20 A: Yes, I heard FINSAC.

21 Q: Let us accept that Refin Trust is a

22 company related to FINSAC. Do you agree

23 that this debt went to FINSAC in 1998?

24 A: I heard it went to FINSAC.

25 Q: And if it had been paid in accordance

1 with the terms, it would not have gone
2 to FINSAC. Correct?

3 A: (No answer.)

4 Q: Do you also agree that this debt, the
5 debt to which this mortgage was part of
6 the security was transferred by Refin
7 Trust Limited to Jamaica Redevelopment
8 Foundation on the 20th of August on/or
9 about 2000 and, sorry, let me put the
10 question differently. Just a moment.
11 The transfer of this mortgage was
12 registered on the Title on the 20th of
13 August, 2003, that is, to Jamaica
14 Redevelopment Foundation?

15 A: I don't remember.

16 Q: All right. Thank you.

17 COMM. ROSS: Thank you.

18 Mr. Williams, would you agree, two
19 letters that you included from the
20 Jamaica Redevelopment Foundation with
21 the same date, 7th of April, you are
22 referring to two different guarentees,
23 one, to DEBTOR 16'S DAUGHTER and JANE DOE
24 on December 13, 1993 and the second refers
-- to DEBTOR 16'S DAUGHTER'S Corporation

1 and that guarantee is dated the 26th of
2 January 1995. Is that correct?

3 CHAIRMAN: That is Exhibits No. 3 and 4, the second
4 paragraph.

5 MR. WILLIAMS: I am actually noticing it for the first
6 time, Mr. Chairman. I am aware that
7 there was another property and I believe
8 the witness made mention of it. So I do
9 not know if the Commission will wish to
10 hear more from the witness as to that
11 property.

12 COMM. ROSS: I just want to understand.

13 MR. WILLIAMS: I am not sure, I am not seeing if there
14 is one mortgage over the property in
15 question.

16 COMM. ROSS: Do you know which of these two
17 guarantees the mortgage is in relation
18 to or it is in relation to both?

19 MR. WILLIAMS: I don't know. I don't, and as I said I
20 am knowing that for the first time.

21 COMM. ROSS: It would be helpful if we know exactly
22 the situation.

23 CHAIRMAN: In the same token you could check, you could
24 ascertain whether or not they are two
separate loans, two separate

1 mortgages because both letters, one,
2 JANE DOE and DEBTOR 16'S DAUGHTER and
3 the other is DEBTOR 16'S DAUGHTER'S
Corporation. They
4 are dealing with different amounts and
5 so it would be good for us to understand
6 whether or not there are two separate
7 mortgages, two separate loans or just
8 one. So when you you are doing your
9 checks, please try to obtain that
10 information for us.

11 COMM. ROSS: Mr. Williams, the two letters make
12 statements of very large indebtedness
13 and then they demand a sum for payment.
14 Is it your understanding that that sum
15 for payment would be in settlement for
16 those debts? I am not clear as to
17 whether this demand for payment is
18 simply a sort of interim payment or
19 whether this demand, if it had been met,
20 would settle the obligation.

21 MR. WILLIAMS: I can only go so far as to say, Mr.
22 Chairman, based on the letter, it says,
23 here, 'We shall have no alternative but
24 to commence legal proceedings to recover

1 you'. I could only infer that there
2 should be settlement of the debt. I
3 could only infer that.

4 MRS. PHILLIPS: As expressly stated, Mr. Commissioner,
5 if I may, if you look at paragraph 1, it
6 says, 'as of April 7 you were indebted in
7 the sum of - and we hereby make
8 formal demand of you for payment'.

9 In numbered paragraph one, it says as of
10 April 7 you were indebted and it recites
11 the amount, some are in Jamaican dollar
12 and some are in United States dollars,
13 and then it ask for a complete payment
14 in the following paragraph, all of which
15 are in Jamaican dollars.

16 COMM. ROSS: What I am saying the amount that is
17 being demanded is substantially less
18 than the indebtedness itself, so the
19 question is in settlement for an interim
20 payment that is being demanded?

21 MRS. PHILLIPS: May I have a moment. To Commissioner Ross, if
22 I may, I think that it would be difficult to
23 properly answer this question without
24 referring to the guarantee. My suspicion
25 would be that

1 the figure that is demanded represents
2 the payment under the guarantee, that is
3 why it would be different. Without the
4 document it would be difficult to answer
5 that question. The guarantee should
6 assist in answering that question.

7 COMM. ROSS: Mrs. Phillips, if your understanding is
8 correct, then it would be a settlement?

9 MR. WILLIAMS: Yes.

10 CHAIRMAN: It would be a settlement, not from the
11 debt but on the guarantee.

12 MRS. PHILLIPS: I am obliged to you, M'Lord.

13 CHAIRMAN: Just to point out that the mortgage
14 document seem to refer only to one
15 property and that is DEBTOR 16'S property
16 and it does not seem to refer to the
17 other property that she mentioned.

18 MRS. PHILLIPS: Which would indicate that the mortgage
19 debt is a different debt than the other
20 debt. So, the question of how both debts
21 become one is misconceived.

22 CHAIRMAN: There are a number of points that are
23 unanswered and of such it would be
24 advantageous Mr. Williams if you can
-- obtain additional information for the

1 Commissioner.

2 MR. WILLIAMS: I do observe that the amount of XXX

3 Million Dollars which is the principal
4 debt which was indicated in a letter is
5 the amount of the mortgage liability in
6 relation to one property. So it does
7 appear as far as that debt is concerned,
8 there is an entire obligation for that
9 debt in respect of the mortgage, but I
10 do take the point that there seems to be
11 another guarantee referred to here.

12 CHAIRMAN: We are therefore asking you to research
13 and you can obtain both guarantees so
14 that we can more adequately look at the
15 situation.

16 MR. WILLIAMS: I am a little bit hampered there, Mr.

17 Chairman, because as to where to find
18 that under Guarantee...

19 CHAIRMAN: May I suggest that you ask JRF if they

20 could assist you with copies of both
21 guarantees because they referred to the
22 guarantee in the letter and, therefore, I
23 would imagine that they do have copies of
24 the guarantee.

25 MRS. PHILLIPS: Which I would be in a position to

1 confirm.

2 A: I understand. That is why I did not put
3 the question to you but rather asked
4 Mr. Williams to assist the Commission in
5 the circumstances.

6 COMM. ROSS: Just one other thing. I don't know if
7 you address this. Has your client been
8 given any Statement of Accounts as to
9 indebtedness and how it was arrived?

10 MR. WILLIAMS: My advice is that she was not given a
11 Statement of Accounts. I wrote for a
12 Statement of Accounts and received a
13 letter.

14 CHAIRMAN: Thank you. You said that you wrote to
15 JRF for a Statement of Accounts. Have
16 you got that communication?

17 MR. WILLIAMS: I did not, but the letter that I put was
18 based on the responses to the answers
19 that I got.

20 Q: What would also be helpful is the letter
21 because the terminology of the letter,
22 it would be helpful. Okay, thank you
23 very much.

24 Mrs. DEBTOR 16, you may step down. Thank
25 you very much. I am placing you on

1 notice that at a later date you maybe
2 recalled. Hopefully you will be able to
3 meet with your counsel who will have
4 discussion with you.

5 A: Not for this month.

6 Q: Your counsel will discuss that with you?

7 A: Thank you, sir.

8 CHAIRMAN: Mr. Levy, can you call your witness?

9 MR. LEVY: Good morning gentlemen, good morning
10 Mr. Commissioner. It is good to be back
11 before you. I have a suggestion that I
12 would like to make, gentlemen, and that
13 is that the Commission consider inviting
14 the Public Defender to watch the
15 proceedings. That is just a
16 recommendation that I make,
17 Commissioner. I hope gentlemen, that you
18 will be able to proceed without
19 interruptions as have happened before
20 and that the enemies of truth, who don't
21 want the truth to be made known, will not
22 once again make applications to the court to
23 stop the hearing of the Commission. As far
24 as I am concerned those are the enemies of
-- the truth.