

**SUBMISSIONS FOR DEBTOR 1 FOR COMMISSION OF  
ENQUIRY SET UP BY HIS EXCELLENCY THE GOVERNOR  
GENERAL SIR KENNETH HALL UNDER THE BROAD SEAL OF  
JAMAICA ON THE 24<sup>TH</sup> DAY OF OCTOBER IN THE YEAR 2008**

---

TAB 1      Submission for Debtor 1 for Commission of  
Enquiry. Dated the 4<sup>th</sup> of November 2011

TAB 2      Index to bundle of documents submitted to the  
Commission of Enquiry August 2009

TAB 3      Order made by the Minister of Finance and Planning,  
Dr. Omar Davis. Dated November 20, 1996

Submitted by Raphael Codlin, Attorney at law for the Claimant

**SUBMISSIONS FOR DEBTOR 1 FOR COMMISSION OF ENQUIRY SET UP BY HIS EXCELLENCY THE GOVERNOR GENERAL SIR KENNETH HALL UNDER THE BROAD SEAL OF JAMAICA ON THE 24<sup>TH</sup> OF OCTOBER IN THE YEAR 2008**

---

On the date hereinbefore mentioned a Commission of Enquiry was established under the Commission of Enquiry Act by His Excellency the then Governor General of Jamaica, Sir Kenneth Hall appointing Mr. Justice Boyd Carey, as he then was, Mr. Dale Blair and Mr. Charles Ross.

2. The Terms of Reference of that Enquiry represent more than what this submission will be based on. In fact, this submission is based on the following extracts from the Terms of Reference. Please see Roman numeral number 2 and under the sub-head of the same, numbers 5 and 6 in Roman numerals. Number 5 reads as follows:

*(v) To review the terms and conditions of the sale of non-performing loans to the Jamaica Redevelopment Foundation;*

*(vi) To review the practices of the Jamaica Redevelopment Foundation in the treatment of delinquent borrowers and, in*

*particular the management, sale and/or disposal of their assets;*

The expression *'their'* is significant.

3. Debtor 1 is a businessman from Mandeville. He borrowed Four Million Dollars from a commercial bank according to his evidence before this Commission, sometime in 1992. His debt was allegedly sold to Jamaica Redevelopment Foundation and at the time when he appeared before this Commission, he had been told that he owed more than a Billion Dollars.
4. Debtor 1's property in Mandeville which he claimed to have been valued in the region of some Four Hundred Million Dollars was sold by Jamaica Redevelopment Foundation sometime in about 2009, 2010 for something in the region of seventy odd thousand United States Dollars. He has not been paid one cent of that money. He has not been given any details of the sale and it does appear that there is breach of some statutory provision in failing to give Debtor 1 at least a statement of account with regard to sale of his property.

5. The circumstances leading up to the sale of Debtor 1's property are interesting. Perhaps they are unusual. The bank from which Debtor 1 had borrowed Four Million was taken over by the Minister of Finance in the latter part of the last century because as it appears then, that bank eventually became insolvent.
6. The Minister of Finance, Dr. Omar Davis purporting to act under Section 14 of the Money Lending Act issued a number of orders purporting to exempt certain accounts and in particular, the assets sold to Jamaica Redevelopment Foundation from the provisions of the Money Lending Act. That Act is fairly strict.
7. In order to postulate and make clear our submissions therefore, it is prudent to look at provisions of the Money Lending Act. That Act is designed to control money lending contracts and to ensure that such contracts are made and carried out in accordance with the law as desired by the legislature.

8. It should be borne in mind that when the Act came into force, it seemed to have possessed, perhaps it is correct to say it possessed stringent measures which could result in a money lender losing his capital if he sought to impose interest above those which the Act allowed. Before looking at the Money Lending Act and its further provisions therefore, it is important to examine the following propositions:

1) What is the power of the Minister of Finance under the Act in general and Section 14 in particular as regards exemption of persons from the Act?

2) What is the effect of the evidence given by Dr. Omar Davis, former Minister of Finance and the person who was the principal instigator of matters in respect of which the Commission is appointed to examine?

3) What is the evidence given by Dr. Omar Davis before this Enquiry and how does that evidence tie in with the Commission of Enquiry Act and the fact that the Commission has all the powers of a Supreme Court judge.

4) What other factors is it desirable to examine in relation to this submission?

9. We began the examination of the Money Lending Act by looking first of all at Section 14. The Section which was inserted, it appears, by Act 33 of 1970, reads:

*Where the Minister is satisfied that it is in the public interest so to do, he may by order declare a) any loan or contract of security for the repayment of a loan specified in that order or any loan made or contract entered into or any security for the repayment of a loan given by any person specified in that order, to be exempted from the provisions of this Act subject to such terms and conditions as may be specified in the order.*

The first question to be considered therefore in examining Section 14 is this; indeed the question is two-fold: 1) the Minister must be satisfied that it is in the public's interest so to do before he may make an order. The Minister is not entitled to make any order unless he is satisfied that it is in the public's interest so to do, Section 14 (1).

The second aspect of Section 14 has to do with what must be contained in the order. In short, what the order is dealing with. According to 14 (a), it has to do with *any loan or contract or security for the repayment of a loan specified in that order.*

14 (b), *any loan made or any contract entered into or any security for the repayment of a loan given by any person specified in that order.*

10. It must be observed at the outset that whether it is loan or contract or security for the repayment of a loan specified in that order, the operative words are 'specified in the order'. So the loan or security must be specified in the order. b) Any loan made or any contract entered into or any security for the repayment of loan given, it must be specified in the order.

11. The first question to be asked is this: are the particulars which are contained in the order made by Dr. Davis specified in those orders as required by Section 14? It is submitted that they are not.

12. It should be observed that what the Minister is empowered to do is to exempt loan or contract or security or loan or contract made or entered into or security for the repayment thereof. In short, when one picks up the order made by the Minister it must say exactly what he is required to say in the order.

13. The order made by the Minister does not specify what is required by the Act and it is submitted that the order is defective. The order reads:

*In exercise of the powers conferred upon the Minister by Sub-section 9 of Section 14 of the Money Lending Act, the following order is hereby made. This order may be cited as the Money Lending Exemption Jamaica Redevelopment Foundation Incorporated Order 2002 and shall come into operation on the 30<sup>th</sup> of January 2002.*

*Loans or contracts entered into or security given for repayment thereof being loans made or acquired by Jamaica Redevelopment Foundation Incorporated or contracts entered into thereby or security given thereto within one year from and*



*including that day are hereby declared to be exempt from the provisions of the Money Lending Act.*

14. It is submitted that the Minister had no power to make such an order without specifying what is required to be specified by Section 14 of the Act.
15. In order to demonstrate the correctness of this proposition, it is submitted, the Minister was purporting to empower Jamaica Redevelopment Foundation to make a loan to a man on the street and charge him interest at 100% and that could not be challenged in the courts because Jamaica Redevelopment Foundation is exempt from the Act.
16. Indeed, nowhere is that reality manifested more than in the case of Debtor 1, who borrowed Four Million from a bank in 1992 and is saddled with a debt exceeding One Billion Dollars by Jamaica Redevelopment Foundation in 2008. It is submitted here that the legislature could not possibly have

intended such an injustice to be inflicted on any Jamaican,  
indeed on anyone.

17. I shall demonstrate by reference to 1 or 2 more orders that the Minister must specify what is required in Section 14 (1) (a) and (b) in the order.

18. On Wednesday the 20<sup>th</sup> of November 1996, the Minister published in the PRR, the following notice, It is headed *The Money Lending Act*:

*The Money Lending Exemptions Financial Institutions Services Ltd. Order 1996.* It reads as follows:

*In the exercise of the powers conferred upon the Minister by Section 14 of the Money Lending Act, the following order is hereby made:*

*(1) This order may be cited as the Money Lending Exemptions Financial Institutions Services Ltd. Order 1996.*

*(2) Loans or contracts entered into or security given for repayment thereof, being loans made by Blaise Building Society, Blaise Trust Company and Merchant Bank Ltd. and*

*Consolidated Holdings Ltd. and assign to Financial Institutions Services Ltd. in accordance with the schemes of arrangement entered into by the said Blaise Building Society, Blaise Trust Company and Merchant Bank Ltd. and Consolidated Holdings Ltd. and their respective creditors and approved by the Supreme Court of Judicature of Jamaica on the 26<sup>th</sup> day of October 1995 pursuant to Suit No. E 303 of 1995, Suit No. E 304 and Suit No. E 305 of 1995 respectively or contracts entered into thereby or security given thereto respectively within one year in the coming into operation of this order or hereby declared to be exempt from the provisions of the Money Lending Act dated this 19<sup>th</sup> day of November 1996.*

19. It is very clear from this order that the Minister fully complied with Section 14 of the Act, in that the particulars were specified in this order. No such particulars were specified in relation to the order granting exemption to Jamaica Redevelopment Foundation. It is submitted that that difference is crucial. It is crucial for this reason; one complies with the Act the other does not.

20. It is also crucial for other reasons, whenever the law requires something to be published in the Gazette, and that applies to all orders made by Ministers, it is to enable members of the public who are affected by the contents of the publication to know exactly: 1) that they are affected and 2) in what way they are affected. In the cases under review, FINSAC simply sold by a secret contract what Dr. Davis described as 'bad debts' to Jamaica Redevelopment Foundation. The contract was not published in the Gazette, the persons who knew that they had contracts with FINSAC had no idea that those contracts were sold and there was no proper assignment under the law of contract.

21. Indeed, according to Dr. Davis' evidence, the Government was collecting money from persons at the same time when other persons were collecting which suggests that there could not have been any proper assignment of the contract. Be that as it may however, what is abundantly clear, so far as the Act is concerned, is that what Dr. Davis has done vis a vis

Jamaica Redevelopment Foundation could not by any process of reasoning amount to a proper exemption so far.

22. I shall now turn to the next question of what constitutes the public interest and whether or not that public interest was taken into account by the Minister or alternatively he was satisfied that it was in the public interest. Because only if he was satisfied that it was in the public interest could he grant an exemption to anyone because that Act clearly, undoubtedly clearly says that the Minister must be satisfied that it is in the public interest before he grants an exemption

23. In order to develop this aspect of the submission one is constrained to turn to the evidence of Dr. Omar Davis former Minister of Finance when he testified before the Commission. His evidence under cross-examination by counsel for Debtor 1 begins on page 1 of the sitting of this Commission which was convened at the Jamaica Pegasus Hotel on the 2nd of December 2009 with the words by the Chairman: *"Let us resume ladies and gentlemen, good morning"*. That is page 1

of that day's sitting and the day's sitting went on to page 80 when the session was adjourned for the following Tuesday that is page 80 of the typed script.

24. The gist of Dr. Davis' evidence, so far as that day is concerned, is as follows:

He had been in the witness box for a number of days before and on the 2'd of December he was doing no more than engaging in a continuity of his evidence.

25. The pith and substance of Dr. Davis' evidence are as follows:

He is the Minister of Finance. There were bad debts owned to agencies of the Government of Jamaica which the Ministry of Finance concluded ought to be sold. Dr. Davis claimed that he advertised for the sale of those assets to local and overseas persons who are interested. It should be observed that these assets consisted almost exclusively of real estate which represented at the time the security given for loans which were obtained by Jamaicans from various financial institutions. Dr. Davis spoke of several overseas organizations with which

the Jamaican agencies had discussions as regards the purchase of these so called non-performing loans.

26. Dr. Davis went on further to say that he is aware that discussions and further discussions took place between Jamaica and overseas purchasers. He referred to the name of one of those purchasers whom he conceded was the parent company of Jamaica Redevelopment Foundation. The name of the company is Beal Bank. Dr. Davis continued to give evidence to the effect that after the Government decided to sell the bad debts or the non-performing loans and sought purchasers from local people and from overseas, the Government eventually decided to sell to people overseas.

27. Let me make one submission here; no loans were being sold, what was being sold was the security for loans that were put up either by persons who obtained loans from various financial institutions or by persons who guaranteed those loans. It follows therefore that securities were put up as guarantees either by the borrower or by the borrower's guarantor.

28. It is submitted that this point is of cardinal significance for this reason: When we come to refer to the speech made by Minister Audley Shaw in the House of Representatives during his budget speech when he said that people's assets were "sold like cattle in Texas", those words were strong. But the point is Dr. Davis has given no evidence to say that as Mr. Shaw has pointed out, the Government was willing to sell the assets back to the guarantors for 20¢ in the dollar. Every piece of real property that was given for that purpose could easily be redeemed by the guarantor, whether that guarantor is the person getting the loan or some other person guaranteeing the debt. This is of cardinal significance because according to Dr. Davis, some person or persons came here and did not get through because of rioting in and I submit one should note, Tivoli Gardens. It therefore is not consonant with reason when Dr. Davis said that in effect they couldn't get purchasers for the assets therefore they had to offer them at 20¢ in the dollar,<sup>115</sup> of what they would normally be worth.



29. Now we turn to the name of this company that was registered in Texas. We will have more to say about it later on.
30. In further cross-examination by counsel for Debtor 1, the gentleman who borrowed 4 Million and ended up being told that he owed over a Billion. Dr. Davis was asked specifically what criteria did he employ in determining whether to grant exemption or not. The following exchanges make interesting reading indeed. Please see page 32 of the record:

*Chairman: Because as far as he was concerned he signs an order which says, "exempted from the law"*

*Mr. Codlin: Yes.*

*Chairman: So what you want him to tell you?*

*Mr. Codlin: 1 wanted him to tell me what he viewed or what persuaded him to sign the order which he has signed bearing in mind that Section 14 of the Act says that before he signs such an order he must be satisfied about certain things and 1 don't think that that could be....*

*Chairman: Well, ask him that.*

*Mr. Hylton: Ask him that.*

*Mr. Codlin: 1 thought 1 had asked him that.*

*Chairman: No, no. You don't ask him that. You may be getting to it,*

*Mr. Codlin: Dr. Davis, what did you take into consideration sir, in order to grant the exemption?*

*A. The main point 1 took into consideration was that JRF was purchasing a portfolio of bad loans from two or three government institutions and these institutions had been exempted from the Money Lending Act and this was the basis on which due diligence had been carried out, on the basis of equity and continuity; that is what 1 took into consideration.*

*Q: Those are the things that you took into consideration. Thank you very much. At that time do you think you could have attained*

*your objective by some other method apart from a wholesale grant of exemption?*

*I am not clear what is my objective to which you refer so if you could enlighten me there then I could answer your question.*

*Simply telling them what interest rate to charge.*

A: *I don't think so, sir. That sometimes could act in favour of the clients. Counsel, if I may elaborate. One of the reasons the regulated institutions, licensed regulated institutions had been exempted is that-- the argument holds and you may disagree with me, that in carrying out business, whilst the state can play a useful role as referee, you don't want the state imposing unnecessarily its rules in terms of interest rates charged or interest rate paid. That's a negotiation between institution and the client.*

*Q: But Section 3 of the Money Lending Act, please Dr. Davies, gives you the power as Minister to set rates of interest, you are aware of that 1 am sure?*

*A. Yes.*

*Q. So wouldn't you expect to exercise that power equitably in the interest of the public?*

*A. Well, I don't know about the public, counsel. What I have indicated and I don't know how many ways I am going to tell you, that the primary rationale was continuity, given that the institution was which held the bad debt portfolio had enjoyed that exemption and they had been granted that exemption because they had taken that bad debt portfolio from regulated institutions which had already that exemption.*

*Q: Did you intend borrowers of the failed financial entities to be in worse or better position after you had granted the exemption?*

A: *That'sa--I never...*

Q: *Never addresses that?*

A: *I never addressed that question in the process. I addressed the question of an entity which wished to do business with clients.*

Q: *I see sir, thank you. Did you intend JRF to charge compound interest?*

A: *My previous answer holds, sir.*

Q: *And which one that is, the previous answer, sir?*

A: *Counsel, what I am saying is that I granted an exemption for those particular reasons. After that my only contact with JRF arose from whatever I communicated with them because of complaints.*

Q: *I see. Thank you, Dr. Davis. I recall; and correct me if I am wrong please, Dr. Davis, that when you were giving your evidence you say you could not advertise in Jamaica alone you had to advertise overseas too?*

A: *No, 1 didn't say 1 couldn't. I said that 1 wanted to attract...*

Chairman: *May I ask the question Dr. Davis? Do you know why banks are given exemption? Except from the law do you know why the banks are given the exemption?*

A: *Yes.*

Chairman: *What do you suppose it to be?*

A: *It is that the state is ham-fisted in terms of intervening in the markets from time to time and the worst - well, even in the present situation if the state were to set interest rates you could have chaos in the market.*

31. May I pause there to make a comment. This is a most startling answer by a former Minister of Finance because he does not even seem to know that under the various legislative provisions which set up the question of interest, it is the state that set the interest. It is the state that stipulates the interest in

**the market and the Chairman reply with what I would call judicial intelligence:**

*Chairman: Well, may I suggest to you that the reason why banks are exempt is because they have to go and get money, they have to go and seek money. The same thing doesn't apply to, let me call it a collector, does it?*

*A. Well sir, I think sir, with all due respect, that's not all what banks do. They also have to lend.*

*Chairman: I didn't suggest that.*

*No, but you...*

*Chairman: I said the reason why they are granted the exemption from the Money Lending Act so that they can charge the interest is because they have to go and get money.*

*But chairman there are two sides to it.*

*Chairman: Well, I am telling you the other side to it. The collector, whether you call it JRF or FINSAC collector, they haven't got to go and get*

*money because they are not in the business of..*

*A: Chairman, let me focus on your - I would not seek to try to argue with you about the law but I can tell you as someone who was involved in the change of reducing the number of entities which were subject to the Money Lending Law, I should indicate that one of the reasons is that we had - two things. One is that as a principle we wish to pull the state out of normal relationships between clients and financial institutions. And secondly, when I asked how many appeals we had had against the Money Lending Act over the previous five years it had become virtually redundant, nobody had appealed despite it's existence and application to all the entities. So we had this huge Act covering the whole financial system but the Minister had never been, in several years, been asked to intervene.*



Chairman: *I could respond but I will leave that to the others.*

Then it was Mr. Hylton, the Chairman and Dr. Davis had some exchanges. Thus ends the exchange for the purpose of this submission, with Dr. Davis.

32. What is very clear in Dr. Davis' evidence is two fold: 1) he never thought at all that he had to take into account the public interest before he grants an exemption. Indeed, he said he did not have to. He said: *"I don't know how much time I must tell you that I didn't think about any public interest"*
33. Now this case is interesting because whoever is required to interpret what Dr. Davis has done and what the law requires him to do will not have any difficulty in arriving at the correct conclusion. The Act says *if the Minister is satisfied that it is in the public interest*. The Minister said: *"how many times I must tell you that I am not dealing with any public interest"*. It is submitted therefore, beyond peradventure that there is no clearer evidence than that which emerges here. That the

Minister could not properly have granted exemption to JRF because he said he didn't address the public interest and it is submitted that if he never addressed it he could not have granted the exemption.

34. The second and most palpable reason is that the reason which Dr. Davis has given for not addressing the public interest, is that he believe that since banks are granted exemptions, he can grant anybody exemption from the Money Lending Act. Banks are granted exemptions by statutory provisions. Dr. Davis is not a law unto himself he has to abide by statutory provisions which empower him to carry out certain duties according to those provisions.

35. It is absolutely clear that in granting the exemption to Jamaica Redevelopment Foundation, Dr. Davis had not a clue as what the law required him to do. In those circumstances, it is submitted with the utmost respect that a tribunal of fact should have no hesitation in striking down this exemption granted by Dr. Davis.

36. Having examined the four propositions adverted to in paragraph 8 of these submissions, I turn now to the way persons are treated by Jamaica Redevelopment Foundation.
37. It is to be observed that the nature of the passing or alleged passing of property from FINSAC and the other such institutions to Jamaica Redevelopment Foundation is of dubious lawfulness. Debtor 1 maintains that he signed a blank document, which according to him, turned out to be a mortgage. When one examines the document which Debtor 1 has signed, one will see that part of it was made in 1992 and the signature was suppose to be sometime in 2001, 2002. Indeed, it has been described by his counsel as a documentary hermaphrodite.
38. Be that as it may, an important question for this Commission to ask is this; if there was a proper assignment according to law, of the securities from FINSAC or otherwise to Jamaica Redevelopment Foundation, why were the alleged debtors called in by JRF to sign new mortgages? If there is an

assignment of the debt to JRF, that assignment should hold good.

39. What is sad is that some of the borrowers, including Debtor 1, had made payments of large sums six or ten times of what they had borrowed and yet JRF was able to get them to sign new mortgages. Debtor 1 is alleging that when he signed the mortgage, it was a blank paper that he signed in his lawyer's office and there are instances, many instances where persons have signed blank papers and are saddled with large debts.
40. What is absolutely frightening is that we have government that is elected to protect Jamaicans yet they are thrown to the wolves by foreigners with the assistance of Jamaicans.
41. If, as Finance Minister Shaw has so graphically put it in his address to Parliament in 2009, if the entities who hold these securities were minded to consider the public interest as enunciated in Section 14, why didn't they offer the securities to be sold to the borrowers at 20% as they did to the persons

whom Mr. Shaw himself described as "*purchasing cattle in Texas*".

42. Why didn't the Minister, Mr. Shaw answer the letter written by Debtor 1? Why did Jamaica Redevelopment Foundation, when it is clear to the succeeding Minister of Finance that his behaviour was wrong, why didn't that Minister step in and order the JRF to halt the selling of people's assets until justice has been done? Assuming that most of the assets have been sold, when the court battle is over and it is shown that the Minister wrongly granted the exemption, why should the tax payer be called upon to pay himself for the deeds done to him by the government?
43. During the hearing of this Commission, a man testified there of the agony and pain when he was thrown out of his house in circumstances that can only be described as brutal and sub-human. Where is the law that is supposed to guarantee these persons protection?

44. It is submitted that the best person to describe the manner in which JRF has treated Jamaicans on the authority of the Jamaican Government, succeeding ones at that, has not shown any thought for the many persons who have lost their homes, who has lost their assets and most of all those who were turned out on the street by Jamaica Redevelopment Foundation.
45. Between 2005 and 2008, certain statutory returns which should have been made by JRF, were never made. Many a Jamaican company would have been delighted to know that assets were being sold by the government for 115 their value. Indeed, Dr. Davis seem to have thought and perhaps is still thinking that he had a right to act like an institution to himself.
46. It follows therefore that this seem to have permeated most of what JRF was empowered to do. In the circumstances, I think it is safe to say that JRF performed in Jamaica in the way that the previous government and the present government since 2007, allowed that company to perform. One wonders if a

Jamaican company could go anywhere in the world in general or the United States in particular and perform in this way. I do not think that it could.

47. In the circumstances, we would summarize our submissions as follows: 1) Dr. Omar Davis as Minister of Finance presided over the most devastating financial crisis between the 1990s and 2007 that Jamaica has ever known. 2) This submission is not aimed at criticizing the government for taking steps to save people's income during the financial meltdown. What the opinion does as is the view of so many other persons, is to point out the weaknesses in the steps taken to manage that meltdown. 3) The only redeeming factors were the assets consisting of real estate which the government had to take over and which the government eventually sold to foreign entity for 200 in the dollar in a way that was depreciated by the succeeding Finance Minister, who was content with that depreciating and then fell in Dr. Davis' chair and did nothing.

48. 4)The former Prime Minister, Mr. Bruce Golding set up a Commission of Enquiry in relation to the matter and this submission is for that Commission of Enquiry. There will therefore be no comments as regards the efficacy of that tribunal and the writer will confine his comments in the wonderment of whether or not the horse has not already gone through the gate. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

49. Then without employing what is clearly proper legal advice in relation to those orders which were legal, [REDACTED]

[REDACTED] and which although mandated by the Money Lending Act to do so, did not take into account the public interest at all. In those circumstances,



[REDACTED]

[REDACTED]

[REDACTED]

50. The assets of the people of Jamaica have been and are being unlawfully dissipated to foreigners in circumstances that cannot be described in any way but shameful. In the circumstances, the tribunal is asked to deprecate the way the Minister and his advisors treat the assets of the Jamaican people and to recommend that each one be compensated by the government for selling assets, which Dr. Davis has admitted, valued in the region of Four Hundred and Fifty Million Dollars to foreigners for Twenty-three Million Dollars.

51. Attach to this submission is a copy of a previous index which contains documents that would normally be in this submission but has been omitted for the sake of duplication.

DATED THE 4TH DAY OF NOVEMBER 2011

.....  
CLAIMANTS ATTORNEY-AT-LAW

## INDEX

### FINSAC COMMISSION OF ENQUIRY COMMENCING NOVEMBER 10, 2009

No.	PARTICULARS	PAGE
1.	2008/2009 BUDGET DEBATE-Closing Speech	1-21
2.	SKELETON SUBMISSIONS	22-26
3.	FINAL SUBMISSIONS	27-40
4.	ELECTRONIC MAIL-"IRS to Extend Leniency for UBS Offshore Accounts"	41-43
5.	<b>BLOOMBERG.COM-"IRS Intensifies Global Hunt for Secret Offshore Bank Accounts"</b>	44-45
6.	FRANCHISE TAX CERTIFICATION of ACCOUNT STATUS	46
7.	BALANCE SHEET	47
8.	INSTRUMENT OF MORTGAGE Under the Registration of Titles Act	48-61
9.	ACKNOWLEDGEMENT OF SERVICE	62-63
10.	AFFIDAVIT OF JANET FARROW	64-68
11.	AFFIDAVIT OF URGENCY IN SUPPORT OF NOTICE OF APPLICATION	69-86



**2008/2009 BUDGET DEBATE  
CLOSING SPEECH  
"DEVELOPMENT WITH EQUITY -  
THE PEOPLE AT THE CENTRE OF OUR CONCERN"**

**INTRODUCTION**

Mr. Speaker, Honourable Members,

Mr. Speaker, William Shakespeare, who had an unmatched sense of drama and history, was born on this day, April 23, 1564 and died on this day in 1616. Shakespeare, in all his works, is excellent training for the realities of life we face today. And even as we face the many pitfalls and adversities of the time, what did Shakespeare had to say about adversity:

*"Sweet are the uses of adversity  
Which like the toad, ugly and venomous,  
Wears yet a precious jewel in his head;  
And this our life, exempt from public haunt,  
  
Finds tongues in trees; books in the running brooks,  
Sermons in stones, and good in everything."*

Mr. Speaker, the Parliamentary procedural aspects of the Budgetary process commenced when I laid on the table of Parliament what the Government considered to be the estimated sums to be expended to cover the obligation of the Government for the Fiscal Year 08109.

It is customary that we use this period to review Government's performance and to set the framework for the achievement of Government policy and programmes. It is in this context that we laid the framework for the Budget Presentation: **"Development with Equity - The People at the Centre of our Concern"**.

Our objective in this year was cut short by the amount of money that was required to commence the tidying up process of past administrative indiscretions.

## **FRAMEWORK OF BUDGET PRESENTATION**

It was hoped that during the period of this Debate participants would have used this opportunity to either explain the identified shortcomings of the past so those mistakes would not happen again or to address in an objective way the proposals laid down by this administration.

In this regard, and regrettably, Mr. Speaker, the contributions from the Opposition failed to meet the mark. In closing this debate, my duty is to reply to some of those issues not dealt with by my colleagues and to amplify areas that have been brought to my attention by the public, even as I answer some of the issues raised by the Opposition members.

And so in today's Budget Presentation I will begin by responding to the Leader of the Opposition, then the Opposition Spokesman on Finance and the member from Central Manchester.

I will then conclude with a few remarks on returning credibility to the budgetary process.

### **Response to the Leader of the Opposition**

The Leader of the Opposition failed to appreciate that the non-debt Capital Expenditure in this year's budget represents a significant increase over previous years.

This is money for roads, bridges, water supply systems, agriculture, Schools, Constituency Development Fund, etc. It represents an unprecedented amount set aside for this fiscal year.

This year, Mr. Speaker, with the non-debt capital expenditure set at \$44.648 billion, and no deferred financing obligations - pure new expenditure, this represents a whopping additional \$20.02 billion or an 80% increase over the actual expenditure last year.

Mr. Speaker, the Budget allocation show our priority to achieve **"Development with Equity - the People at the centre of our concern."**

These are not mere buzz words. It is reflected throughout the construction of the Budget, that there is a material difference to the quantity and quality of services to be delivered to the people and this is but the first step.

Mr. Speaker, this Budget charts a new course and lays the foundation for a new kind of governance, where no matter the challenge, no matter the obstacles, we are committed to finding a way to constantly keep the people at the Centre. This represents our fundamental philosophical point of departure.

Indeed, this was the common philosophical thread running through the presentations of the Government members.

## **B. Response to the Opposition Spokesman on Finance**

The Opposition Spokesman on Finance tells us that the Budget is not credible. Let me respond to this.

It is quite ironic that a Minister whose stewardship has been characterized by so many years of failed targets, missed opportunities and episodes of fiscal mismanagement and profligacy too numerous to mention, he now seeks to suggest that the budget lacks credibility.

### **MOU**

He says that the \$14.5 billion set aside for MOU DI settlement is not credible and the figure will be closer to \$20 billion - "It is the first time since 2004 the Ministry has no clear notion as to what the wage bill will be".

Mr. Speaker, the projections are credible. I put it to the House today that it is the Opposition Spokesman on Finance who is confused. It is he who, in 2006, had no notion of what the wage bill would be. He set aside \$8.8 billion in contingency, and the bill ended up at \$14.0 billion. He is obviously judging me by his standards of either setting targets without credibility or misleading the Jamaican people with budget estimates that he knew would be exceeded.

The truth is that the wage bill assumes all settlements within the framework of the increases under the MOU III, as well as reclassification for the Health sector to be undertaken in this fiscal year. Whilst we will continue the discussions with those groups who are not within the JCTU, the Government's ability to pay will be important. Realism must be the order of the day.

The Opposition Spokesman on Finance also lambasted me for failure to sign the MOU before my Budget Presentation.

Mr. Speaker, MOU III was signed some 72 hours after the Opposition Spokesman predicted gloom and was kept within the projected targets. While he forgets (perhaps conveniently), that MOU II was signed by him on May 30, 2006 more than a month after the completion of the Budget Debate.

I wish to congratulate Senator Dwight Nelson and the Leadership of the Trade Unions for their responsible approach to the negotiations and signing.

### **Tax Revenue**

The Opposition Spokesman on Finance tells us that the projected increase in Tax Revenue of \$44.0 billion through compliance is not credible.

I never said the \$44.0 billion increase over last year would come solely from compliance. In fact, the lion's share of this increase is expected to come from national increases in collections that are generated from economic activity (growth, inflation, and wage adjustment in the public and private sector).

In addition, the compliance programme that will be undertaken this year will be formidable and involve several major initiatives, including a revived Revenue Protection Division, reduction in discretionary waivers, administrative improvements in all tax departments and a tax amnesty programme across all tax types that will be aggressively promoted over the next few weeks in order to garner some of the over \$100.0 billion in arrears on the road.

In addition, Customs Revenue grew by 14% in 07/08, why is it that with the RPD in place, the Opposition Spokesman questions a projected 16% increase in Customs Revenue. If anything, this is conservative.

Let me examine some of Dr. Davies' statements which, on the surface, could lead us to believe that the technocrats don't know what they are saying. What do the figures say? In Fiscal years 06/07 and 07/08 total taxation revenues increased by 16% in each period. During these periods, there was no major thrust for tax reform or compliance and there was certainly no amnesty.

If during the regular course of events, the revenue increased by 16% each period, what would prevent it, in the year of a tax amnesty and major efforts towards tax reform and compliance, from increasing by a mere 4% over the average? This is a credible projection and we are already receiving an encouraging response from the tax paying public.

The Opposition Spokesman on Finance also questions revenue growth in other tax types. Overall, taxes are projected to grow by just under 20% this year with the Tax/GDP rate falling slightly to 27.4%.

Mr. Speaker, it must be noted that the Tax/GDP ratio projected for 2008/09 is inline with the average of 27% for the last 5 years. **This is credible.**

The PAYE projection is not overstated. It is not only influenced by the MOU, but it is also influenced by the annual increments of 2.5%, the reclassification in the health sector to be undertaken this fiscal year, and the Amnesty and Special Compliance efforts.



The big boost in Corporate Tax is coming from the bauxite/alumina sector based on forecasts developed by the Jamaica Bauxite Institute. Is the Opposition Spokesman saying that the JBI is no longer competent at analyzing the industry and forecasting revenue?

### **Fiscal Deficit**

The Opposition Spokesman on Finance says that I set my own low target so that I could meet it and that the 4.7% deficit outturn was the result of tricks - that only salaries were paid in the last six weeks.

Mr. Speaker I wish to repeat that given the fiscal challenges inherited from the previous administration, where \$16.0 billion of unbudgeted expenditure had to be absorbed; additional unbudgeted items for Air Jamaica, Hurricane Dean and other Deferred Financing obligations had to be accommodated.

Let me repeat - **Had we not taken strong, focused, disciplined and fiscally prudent corrective action, the deficit would have skyrocketed to over 7.0%.**

We set a revised target of 5.5% up from 4.5% set by the previous Minister, which was itself unrealistic with the budgetary overhang he knew was waiting in the wings.

We are not only pleased, we are proud that we have achieved and exceeded our first fiscal target set in seven months, that has not been achieved in 7 years by the previous Minister. (Actual 4.7%). And by the way, so well have we performed, that if the sale of Petrojam and the proceeds of the Universal Access Fund were excluded, we would still have achieved the target of 5.5%.

:Mr. Speaker, I have taken the time to speak on this issue of the fiscal deficit target because the former Minister has left a legacy of often times demonstrating flagrant disregard for targets set. This has left a credibility problem for Jamaica among our stakeholder at home and abroad. After seven years of missed targets, the last full year of the former Minister's stewardship, he missed his deficit target, moved from 2.5% to 5.3%, without an explanation.

- No hurricanes
- No external shocks
- No other natural disaster with the exception of his own Government

We have started the journey toward the establishment of credible targets and achieving them and we intend to continue along this path.

The International Financial Community is already responding favourably to the new dispensation of fiscal responsibility. This includes favourable comments from Gregory Fisher - financial advisor of Oppenheimer Inc.

### **Interest Rates**

In relation to the increase in interest rates the former Minister told me "the increase in interest rates is your baby alone". Mr. Speaker when he was Minister and I asked him about interest rates, he said "interest rates are market determined" and "monetary policy is handled by the Bank of Jamaica". Now all of a sudden it's "my baby alone".

The truth is, Mr. Speaker, achieving over time, sustainably lower interest rates is a complex process that requires synergy in the consistent achievement of critical macroeconomic variables.

So far, we have made progress. We have stabilized the exchange rate. The NIR is now over US\$2.1 billion, and we achieved our first fiscal deficit target for the first time in seven years.

The promised Central Treasury Management System will help ensure reduced pressure in the money market for higher interest rates. But most of all, it is in the process of setting credible targets and meeting them, along with good governance, that will generate the confidence needed to lower interest rates.

### **Inflation**

Mr. Speaker, while I rely on our technocrats to provide sound projections for inflation, I am mindful of the unprecedented and volatile global environment that now prevails. For instance,

oil prices which jumped to US\$120 per barrel yesterday, were never anticipated three months ago. This further underscores the need to abandon "point-scoring" and look to initiatives to mitigate inflation such as energy conservation and food security.

I'm urging all motorists including those who drive government vehicles and especially drivers of MPs, to stop "idling their engines"...it is wasteful.

### **Expenditure** ***Roads***

The Opposition Spokesman on Finance has told us that road repairs are underfunded. He really should not go there. Of the \$1.6 billion he allocated for road maintenance last year, \$1.3 billion had to be used to pay bills from the previous fiscal year, leaving only \$300 million to repair roads. Equally, several billion dollars was set aside to pay prior year deferred financing payments. The amounts allocated for road repairs represent a substantial increase over last year when these factors are accounted for.

### ***Tourism***

In tourism, there has *been* a modest increase in the budget for promotion, but we are emphasizing efficiency in the use of our money and Minister Bartlett - that man of energy - is ensuring that we get a bang for every dollar spent in tourism promotion.

### **Token Reductions**

The Opposition Spokesman on Finance's attitude towards the modest increase in the tax threshold, the decrease in transfer tax and stamp duties, as well as concessions on dividends and relief in the Customs User Fees for Capital Goods, reveals his own lack of understanding of the need to exercise good faith in commitments and in how business works.

We are committed to regular adjustments to the Income Tax Threshold in line with growth in the economy. We are also committed to reducing transactional costs in order to spur more investment in real estate and the construction and installation sectors.

He too, picked from the Matalon Report, but only of what he could take from the taxpayers, not what he could give - i.e. moved GCT from 15% to 16½ %.

We promised tax reform, it's coming.

We are serious about the Administrative Reform of our revenue management processes. It has started.

We are resolute that we will create a business-friendly and disciplined environment that over time will change the culture of the people towards respecting the tax laws and paying their taxes.

**And in exchange for this the Government commits itself to fiscally responsible expenditure, to cut waste, cut nepotism, cut corruption, increase efficiency, increase service delivery and show the people of Jamaica what it means to have a Good Government at work on their behalf.**

#### 11. Multilaterals

Mr. Speaker, consistently in all of my previous budget presentations I spoke of the need for the Government of Jamaica to embrace the multilaterals. When I speak of the multilaterals, I am specifically speaking of the CDB, the IDB, the World Bank, and their affiliates. Jamaica despite having stopped borrowing from the IMF is still a contributing member.

This is the context of my lobbying for the last 5 to 6 years for the multilaterals. My lobbying for them has nothing to do with confidence in our local technocrats and quite frankly I do not see the connection. The previous Minister knows better and should do better. Do not get our technical staff involved in your politics. Please leave them alone! !

Mr. Speaker, I believe that we must continue to court the multilaterals, and I will certainly do so., And the previous Governments need to stop scaring the country re multilaterals, it is not in Jamaica's interest to do so !!!

On the issue of cross conditionalities. Mr. Speaker the previous Minister fully knows that the international capital markets rely on the reports of the IMF and the World Bank in deciding on . our ability to repay our loans. While capital markets do not "peg" us to the agreements with multilaterals, the multilaterals do themselves rely on some of the same indicators, such as, Primary Surplus, Budget Deficit, International Reserves, Tax Revenue, Capital Budget, amongst others. So, the cross-conditionalities are implied but not contracted.

The suggestion by some in the media that the hike in interest rates at the NHT is due to conditionalities is an old time socialist duppy that needs to be buried.

Let it be clear, this Government is not waiting on any 'multilateral to tell us to clean up our act. We are demonstrating the fortitude and the discipline to do so on our own.

I am pleased to announce that as a sign of our desire to further strengthen our relationships with the multilaterals Ambassador Richard Bernal *has* been nominated by me to be appointed as the Alternate Executive Director at the Inter-American Development Bank for the Caribbean Region with effect from July 01, 2008.

From this point he will be able to interface more keenly with the multilaterals on our behalf.

Dr. Davies was pleased to announce that he is going to Washington this week and I should join him. I thank him for the invitation but it won't be necessary. A week ago, emissaries from the US Department of the Treasury came to visit me at my corner office, with a view to understanding the priorities and needs of Jamaica and how they could assist us.

In that regard, I have already asked the US Treasury Department to send consultants from the US Internal Revenue Service to assist the Ministry of Finance in developing effective strategies for protecting the revenue at Customs and increasing efficiency in taxpayer audit and compliance.

World Bank - US\$10m signing was on the principle of the relationship not the money.

What cannot be denied is that 18 years ago Jamaica's debt profile was 70% Bilateral and multilateral debt, and 30% private sector (cheaper money).

Today, our stock of debt is 75% private sector (more expensive) only 25% Bilateral and multilateral.

Rebuilding (Heavily Indebted Middle-Income Countries (HIMC)<sup>1</sup> Debt Management)

Executive Director (World Bank) Samy Watson visits Jamaica in early May

- Tentative meeting scheduled with selected Finance Ministers of the Caribbean
- June meeting with Mexican Secretary of Finance; Latin America & Caribbean Region Finance Ministers to discuss responses to global challenges in Mexico City.

### NROCC

Mr. Speaker, for the record I do not want to be accused of "vilifying" the persons who saw through the development of this project but we must be prepared to answer the Jamaican public as to why NROCC debts and losses are ballooning so rapidly that the losses are expanding exponentially. *In 08/09* some \$8B will be added to the NROCC debt. This has *serious* implications for this budget and future budgets. Furthermore, the implications *for the* users of Highway 2000 are distressing, as somebody will have to pay for the losses.

In my opening speech I made reference to the fact that interest costs for Highway 2000 would approximate to 23% when you add the base (coupon) rate of 4.5% to this year's inflation rate of 19%.

Let me set the record straight on this matter. Currently the loan profile for NROCC is comprised of:-

- 1) J\$3.5 billion local indexed bond - base rate (coupon rate) is 4.5% of indexed principal where the principal is increased semi-annually on a compounded basis. To date, the principal has increased to \$6.0B (almost 100 % increase since 2002). Both the principal

movements and the interest charges affect the company's profit and loss on a yearly basis. As an example, if inflation is 19% then the impact on the company's profit and loss for the year would be 19% for movement in principal and 4.5% (compounded) interest charges. Mr. Speaker the Bond Inflation (separate from interest charges) charged to the company's expenses were \$368M for 2006/2007; \$849M for 2007/2008; projected for 2008/2009 is \$1.69B.

Mr. Speaker, the CEO of NROCC has advised me that to date the average interest charge on this local inflation-indexed Bond is 17%. Based on my own assessment of the situation there is no doubt that this will continue to increase over a period of time given that this is a 30-year bond.

2) A loan from Venezuela of US\$264M (Eu'o 204 M). While the interest rate to the DBJ is 7.5 % the DBJ is unending this loan to NROCC at 9.37%.

3) A loan from the MOF for US\$3M

Mr. Speaker the losses of NROCC is due to -

- a) The inadequate financing structure of this entity. There is no where in the world where you can finance long-term infrastructure projects at a cost of capital exceeding 9% on US\$ loans and 17% on Jamaican dollar loans.
- b) Exchange Rate losses
- c) The inflation indexation of the principal of the local bonds.
- d) The inadequacy of the toll rates.
- e) The subsidies provided to the toll operator in the absence of increased toll rates or lower than projected use of the toll road by motorists

Mr. Speaker, we must hasten to refinance the loans of NROCC otherwise NROCC will be worse than Air Jamaica or SCJ. (Omar Davies was opposed to this financing plan?).

### 1. CUSTOMS - TO BECOME AN EXECUTIVE AGENCY

The Jamaica Customs Department plays a pivotal role in Jamaica's economy. It is the second largest income earner for the Government. However, its potential for revenue collection and protection can be vastly improved with a number of changes to its current standards and procedures. For several years the Jamaica Customs Department has been strongly criticized by the public for its unprofessional conduct, poor customer service and allegations have been made that some Customs officials are involved in corrupt practices.

In order to maintain and reinforce the role of the Customs Officer, the society needs to be educated on how corrupt acts have a negative bearing on them. By becoming an Executive Agency, the Jamaica Customs Department can enhance its operations and stamp out corruption.

As an Executive Agency, The Jamaica Customs Department will be led by a Board of Directors. This Board is responsible for evaluating the performance of the department and its staff as well as the appointment of a Chief Executive Officer (CEO). The CEO is responsible for overseeing the daily operations of the department.

### C. Response to the Member from Central Manchester

#### "Freeness" unappreciated

The member from Central Manchester is against free health care and free education because he fails to understand the concept of "Development with Equity with the People at the Centre". He clearly does not understand the needs of the majority of the citizens of his constituency.

It is not surprising therefore, that the MP for Central Manchester has been a stalwart and unrepentant supporter of the former Finance Minister's policies of "transferring wealth from the



poor to the rich never before seen since the abolition of slavery". He now says poor people must not get education and health care free because they won't appreciate it!

Mr. Speaker, we know the value of the policies that we have initiated, but they on that side must ask the thousands more people now taking advantage of hospitals as a result of this policy. Will this not mean a more healthy population, which in itself will reduce costs and increase productivity over time?

Ask the thousands of parents who got their refunds last year for cost-sharing in education and was able to use it to buy food and clothing for their children.

Or perhaps they ought to have consulted with the Leader of the Opposition who has now come to slap both her Finance Spokesman and Industry and Commerce Spokesman on their positions.

Mr. Speaker, what is the true position of the Opposition on these vital social issues of education and health care? What a confusion!

How can any well-thinking MP be against free education and free health care, which will in time allow them to be better able to deal with any price increases that come, as they will be healthier and better educated and can thus earn more. Mr. Speaker we are committed to improving the lives of people so that we won't have to say every year that "we love poor people", because our policies will ensure that in time "no one has to be poor".

**Mr. Speaker, on this issue we need national consensus, but how can we achieve this when they on that side are unable to achieve consensus within their ranks?**

**But even as they seek to reconcile their positions, the Government is resolute and firm in its position, that it is time we stop squeezing everything from the people and start giving back tangible benefits to the people.**

We said in the campaign that;

***"There must be a better way, we are going to make that change, Jamaicans need a CHANCE to turn their lives around and we are going to make that change!"***

Mr. Speaker, this process of change has begun and the people are already feeling the benefits of better governance - we are governing with equity - **with the people at the centre.**

### **Unregulated Investment Schemes**

Mr. Speaker, there is a time honoured tradition that when you quote members of this Honourable House you should quote from Hansard in this full context of the subject matter at issue.

In quoting me, the member from Central Manchester curiously left out, and I'm reading my verbatim comments from *the* Hansard: "Mr. Speaker, I say to the Minister of Finance, enforce the rules where they are enforceable, regulate where regulation is necessary, inform the public of the risks involved, where risks are involved. And public education, Mr. Speaker, of course is vital. But we cannot take the word 'free' out of the concept of a free market economy."

In fact, in this year's budget I went farther and proposed and I quote: "that the Government will give urgent attention to the development of a legal and regulatory framework within which the creative entrepreneurial spirit in the financial sector can further grow and develop".

To take these statements and then to proceed to say that I supported these schemes, and to go further by linking my comments to the success/failure of these schemes, is frankly unacceptable behavior and a flagrant misuse of Parliamentary Privilege. At no time I have said that I supported these schemes.

Mr. Speaker, this administration has gone the furthest to bring the unregulated investment schemes into the regulatory framework. We have urged these schemes to register with the FSC and the FSC has had an aggressive programme in which it warns people to "think and check before you invest".

In an effort to bring to bear our responsibility to protect the people of Jamaica, we have set up a Task Force to examine and implement appropriate recommendations from a recent IMF Report Addressing Jamaica's Unregulated Investment Schemes. This Task Force includes representatives from the Bank of Jamaica, the Office of the Director of Public Prosecutions, the Attorney General's Chambers, and the Financial Investigation Division (FID) of the Ministry of Finance.

In addition, steps have been taken and instructions given to the FSC and the Attorney General to carry out a comprehensive review of the regulations to amend the laws taking into account the new dispensation in the global financial market, whereby legitimate non-traditional financial instruments can be accommodated within the regulatory framework, these include hedge funds, derivatives and mutual funds.

In this regard, Mr. Speaker, I am to advise this House today that I have concluded negotiations to bring expertise from overseas within the next few weeks to assist in this process.

The suggestion of inaction by the member from Central Manchester is dishonourable, hypocritical, and without foundation. Had he done his research, he would have found ample evidence of advice give by the Attorney General referring to the former Minister from as far back as April last year - advice which appears to have fallen on deaf ears.

### **Commission of Inquiry**

Mr. Speaker, the MP for Central Manchester made a call for a Commission of Inquiry into alternative investment schemes. I was confused as to whether he was speaking as the Shadow Minister of Finance but that is for the Leader of the Opposition to correct him again or for the present Shadow Minister to remind him that he is still around. (seems as if we have two Shadow Ministers of Finance)

Where was his call for an enquiry in the most devastating bomb to have hit Jamaica -- the financial sector melt down in the 1990's, and the resulting impact of FINSAC on thousands of

Jamaicans? Where was his call for a Commission of Inquiry when 27 people were murdered in Tivoli Gardens? Where was his call for a Commission of Inquiry in the various scandals that robbed the country of billions of dollars? I speak of Operation Pride - thousands have still not yet received their homes, funds cannot be accounted for, and witnesses to corrupt practices have apparently vanished in thin air; the Zinc scandal, the now infamous Trafigura oil deal, the sale of the Air Jamaica slots, the forward sale of Bauxite below production costs, and I could go on and on and on.

Mr. Speaker, the police and the Financial Investigation Division are currently investigating Cash Plus. A Receiver has been appointed by the Court and his first interim report should be filed with the Court by May 5, 2008. Given these activities I see no rationale for a Commission of Inquiry.

Mr. Speaker, a commission of Inquiry can only be properly established under the Commission of Inquiry's Act and is reserved to bring to light facts and issues that are not available from civil action. A Commission of Inquiry must be as a result of Government action or policy intervention that does not allow the ordinary citizen a right of action.

#### **I. FINANCIAL SECTOR COLLAPSE -- COMMISSION OF INQUIRY**

Mr. Speaker, I must agree with the Opposition spokesperson on Industry and Commerce, that the PNP Government "guided the economy through the most profound economic transformation". Just ask the thousands of employees of businesses which had to close their doors on account of the financial sector collapse. While in Opposition, the Jamaica Labour Party made an attempt in the Senate to launch an investigation. This was blocked. We also appealed to the Universities to carry out a study on the collapse. This was met with a lukewarm response.

We maintain our stance and will implement this year a Commission of Inquiry that will specifically pinpoint the causes of the collapse and will assist us as a country to set down rules to avoid such a catastrophe ever befalling Jamaica again.

On this issue of the Commission of Inquiry I turn to the financial sector meltdown of the 1990's.

Mr. Speaker, as a result of a prolonged period of high interest rates due to inappropriate policy decisions, inappropriate because of the timing and lack of understanding by the then Government of these decisions, we had the most devastating bomb to hit Jamaica: Mr. Speaker, I speak not of the PNP but the financial sector meltdown of the 1990's

Interest rates during his period Mr. Speaker, ranged between 70% to 140%, which small and medium size businesses were expected to pay. How ironic it is Mr. Speaker, that today we are discussing how impractical it is for alternative investment schemes to make returns over 100% but yet the then Minister of Finance expected companies to be able to make profits so as to finance interest rates of over 100%.

Obviously, many of these medium to small businesses could not afford to pay these rates of interest and so thousands of businesses became bankrupt, which created a ripple effect throughout the Banking Sector.

The devastation affected every sphere of Jamaica's business sector and private life. As a result, the Government was forced to intervene, which it did but in a very haphazard manner.

In some instances depositors received 90% of their deposit with no interest, and in other instances depositors received 100% of their deposits plus interest.

In some entities the Government's decision to place them under Temporary Management was decisive, for others liquidity support was given by the Government although it was known that these entities were technically insolvent at the time of the liquidity support. The Bank of Jamaica now has debt of \$60 billion on its books which is owed to them by the Government of Jamaica in part as a result of this crisis.

Borrowers from the failed financial entities, including individuals with mortgages, companies, and other business entities, were treated differently depending on their connection - some loans were reduced or written off, and others were forced to pay the hideously high interest rates. As one borrower stated the other day, *"they were sold to the Texans like cattle"*.

~~profitability of FNSAC was not known until after the sale of the slots to the Subsequent to the sale of the slots to JOSLIN/Jamaica Redevelopment Foundation at 20 cents in the dollar -- 80 per cent discount. A discount that the Government never saw fit to offer their own people.~~

## 2. AIR JAMAICA

Mr. Speaker *we* all know about the losses of Air Jamaica, I spoke about it in my first presentation and the Prime Minister spoke about it yesterday. Today I want to speak about a matter relating to Air Jamaica having to do with London Route. I refer to the sale of the Heathrow slots.

### Heathrow Slots

Air Jamaica operated seven slots at Heathrow Airport. These slots allowed Air Jamaica to fly daily into and out of Heathrow. During the winter period all seven slots are considered prime slots - which is defined as arrival and departure between 7:00 am and 3:00 pm; during the summer months four of our departure schedules were marginally out of the prime spot periods. Overall, the seven slots are considered to be prime slots.

On March 10, 2007, Air Jamaica sold these prime slots to Virgin Atlantic for an, amazing price of US\$10M. Mr. Speaker, amazing because the Government of Jamaica and the then Board of Air Jamaica should have known of the high demand for these slots given the pending Open. Air Skies Agreement, which was going to free-up traveling across the Atlantic.

In fact in April 2007 the administrators of the airports in the UK stated publicly that, and I quote, "Heathrow slots are highly scarce and demand far outstrips supply". **But more than that, in March 2008 Continental Airline paid US\$209M for four prime slots not seven!!!** The London Times in reporting this sale said "...this indicates how desperate airlines are for access to Heathrow".

This sale is of great concern to this Government for several reasons:-

1. The Open. Skies Agreement has been in the making for many years. Any person in the industry should have known of the consequences of the agreement. The primary objective of the agreement is to open Heathrow for other aircrafts from the USA to other carriers, including, Continental and Delta who previously only had access to Gatwick. Why did the then Air Jamaica Board and the then Minister of Finance not know this? And if they did, why did they sell off these prime slots so cheaply?
2. The process was not subject to public tender. It appears that only two companies had been courted, British Airways and Virgin. But Mr. Speaker, the interesting point which should be noted by this House is that these two airlines already were allowed to operate between the USA and Heathrow so their concept of the value of the slots would have been different from the airlines which would benefit from the Open Sky Agreement, such as, Continental and Delta, amongst others.
3. Parliament's consent on a fundamental issue as this was never sought. Parliament was only advised when the "sale was signed, sealed and delivered". This is a significant asset of the people of Jamaica!
4. It appears that legal officers of Air Jamaica and other senior Government technocrats had no input in the negotiations and the drafting of the sale agreement!  
!!!

We have asked the Contractor General to investigate this matter. The sale revenue given up is too large, potentially US\$364M, for as to not fully investigate this matter. US\$364M or J\$26B could have paid off 75% of the US\$473M liabilities of Air Jamaica that your Government left behind, including the US\$325M Bond for which this Budget has to find J\$3.7 billion this year alone to service this debt.

D.      **RETURNING CREDIBILITY TO THE BUDGETARY PROCESS** Mr. Speaker, while in Opposition I spoke of the need to bring back good governance to the management of the affairs of the country.

The starting point of good governance is to return credibility to the budgetary process.' We are firm in our conviction that we have started this process in the presentation of this our first Budget for a full fiscal year.

We are confident that this Budget provides the platform for growth and development with equity - with the people at the centre.

E.      **THE WAY FORWARD**

Like Shakespeare, W. Clement Stone saw benefit in adversity. He said "In every adversity there is a seed of greater benefit". Let us together sow those seeds of greater benefit. Let us grasp opportunity from the new global adversities that we now face, and let us move forward with confidence as we engineer the creation of wealth out of the challenges of the time.

Indeed, these seeds of greater benefit are not confined to the basic needs of food *security*, as citizens we urgently need to sow new seeds of hope, good conduct, respect for one another and for human life, of public order, of increased productivity and good governance.

Once these social, cultural and economic seeds are **grown** and **carefully nurtured**, we together will secure our future of Development with Equity with the People at the Centre.

May God bless you all and may God bless Jamaica!

*Audley Shaw, MP*  
*Minister of Finance and the Public Service*

April 23, 2008



## **SKELETON SUBMISSIONS**

**For the Commission of Enquiry by His Excellency the Most Honourable Professor Sir KENNETH OCTAVIUS HALL, Member of the Order of the Nation, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Member of the Order of Jamaica, Governor General of Jamaica.**

**To: The Hon. Mr. Justice Boyd Carey (Ret'd)  
Mr. Dayle Blair  
Mr. Charles Ross**

The following is a Skeleton Submission of complaint by Debtor 1 against FINSAC and Jamaica Redevelopment Foundation. A more extensive Submission will be made for the Enquiry in due Course.

1.           Figures passed on to Dennis Joslin Ltd. and Jamaica Redevelopment Foundation Ltd. by the FINSAC Entities created confusion and enabled Jamaica Redevelopment Foundation to take undue advantage of the complainant Debtor 1.
  
2.           Within three days in or about 2001 one entity which derived its purported authority from FINSAC billed Debtor 1 for Seventy-five Million Dollars (\$75,000,000.00), while another entity billed him for Forty-three Million Dollars ( 43,000,000.00). See Letters of Demand.

3. Jamaica Redevelopment Foundation, a company incorporated in the State of Texas in the United States of America, is misleading by its name, in that it has nothing to do with the development of Jamaica and is contrary to the company laws of Jamaica.
4. The exemption of Jamaica Redevelopment Foundation from the provisions of the Money Lending Act by the Minister is unconstitutional, in that, the Act enables the Minister to exempt accounts and the Minister's exemption relate to the entity and not to accounts. In any event, under section 3 of the Money Lending Act, the provisions stated therein are very stringent and rare and is against the Constitution of Jamaica to allow a foreign company to come here and be exempt from the Act when all Jamaicans have to abide by it.
5. On at least three occasions in the last year the company had not been in good standing with the regulatory authorities in Texas thus placing it in a precarious situation vis a vis Jamaican Assets.
6. In short, Debtor 1 could have his assets sold by Jamaica Redevelopment Foundation while a suit is pending and if victorious

in the suit, could find that Jamaica Redevelopment Foundation is no longer in existence and his property which is valued Eight Hundred Million Dollars (\$800,000,000.00) has been lost. These propositions and more will be evaluated and expanded upon when I make my more extensive written submissions on behalf of Debtor 1.

7 The Minister of Finance has been granting exemptions on the Act to Jamaica Redevelopment Foundation since 2002, thus, purportedly enabling them to charge interest of 50-65% on assets which it has purchased from FINSAC at, according to the present Minister, 200 in the dollar. My client, Debtor 1, is very concerned about the future of his property, having regard to what has been said *vis a vis* Jamaica Redevelopment Foundation's precarious position. That is not all, the present Minister one understands, has ceased signing exemptions after 2008. That, I respectfully submit, is not enough, there needs to be a freeze on the assets of Jamaica Redevelopment Foundation in general and that held by it for Debtor 1 in particular, until the enquiry has had time to function so that assets are not disposed of by them and the proceeds cannot be

accounted for if the court decisions are made of the assets holder in general and Debtor 1 in particular.

8. Two extracts from the Minister's speech in the 2008 Budget Debate are enlightening. A copy of that debate is sent herewith and special reference is hereby made to the final paragraph on page 18 and the first paragraph on page 19. They are as follows:

*.....Borrowers from failed financial entities, including individuals with mortgages, companies, and other business entities, were treated differently depending on their connection-some loans were reduced or written off, and others were forced to pay the hideously high interest rates. As one borrower stated the other day, "they were sold to the Texans like cattle".*

*As part of the bailout strategy FINSAC was created where non-performing loans, and assets of selected financial entities were transferred. Subsequently, these non-performing loans were sold to JOSLIN/Jamaica Redevelopment Foundation at 20 cents in the*

*dollar-80 per cent discount. A discount that the Government never saw  
fit to offer their own people ..... '*

Dated the Z. day of ,00 2009

RAPHAEL D. CODLIN

A handwritten signature in black ink, appearing to read 'R. Codlin', written over a horizontal line.

C aimant's Atiney-at-law

## **FINAL SUBMISSIONS**

**For the Commission of Enquiry by His Excellency the Most Honourable Professor Sir KENNETH OCTAVIUS HALL, Member of the Order of the Nation, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Member of the Order of Jamaica, Governor General of Jamaica.**

**To: The Hon. Mr. Justice Boyd Carey (Ret'd)  
Mr. Dayle Blair  
Mr. Charles Ross**

- 1 Debtor 1 is a land owner and entrepreneur from Mandeville in the parish of Manchester. He owns a large shopping complex in Mandeville and he owns other properties. In 1992, Debtor 1 borrowed Four Million Dollars (\$4,000,000.00) from Eagle Commercial Bank Limited, one of the banks operating in the island at that time. He gave a mortgage on his property as security for the loan that was given to Eagle Commercial Bank Limited. The mortgage instrument, it appears was registered.
2. In or about 1991/1992, the financial sector of Jamaica had a slump in its operation and many leading institutions, including Eagle

Commercial Bank, went out of business. The mortgage reads inter alia:  
*The Mortgagor is the registered owner of the lands hereinafter called the 'said lands', described in mortgage instrument dated 22<sup>nd</sup> of October 1992 and registered at Certificate of Title dated 11<sup>th</sup> of November 1992 to secure a principal sum of Four Million Dollars (\$4,000,000.00) with interest etc. Then in B it states:*

*The Mortgagor has defaulted on his mortgage payments and the bank has threatened to exercise its power of sale in respect of the said lands. So far so good.* The fact is, Dennis Joslin Jamaica Incorporated and Jamaica Redevelopment Foundation seem to have been contesting who should succeed the bank as Successor in Title *vis a vis* his mortgage. The answer to that question unfortunately has been painfully and it is submitted wrongly stated in a mortgage instrument which Jamaica Redevelopment Foundation is seeking to enforce against Debtor 1.

These strong words were used because of the following:

The mortgage which was dated the 22<sup>nd</sup> of October 1992 and which claims that the bank has threatened to exercise its powers of sale could

not properly have stated that, because on the date of this mortgage, namely; 20<sup>th</sup> of February 2001, Eagle Commercial Bank was not in existence and therefore could not have threatened anything and the question is whether this mortgage that was made in 1992 could have been properly executed in 2001 with complete disregard for the six (6) years limitation period.

4. After carefully examining this document, I was driven to describe it as a 'documentary hermaphrodite', I think I shall stick to that name because I do not see how a mortgage made in October 1992, could have been signed on the 20<sup>th</sup> of February 2001 and providing for the default to the bank when in 2001 the bank was not in existence, it certainly was not operating at that time and the bank is certainly not seeking to enforce any claim against Debtor 1. This evidence will be given by Debtor 1.

5. Jamaica Redevelopment Foundation made a demand on Debtor 1 saying that in 2001 the total sum owing was Twelve Million Six Hundred and Nine Thousand One Hundred and Fifty-four Dollars (\$12,609,154.00) on the loan, that was principal. Interest it is said



amounted to Two Million Eight Hundred and Fifty Thousand and Four Hundred and Forty-four Dollars (\$2,850,444.00) that is when the instrument was purportedly executed by Debtor 1 in 2001. He will challenge the validity of this mortgage under the following heading:

1. It purports to give Jamaica Redevelopment Foundation authority to charge (50%) and more contrary to the Money Lending Act.
2. The Minister in the previous administration, has issued directives enabling institutions to charge two sums; one, thirty percent (30%) and one, twenty percent (20%).
3. The Money Lending Act stipulates quite clearly, the circumstances under which interest may be chargeable.
4. Jamaica Redevelopment Foundation and Dennis Joslin have purported to charge interest at fifty percent (50%) which places them outside the provisions of the Money Lending Act.
5. If, as it is submitted, the ceiling for interest is thirty percent (30%) as spelt out in the Money Lending Act, or forty percent (40%) as the case may be then Jamaica Redevelopment Foundation, not being a financial institution could not possibly be allowed to charge fifty and sixty-five percent (50% and 65%) as it has been doing and

in the case of Debtor 1, fifty percent (50%) compounded. That is not all; when Jamaica Redevelopment Foundation filed its defence against Debtor 1; it says that Debtor 1 owes more than a billion dollars, history in the making: we are the only country where a man could borrow Four Million Dollars (\$4,000,000.00) and is required to repay One Billion Dollars (\$1,000,000,000.00). Well, Debtor 1 has evidence to show that in relation to the Four Million Dollars (\$4,000,000.00) which he has borrowed, he has paid back somewhere in the region of Twenty to Thirty Million Dollars (\$20,000,000.00 - \$30,000,000.00) and on one occasion he made a repayment through his attorneys of Sixteen to Eighteen Million Dollars (\$16,000,000.00 •- \$18,000,000.00) before Jamaica Redevelopment Foundation and/or Dennis Joslin came into the picture.

6. The next sordid episode in this unfortunate situation is that in August 2007, Jamaica Redevelopment Foundation purported to exercise its power of sale and put a receiver in Debtor 1's property. So far he has not been successful in court because of a number of reasons which cannot be mentioned here. Debtor 1 wishes to testify however, to this tribunal that not only has his constitutional rights

been breached but that his property was taken over in circumstances that are contrary to Jamaican law. If he wants a witness for this proposition, the Minister of Finance is there. The able Minister has already enlightened the public that the assets of these institutions were sold to foreigners for Twenty Cents (200) in the dollar. The same Minister has ordered that Jamaica Redevelopment Foundation be exempt from the Money Lending Act. It will be submitted on behalf of Debtor 1 that the Minister had no such power because Section 13114 of the act enables him to exempt accounts not legal or actual persona, so whereas he is able to exempt accounts under the act, he exempted persona by virtue of his orders. The next critical and indeed unfortunate situation which has befallen Debtor 1 can be gleaned from two documents.

7. I refer to the mortgage instrument hereinbefore mentioned and mark it 'exhibit 1' and then I refer to a letter addressed to Debtor 1's attorneys Pearson and Company, dated the 24<sup>th</sup> of June 2002. It shows that Debtor 1, according to Dennis Joslin owes the sum of Forty-three Million Eight Hundred and Eighty-eight Thousand, Two Hundred and Nineteen Dollars and Thirty-five Cents (\$43,888,219.35) and then, the

21<sup>St</sup> of June 2002 just three days before the letter from Dennis Joslin, Debtor 1 is shown to be owing Sixty-eight Million Two Hundred and Four Cents (\$68,278,163.04). It is to be observed that both these documents cannot be correct. Indeed, it is submitted that the document from Dennis Joslin, if any of the two is to be preferred is the one that ought to be preferred because Dennis Joslin seemed to have been in contact with Mr. Pearson for sometime in circumstances which make it clear that Dennis Joslin was the party being dealt with by Debtor 1 but on the Sixty-eight Million Dollars (68,000,000.00) exhibited on 'exhibit 3'. It will be observed that the interest rate is fifty percent (50%) so each year the sum in question is doubled. Indeed, on the 21<sup>St</sup> of June not only was the interest rate compounded and doubled but in one month it was Two Million Seven Hundred and Five Thousand, Six Hundred and Sixty-nine Dollars and Fifty-five Cents (\$2,705,669.55). At this juncture, Dennis Joslin fell out of the picture. The question that your Tribunal may wish to consider is this: How it is that in 2002 two separate legal entities were demanding payment from one and same purported borrower from FINSAC or otherwise and why was one showing Forty-three Million Dollars (\$43,000,000.00) and the other showing Sixty-eight Million Dollars

(\$68,000,000.00)? Up to that time, Debtor 1's payments which he alleges were made were not shown to have been taken into account by the new protagonist.

8. I now turn to the status of Jamaica Redevelopment Foundation Incorporated, that entity in 2008 having claimed that Debtor 1 owes more than a billion dollars gave an account sheet showing that sum. That account sheet is attached hereto as 'exhibit 4'. Debtor 1 has now been deprived of his means of livelihood, his property and the Honourable Minister having been written to have not replied to Debtor 1 and it appears that he might well be continuing to exempt an entity which came to Jamaica under a wrong name. It is submitted that Jamaica Redevelopment Foundation, is a company registered in Texas in the United States of America its address in Texas is 350 North St. Paul Street Dallas, Texas 75201-4201. It is therefore governed by United States law. In naming a company, Jamaica Redevelopment Foundation is misleading to the public and no wonder so many Jamaicans are caught up in that intellectual misplacement.

9. Another document which is pertinent, is the account statement dated from the 20<sup>th</sup> of February 2001 to the 21<sup>st</sup> of August 2007. There

is a subsequent similar document which shows that the total sum owing is over a billion dollars. I now turn to Jamaica Redevelopment Foundation briefly showing how it operates and also showing what it has done to Debtor 1. It will be observed that opening balance of Twelve Million Six Hundred and Nine Thousand One Hundred and Fifty-four Dollars (\$12,609,154.00) was simply slapped down in a document which Debtor 1 was required to sign and the evidence is that his lawyer said he did not read it. Indeed, Debtor 1 said that he did not sign it. The signature is in question, but even if Debtor 1 had signed it, why didn't the document take into account sums paid by Debtor 1 including a sum of approximately Sixteen Million to Eighteen Million Dollars (\$16,000,000.00 - \$18,000,000.00), why wasn't those taken into account? How much did Debtor 1 pay to the bank before the matter fell into the hands of Dennis Joslin and FINSAC? These are questions that need to be investigated. Now, the operations of Jamaica Redevelopment Foundation in Jamaica today, a company with thousands perhaps hundreds of thousands accounts with assets belonging to Jamaicans, which the Minister himself has admitted was sold by the previous administration for Twenty Cents (200) in the dollar; exclusively

to foreigners without offering them to the owners on a long term basis or to local persons or to a government agency is absolutely frightening.

10. It could not possibly be said that the persons would not pay because notwithstanding the harshness of Jamaica Redevelopment Foundation, some persons have reclaimed their property. Can there be justification for charging fifty percent (50%) compound interest on assets which you have purchased for twenty cents (200) in the dollar of face value.

11. Why were the assets sold to these foreigners for twenty cents (200) in the dollar? Having said all of this, it is submitted that the most important factor before the commission at this stage is the status of Jamaica Redevelopment Foundation. That company is a United States based company and is subject to United States law. The control which the Jamaican company law is able to exercise because it is a foreign company is of limited application. Debtor 1 has testified and will testify before this Tribunal, that a check at company's house will show that between 2005 and 2008, Jamaica Redevelopment Foundation submitted no returns to the local company's house as

required by law. Indeed, it was not until Debtor 1 blew the lid off that scandal with his Affidavit in court that documents were filed on behalf of the company. That has very important implications as regards the company's status in Texas.

12. Recently, an article was put out by Ryan J. Donmoyer, a United States expert in this field and the article is revealing. It shows that companies in America who have offshore trading are in a quite unenviable situation vis a vis their application to the United States tax authorities. A telling part of the article reads:

*..... The IRS can confiscate the higher of One Hundred Thousand Dollars or 50% of an offshore account's value when the holder deliberately doesn't disclose the account to treasury the penalty can apply each year if the form isn't filed. So after three years of non-compliance, the account holder can owe 150% of the account's value..*

Every Jamaican who reads this account and has business with Jamaica Redevelopment Foundation should be shaking in his shoes because he does not know if at this stage his assets are subject to confiscation by the United States Government because those assets although the



subject of court proceedings are registered in the name of Jamaica Redevelopment Foundation. We attach herewith a copy of a document *on bloomberg* website coming out of the United States entitled '*IRS to Extend Leniency for UBS Offshore Disclosure*' (update number 2). Among the things that the article says, is that the delay which was set for September 23, 2009 has been extended to sometime in October this year subject to compliance and previous breach.' [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] We would

submit on behalf of Debtor 1, that this commission may well deem it a counsel of prudence to consider submitting an early interim report to the Governor General, requesting the Minister to consider the status of this company before more Jamaicans loose their assets to a foreign power because the local authorities fail to act.

Debtor 1 will be available, both himself and his witnesses to give evidence if the commission so desires. Thank you very much.

Dated the                      day of                      2009

RAPHAEL D. CODLIN

.....  
Claimant's Attorney-at-law

Hotmail

New 1

jamaicanlawyerCa... Reply Reply all Forward

In box (4)

Delete Mark as Move to

Junk (15)

Drafts

Sent

Sent: Mon 9/21/09 2:20 PM

To.

RE:

(BN)

IRS to

Extend

Leniency

for UBS

Offshor

e

From

R

aphael

Goan &amp;

Company

(jamaicanla

wyer@hotm

all.com)

&gt; Date: Mon, 21 Sep 2009 10:13:44 -0400

&gt; From: k Debtor 1l@bloamberg.net

&gt; To: jamaicanlawyer@hotmail.com

&gt; Subject: (BN) IRS to Extend Leniency for UBS Offshore Disclosures (Update!)

• -----  
 > This message is sent by personnel of Credit Suisse Securities (Europe) Limited (au' only. It is not intended for private customers. The views may differ from CS analysts All CS Research can be accessed at: [www.credit-suisse.com/researchandanalytics](http://www.credit-suisse.com/researchandanalytics). It guaranteed. CS may hold, trade, perform investment banking or other services for th Information provided is not a confirmation of trade details.

&gt; IRS to Extend Leniency for UBS Offshore Disclosures (Update!)

&gt; 2009-09-21 02:33:33.670 GMT

&gt;

Deleted Manage

&gt; (Adds lawyers comments in final two paragraphs.)

folders

Add an e-mail

email received. account

Related places Today

Contact list Calendar



&gt;

&gt; By Ryan 1 Donmoyer

&gt; Sept. 21 (Bloomberg) -- The Internal Revenue Service will

> extend until Oct. 15 the ability of Americans with undeclared> offshore accounts at UBS AG and other bates to avoid criminal

&gt; prosecution and some fines if they disclose their holdings, a

&gt; government official familiar with the program said.

- > The agency will delay a Sept. 23 deadline at the request of
- > accountants and tax lawyers who are experiencing an influx of
- > inquiries and need more time to prepare formal "voluntary
- > disclosure" applications under the program, the official said.
- > More than 3,000 people have come forward since the IRS announced
- > the partial amnesty in March, the official added.
- > Americans with large undeclared offshore accounts have been
- > *under growing pressure since Switzerland agreed Aug. 19 to hand*
- > over data to the U.S. on as many as 4,450 UBS AG accounts to

- > settle a lawsuit in which the U.S. had sought as many as 52,000
- > accounts, The IRS says it expects to handle as many as 10,000
- > cases related to the matter and about half will come from the
- > voluntary disclosure program.
- > "This is a positive step," said Stuart Bassin, a partner
- > at the Washington law firm Baker & Hostetler LLP and a former
- > senior litigator in the Department of Justice Tax division.
- > This gives everybody a couple of weeks to digest what's
- > happened in the last three weeks and get their paperwork
- > together."
- > UBS spokeswoman Allison Chin-Leong didn't immediately
- > return a call and e-mail seeking comment.
- >
- > Names of Clients
- >
- > The IRS has already received 250 names of UBS clients from
- > a Feb. 18 settlement by the bank to avoid criminal prosecution,
- > Commissioner Douglas Shulman said Aug. 19. The tax agency has
- > described the names that may be turned over by the Swiss
- > government in phases as the cases in which it's most interested.
- > On March 26, the IRS announced a six-month voluntary
- > disclosure program that requires people with income in
- > undeclared bank accounts to amend six years worth of tax
- > returns, pay back taxes and some penalties..
- > chose who come forward may be able to avoid criminal
- > Prosecution and the IRS may seize a smaller amount of an
- > account's assets than it would be entitled to otherwise under >
- > the law.
- > The IRS can confiscate the higher of \$100,000 or 50 percent
- > Of an offshore account's value when the holder deliberately > j
- > doesn't disclose the account to Treasury. The penalty can apply'
- > *'each year the form isn't filed, so after three years of*
- > 'noncompliance the account holder can owe 150 percent of the
- > account's value,
- >
- > Peak value
- >
- > Under the IRS program announced in March, the tax agency
- > will take 20 percent of the account's assets based on its peak
- > value in the previous six years. In cases where the accounts
- > were inactive, the agency will confiscate as little as 5
- > percent.
- > Pamela Olson, a partner at the law firm Skadden Arps and
- > the former head of the Treasury Department's tax policy office,
- > called the IRS decision to extend the deadline until Oct. 15 "a
- > good move" because it will yield more confessions.
- > "There are still people who could use more time to get
- > everything sorted out and get their affairs in order," Olson
- > said,

- > Bassin said the disclosure program is also in the
- > government's best interest because they can't litigate and
- > investigate 50,000 people at the same time."
- > Bassin said the 3,000 people who have come forward dwarfs
- > the IRS's usual voluntary disclosure programs, The government
- > official, who spoke on condition he remain anonymous, said the
- > IRS received less than 90 voluntary disclosure applications in
- > 2008.

>  
 > Criminal Probes >  
 > Even as the IRS tries to lure voluntary disclosures, the  
 > U.S. Justice Department has ramped up criminal probes, so far  
 > prosecuting two UBS bankers, five of its U.S. clients, a  
 > Liechtenstein adviser, a Swiss lawyer, and a manager at Zurich-  
 > based Neue Zuercher Bank,  
 > Also, Sept. 23 is the deadline to file a separate form with  
 > the Treasury Department called the Report of Foreign Bank and  
 > Financial Accounts, an annual disclosure for Americans who own  
 > accounts valued at more than \$10,000 in other countries. Oct. 15  
 > is the deadline for filing 2008 tax returns.  
 > The disclosure program and the U.S. lawsuit settled by UBS  
 > are helping the U.S. squelch offshore tax evasion by pursuing  
 > financial institutions and intermediaries including law firms,  
 > Shulman said last month. The U.S. loses \$100 billion a year  
 > through offshore tax evasion, estimated U.S. Senator Carl Levin,  
 > a Michigan Democrat.  
 > Lawrence Horn, an attorney at Sills Cummis & Gross in  
 > Newark, New Jersey, said the government stands a better chance  
 > of recovering that money by extending the deadline. > "The money is coming in,  
 why turn off the faucet?" he  
 > said. "It would be in my opinion a mistake for the Internal  
 > Revenue Service not to extend this program at least until > Thanksgiving, if not the end  
 of the year, in view of how  
 > successful it's been. The government doesn't lose anything by  
 > extending."

>  
 > For Related News and Information:  
 > Stories on the Justice Department: NI JUS <GO>  
 > Top legal stories: TLAW <GO>  
 > Legal Functions: BLAW <GO>  
 >  
 > --Editors: Jinn Kirk, Paul Tighe >  
 > To contact the reporter on this story:  
 > Ryan J. Donmoyer in Washington at +1-202-624-1887 or  
 > [rdonmoyer@bloomberg.net](mailto:rdonmoyer@bloomberg.net)  
 >  
 > To contact the editor responsible for this story:  
 > Jim Kirk at 1-202-654-4315 or  
 > [jkirk12@bloomberg.net](mailto:jkirk12@bloomberg.net).  
 >

Reply Reply all Forward Delete

I

© 2009 Microsoft Privacy

Terms of use

See all the ways you can stay connected [to friends and family](#).



# Blaomberg.corri

## IRS Intensifies Global Hunt for Secret Offshore Bank Accounts

Share | **Email** | Print ' A A A By



Ryan J. Donmoyer

Oct. 15 (Bloomberg) -- The IRS is intensifying its hunt for secret offshore banking, opening offices in Beijing, Sydney and Panama City after more than 7,500 Americans revealed undeclared accounts in 70 countries on six continents.

Internal Revenue Commissioner **Douglas Shulman** said yesterday Americans coming forward before today's deadline to take advantage of a partial amnesty have revealed accounts ranging in value from \$10,000 to more than \$100 million. The partial amnesty won't be extended, he said.

Americans with undeclared offshore accounts have been under growing pressure since Switzerland agreed Aug. 19 to hand over data to the U.S. on as many as 4,450 **UBS AG** accounts to settle a lawsuit in which the U.S. had sought as many as 52,000 accounts.

"We're going to be scouring the 7,500 disclosures to identify financial institutions, advisers and others" who helped taxpayers skirt their obligations, Shulman said on a conference call with reporters. "This entire effort is not just about UBS and a single country."

It isn't yet known how much overlap might exist between the 4,500 names that UBS will eventually provide and the 7,500 people who have come forward to the IRS, Shulman said.

As part of its efforts, the IRS also intends to hire more than 800 new employees in the next year and add staff to eight existing overseas offices, including Hong Kong and Barbados.

` Strong Response'

"We have seen a very strong response to the program and I am very pleased with the results," Shulman said.

Taxpayers disclosed assets that came from inheritances, profits skimmed from U.S. businesses, and international business transactions, he said.

U.S. lawmakers praised the IRS program and called for stronger laws to help the agency.

Senator Carl Levin, a Michigan Democrat whose Permanent Subcommittee on Investigations has held two hearings into how UBS solicited Americans to put assets in Swiss banks, said he'll keep pushing legislation *to give* the IRS *more* tools. He said he plans *to offer his* proposal *as an* amendment *to a* health-care measure the Senate will debate later this year.

"Many Americans are losing confidence in the ability of tax-haven banks to hide their assets," Levin said. "But it is also clear that thousands of other taxpayers are still in the shadows, working to keep their offshore accounts hidden."

Montana Democrat **Max** Baucus, chairman of the Senate Finance Committee that oversees the IRS, is

drafting his own legislation to double financial penalties on those who avoid taxes by moving money offshore,

#### 'Encouraging News'

He called the 7,500 disclosures "encouraging news" that demonstrates IRS progress.

"With record deficits and a weakened economy, we owe it to honest taxpayers to set an aggressive agenda that puts an end to offshore tax evasion once and for all," Baucus said.

Under the IRS program announced in March, the tax agency will take 20 percent of an account's assets based on its peak value in the previous six years. In cases of inactive accounts, the agency will confiscate as little as 5 percent.

Ordinarily, the IRS can seize the higher of \$100,000 or 50 percent of an offshore account's value when the holder deliberately doesn't disclose the account to the Treasury Department. The penalty can apply each year that required forms aren't filed, so after three years of noncompliance an account holder can owe 150 percent of the account's value.

#### Avoiding Prosecution

People who come forward voluntarily can avoid criminal prosecution and their identities will remain a secret under federal law requiring tax records to be kept confidential.

**George Clarke**, a tax lawyer at the Washington-based Miller & Chevalier firm, who is representing about 20 people seeking leniency in the program, said the IRS's announcement indicates the agency is positioning itself to more efficiently hunt tax cheats.

"It seems like they are systemizing it, which is trouble for people who don't want to come forward," he said, "They are more effective when they systemize it."

Shulman said the IRS is building on the information it has received, and declined to estimate how much money the IRS will capture.

"You add all these efforts up and it means increased risk for anyone hiding assets offshore," Shulman said. "In the coming weeks and months our efforts will only intensify."

The voluntary disclosure program isn't open to taxpayers already under scrutiny by the IRS. Since December 2007, six UBS clients have pleaded guilty and a seventh has agreed to do so. A UBS banker pleaded guilty; two were indicted; and three Europeans were charged with enabling U.S. tax evasion.

The Justice Department has said 150 taxpayers are under criminal investigation.

To contact the reporter on this story: **Ryan 3,, Donmoyer** in Washington at

**rdonmoverbloocberg.net**

*last Updated: October 14, 2009 21:29 EDT*



1 "Oil State Govern`rn nt

"ax b nt ty5e r h R ilt

## Franchise Tax Certification of Account Status

### This Certification Not Sufficient for Filings with Secretary of State

Do **not** include a certificate from this Web site as part of a filing with the Secretary of State for dissolution, merger, withdrawal, or conversion. The Secretary of State will reject a filing that uses the certification from this site.

To obtain a certificate that is sufficient for dissolution, merger, or conversion, see Publication 98-336d, Requirements to Dissolve, Merge or Convert a Texas Entity.

Entity Information:

Ce\*tificationrefA:ccou it'Status'

Offic

Status:

ers Pnd E? hectors' Information

Registered Agent:

IN GOOD STANDING NOT FOR

DISSOLUTION OR WITHDRAWAL through November 16, 2009

C T CORPORATION SYSTEM 350 NORTH ST. PAUL ST. DALLAS, TX 75201

Registered Agent Resignation Date:

State of Formation:

TX

File Number:

0800035137

SOS Registration Date:

. December 11, 2001

Texas Online Statewide Search from the Texas State Library .State Link Policy Texas Homeland Security

**Susan Combs**, Texas Comptroller • Window on State Government • Contact Us  
Privacy and Security Policy Accessibility Policy .Link Policy Public Information Act .Compact with Texans

[illegible]



**INSTRUMENT OF MORTGAGE UNDER THE REGISTRATION OF TITLES  
ACT.**

THIS INSTRUMENT OF MORTGAGE under the Registration of Titles Act is made on the date set out in Item 1 of the Schedule hereto BETWEEN the party or parties more particularly described in Item 2 hereto (hereinafter called "the Mortgagor") of She ONE PART and EAGLE ,COMMERCIAL BANK LIMITED a company duly incorporated in Jamaica and having its registered office at 20-22 Trinidad Terrace, Kingston 5, in the Parish of Saint Andrew hereinafter called 'the Bank'

WHEREAS:

- (A) The Mortgagor is the registered owner of the lands (hereinafter called "the said lands") described in the Mortgage Instrument dated the day of ~~October~~ 1<sup>st</sup> and registered on the Certificates of Title on the 11th day of November 1992, to secure a Principal sum of Four Million Dollars (\$4,000,000.00) with interest and up stamped to cover further sums covered by Miscellaneous numbers 739538, 789300, 816036, 866370 and 877467;
- (B) The Mortgagor has defaulted on his mortgage payments and the Bank has threatened to exercise its Powers of Sale in respect of the said lands
- (C) The Mortgagor is registered as the proprietor of an estate in fee simple in the lands more particularly described in Item 9 of the Schedule hereto with the buildings erected or in the course of erection thereon (hereinafter called "the Mortgaged Premises") subject to the covenants (if any) and to the encumbrances more particularly endorsed on the Certificates of Title for the Mortgaged Premises;
- (D) The Mortgagor has obtained ~~subdivision approval for the amendment of the Strata Plan numbered Six~~ hundred and Eighteen (618) to increase the number of strata lots from thirty-one (31) to forty-three (43), being twelve (12) additional strata lots, the Mortgaged Premises; AND
- (E) The Mortgagor has requested the Bank to extend to him forbearance in the exercise of its Powers of Sale in respect of the said lands in consideration of the Mortgagor offering additional security by way of a Mortgage over the Mortgaged Premises to secure the Principal Sum which now stands at the amount stated at Item 6 of the said Schedule and the Interest which has accrued on the said Principal Sum as the amount stated at Item 7 of the said Schedule, at the rate of interest stated at Item 4 of the Schedule.

**NOW THIS INSTRUMENT WITNESSETH as follows:-**

1. Throughout this instrument, unless the context otherwise requires, the following expressions have the following meanings:-
  - (i) "the Mortgagor", and "Bank" includes besides the parties hereto their respective personal representatives, successors in title and transferees.
  - (ii) "the Statute" means the Registration of Titles Act or any re-enactment thereof or any enactment amending the same.
  - (iii) "Principal Sum" means the amount secured by this mortgage instrument and set out in Item 6 of the said Schedule.
  - (iv) "Mortgagor", "Bank", "Certificate of Titles" and "Attorney" herein used importing the singular number only shall where the context so requires or admits be deemed also to include the plural number
  - (v) "he", "his", "him" and "himself" referring to the Mortgagor appearing herein importing the masculine gender and singular number shall where the context so admits be deemed to include also the feminine and neuter genders and the plural number.



- (vi) and if there be more than one Mortgagor covenants and agreements expressed to be made by such persons jointly and severally;
  - (vii) and where there are two or more persons included in the expression "the Bank" the loan made by the Bank to the Mortgagor secured hereby shall be deemed to be made by such persons out of moneys belonging to them on a Joint account.
2. Upon the request of the Mortgagor, the Bank has agreed to forbear in the exercise of its Powers of Sale in respect of the said lands INCONSIDERATION of the Mortgagor offering additional security by way of a mortgage over the eleven (11) strata lots referred to in Recital D above, to secure the Principal Sum stated at Item 6 of the said Schedule and the Interest which has accrued on the said Principal Sum as the amount stated at Item 7 of the said Schedule, at a rate of interest on the said Principal Sum only, at the rate stated at Item 4 of the Schedule,
3. In consideration of the premises the Mortgagor HEREBY COVENANTS with the Bank during the continuance of this security as follows:-
- (a) To pay to the Bank ON DEMAND, at the address set out in Item 3 of the said Schedule being the address of the Bank or at such other place as the Bank may from time to time direct;-
    - (i) all such monies as are now or shall from time to time hereafter becoming owing to the Bank from the Mortgagor whether in respect of overdraft, moneys advanced or paid to or for the use of the Mortgagor or charges incurred on his account or in respect of promissory notes and other negotiable instruments drawn accepted or endorsed by or on behalf of the Mortgagor and discounted or paid or held by the Bank either at the Mortgagors request or in the course of business or otherwise and all moneys which the Mortgagor shall become liable to pay to the Bank under any guarantee indemnity undertaking or agreement or in any manner or on any account (including sums of money which immediately become due and payable under the terms of any loan) whatsoever and whether any such moneys shall be paid to or incurred by or on behalf of the mortgagor alone or jointly with any other person firm or company and whether as principal or surety together with interest at the rate per annum stated as the original Rate of Interest in Item 4 of the said Schedule with such rests as are stated in Item 5 of the said Schedule as Rests At Which Interest Payable or at such other rate or rates of interest as the Bank shall become shall from time to time specify or at such other rate or rates of interest as the Bank shall from time to time charge which interest may be computed as simple interest to compound interest as the Bank shall require together with all usual and accustomed Bank charges;
    - ii) All costs charges and expenses incurred or to be incurred by the Bank in relation to the preparation stamping perfecting and discharge of this instrument or any collateral security of any default hereunder or thereunder and for the protection or enforcement of the Bank's right and interest hereunder or thereunder and for the protection or enforcement of the Bank's right and interest hereunder on an indemnity basis.
- PROVIDED HOWEVER THAT notwithstanding any direction by the Mortgagor to the Bank at the time of payment the Bank shall have the right to appropriate all moneys paid by the Mortgagor to the Bank as it may deem expedient.
- (b) At all times duly and regularly to pay all rates taxes assessments and outgoings now or hereafter to become due and payable in respect of the Mortgaged Premises and to produce on demand all receipts and vouchers in proof of such payments.
  - (c) At all times during the continuance of this security to keep the buildings which now or hereafter may be erected on the Mortgaged Premises and all fittings drains gates walls fences lawns gardens and things on the Mortgaged Premises including all fixtures and additions thereto in good and substantial



repair and condition to the satisfaction of the Bank AND not without the prior consent of the Bank to make or permit to be made any alterations to or in the use of the buildings on the Mortgaged Premises AND to permit the Bank or his agents with or without workmen and others at all reasonable times to enter into or upon the Mortgaged Premises and examine the state and condition thereof and

to forthwith repair and make good all defects and wants of reparation of which notice in writing shall have been given to the Mortgagor by the Bank AND IN CASE OF DEFAULT to permit the Bank to enter on the Mortgaged Premises and without any obligation to effect such repairs as the Bank may consider necessary and on demand to pay to the Bank all reasonable costs and expenses incurred in relation to any such inspection and or the effecting of such repairs and until payment by the Mortgagor such costs and expenses shall be a charge on the Mortgaged Premises and shall bear interest at the rate herein provided and be recoverable under this instrument accordingly computed from the time or respective times of paying or advancing the same.

- (d) At all times to comply with the restrictive covenants endorsed on the Certificates of Title for the Mortgaged Premises and not to use the Mortgaged Premises or any buildings thereon for any purpose other than that permitted by such restrictive covenants and not to alter or add to or cause to be altered or added to any building structure or erection on the Mortgaged Premises without the written consent of the Bank first had and obtained.

- (e) At all times during the continuance of this security to insure and keep insured in the name of the Bank any buildings and/or any effects and/or property of an insurable nature upon being or forming part of the Mortgaged Premises (whether affixed to the freehold or not) against loss and damage occasioned by fire (including fire occasioned by any of the undermentioned perils), lightning, (whether accompanied by fire or not), earthquake, hurricane, cyclone, tornado, windstorm, flood, riot, strike and such other perils as the Bank may from time to time deem fit for a sum not less than the full replacement cost of the said buildings and/or effects and/or other property as the Bank may from time to time determine with the Mortgagor. The interest of the Bank under the policy or policies of insurance to be effected on the buildings as hereinbefore provided shall for all purposes be deemed the primary interest in the said policies the subject matter thereof and the moneys payable thereunder shall be payable to the Bank in priority to all other moneys that may from time to time become payable under any other policy of insurance of whatsoever class the same may be effected in any name or names whatsoever, other than that of the Bank, and the Bank may require any moneys so paid to be applied in or towards making good the loss or damage in respect of which the same is paid in or towards the discharge of the Secured sum and/or interest hereby secured, and the Mortgagor DOETH **HEREBY IRREVOCABLY APPOINT** the Bank the Attorney for the Mortgagor during the subsistence of this security to collect and receive and give valid receipts and discharges for all moneys that may be or may become payable to the Mortgagor under any Policies of Insurance with full powers to adjust compromise and submit to arbitration and give receipts and acquittance for and compound all or any claims under every such Policy of Insurance FURTHER to complete this Mortgage Instrument in respect of the Volume and Folio numbers, strata lot numbers, unit entitlement, the date and all other matters requiring completion in order to register this deed.

- (f) in addition to the mortgagor's covenants implied and powers on mortgagees conferred under the Registration of Titles Act the Bank shall be entitled by its officers, servants or agents at all times during the continuance of this security with or without workmen agents or servants enter upon the Mortgaged Premises or any part thereof and to view search and see the state and condition thereof and the condition and order of the buildings, lawns, gardens wells ponds drains gates walls fences plant machinery fixtures fittings dead stock things and cultivations and pastures thereon and the several appurtenances thereof respectively with full and free power of ingress egress and regress for such purposes and of all decays defects and wants of reparation amendment maintenance upkeep and cultivation found upon such inspection to give notice in writing to the Mortgagor and the Mortgagor will faithfully make and repair cultivate and supply according to any notice given hereunder so as at all times to keep up maintain and preserve the said buildings lawns, gardens wells ponds drains gates

walls fences plant machinery fixtures fittings dead stock things and cultivations and pastures thereon in good order and condition.

- (g) Not after the date hereof to create any mortgage or charge over or affecting the Mortgaged Premises or any part thereof without the previous written consent In writing of the Bank which consent the Bank may refuse or give in its absolute and controlled discretion,
- (h) If called upon by the Bank so to do, forthwith pay to the Bank in advance one year's insurance premium and thereafter one-twelfth of the said premium arcing with each of the monthly payments. aforementioned in Paragraph 3 (e) of this Clause,
- (i) Not to sell, let, lease or part with possession of the Mortgaged Premises or any part thereof whether by license, trust or otherwise, howsoever, without the consent in writing of the Bank first had and obtained.
- (j) Not to assign the benefit of this security to any purchaser assignee or other successor in title to the Mortgaged Premises without the consent in writing of Bank first had and obtained.
- (k) Not to make any application to any Rent Assessment Board hi respect of the Mortgaged Premises, unless compelled by Law so to do, without the written consent of the Bank first had and obtained and if compelled by Law so to do forthwith to give written notice thereof to the Bank and also forthwith to give written notice to the Bank of any proceedings of any nature before any Rent Assessment Board relating to the Mortgaged Premises however instituted who shall be entitled, if the Bank so desires to take over and conduct in the name of the Mortgagor any proceedings before any Rent Assessment Board relating to the Mortgaged Premises and shall have full discretion in the conduct thereof and the Mortgagor shall give all such information and assistance as the Bank rmay require and shall pay all costs and expenses incurred by the Bankmay require and shall pay all costs and *expenses* incurred by the Bank in relation thereto.
- (l) To observe and comply with all restrictive covenants or perform all stipulations (if any) affecting the Mortgaged Premises.
- (m) That in case of any breach or non-observance of any of the covenants agreements or conditions on the Mortgagor's part herein contained or implied, theBank may (but shall not be under obligation to) pay and advance all or any sums of money necessary for the due performance thereof and all monies so advanced by the Bank shall be payable by the Mortgagor on demand and until payment shall be charged on the Mortgaged Premises and bear interest at the rate hereinbefore mentioned and be recoverable under these presents accordingly.
- (n) Without prejudice to and in addition to any other remedy of the Bank in respect thereof on demand the Mortgagor will pay to the Bank the amount of all the Bank's expenses incurred by the Bank in relation to the security hereby constituted with interest thereon from the date when the Mortgagor becomes liable therefor until payment thereof at the rate for the time being payable hereunder in the manner hereby provided with regard to the payment of interest and the Mortgagor **HEREBY CHARGES** the Mortgaged Premises with the payment of such expenses and the interest thereon and for the avoidance of doubt it is hereby declared that the expression "Bank's expenses" includes not only all such expenses as would otherwise be allowable on the taking of an account between a Mortgagor and a Bank but also (and in so far as they are not so allowable) includes all moneys costs charges and expenses paid and all liabilities incurred by the Bank (including legal costs charges and expenses ascertained as between Attorney-at-Law and own client) an or in connection with or incidental to the Mortgaged•Pernises and this security and without prejudice to the generality of the foregoing shall include all moneys costs charges expenses paid and all liabilities incurred by the Bank in or in connection with or incidental to, amongst other things:-
  - (i) effecting any insurance whatever on or in connection with the Mortgaged Premises or any part thereof;

- (ii) inspecting surveying or obtaining any report of any nature or kind whatsoever or in relation to the Mortgaged Premises or any part thereof or repairing rebuilding or reinstating any building or other erection or engineering work thereon or any part or parts thereof;
- (iii) considering or enforcing or attempting to enforce any of the rights and powers hereby or by law vested in the Bank in relation to the Mortgaged Premises or this security including legal costs and expenses on an indemnity basis;
- (iv) doing or considering any other matter or thing whatsoever which the Bank may consider to be for the benefit preservation or improvement of this security.
- (o) To continue to reside in Jamaica until such time as all principal moneys interest and all other moneys hereby secured shall have been paid.

**4, IS HEREBY AGREED AND DECLARED between the parties hereto as follows:-**

- (a) It shall be lawful for but not obligatory on the Bank to advance and pay all sums of money necessary for the purpose of remedying any breach or breaches of covenant or obligation statutory or otherwise imposed on the Mortgagor or implied by law under the provisions of this Mortgage and all moneys so paid and also all costs and expenses incurred by the Bank in relation to any inspection and notice or the repairs, amendments, maintenance, upkeep or cultivation mentioned in paragraph 3 (t) hereof shall be repayable on demand and in the meantime shall be a charge on the mortgaged lands in addition to the other moneys hereby secured and bear interest at the rate payable for the time being pursuant to Clause 3 (a) hereinbefore contained computed from the time or respective times of paying or advancing the same, and until the same shall have been fully paid.
- (b) This security shall be a continuing security and shall avail the Bank in respect of all present and future indebtedness of the Mortgagor on any accounts whatever and is in addition to any security which would be implied or arise in the ordinary course from the business relations between the Mortgagor and the Bank and shall be deemed to continue notwithstanding any payments from time to time made by the Mortgagor or any settlement of account or other thing whatsoever.
- (c) This security shall not be affected by nor affect any other security which the Bank may now or hereafter hold from the Mortgagor and the Bank shall be at liberty to realise its securities in such order and manner and to apply and appropriate any moneys at any time or times paid by or on behalf of the Mortgagor or resulting from a realisation of this or any other security or any part thereof to such account or item of indebtedness and in such sequence priority and order as the Bank may in its discretion from time to time determine any direction from the Mortgagor to the contrary notwithstanding.
- (d) The Bank shall not be under any obligation to afford or continue credit or facilities to the Mortgagor to any aggregate sum in excess of such limit and extent as the Bank may in its absolute discretion from time to time think fit and the Bank may at any time or times require the reduction or discharge of the Mortgage indebtedness and the Mortgagor shall be bound to comply immediately with every such requisition or demand.
- (e) This Mortgage shall be impressed in the first instance with Stamp Duty covering an aggregate Mortgage indebtedness in the amount stated as Original Amount for Stamp Duty Purposes in Item 6 of the Schedule hereto but the Bank shall be and is hereby empowered at any time or times hereafter (without any further licence or consent of the Mortgagor and whether before or after sale of the Mortgaged Premises or any part thereof) to impress additional Stamp Duty hereon covering any sum or sums by which the said Mortgage indebtedness may exceed the Original Amount for Stamp Duty Purposes, it being the intent of these presents that until its discharge, the Mortgage hereby created shall be a continuing security covering indebtedness from the Mortgagor to the Bank to such aggregate as the Stamp Duty impressed hereon will extend to cover.

- (f) The statutory powers of sale and of appointing a Receiver and all ancillary powers conferred on Mortgagees by the Registration of Titles Act may be exercised by the Bank upon any default after any demand for payment of the moneys hereby secured or any part thereof or immediately upon any other default in or non-compliance with any of the covenants conditions or obligations on the part of the Mortgagor herein contained or hereunder implied without it being necessary in any one or more of such cases to serve any notice or demand on the Mortgagor anything in the Registration of Titles Act or any other law to the contrary notwithstanding BUT upon any sale made under the statutory power in that behalf the Purchaser shall not be bound or concerned to see or enquire whether such sale is consistent with this proviso and if a sale is made in breach thereof the title of the Purchaser shall not be impeached on that account.
  - (g) The Bank shall not be answerable for any involuntary loss happening in or about the exercise or execution of any powers conferred on the Bank howsoever or by law implied or of any trusts connected thereto nor shall the Bank be deemed a Mortgagee in possession when entering upon the Mortgaged lands to inspect or to effect repairs or remedy breaches.
  - (h) The entry of a Judgment or Judgments on any covenant or covenants herein contained shall not operate as a merger of the said covenant or covenants in the Judgment as entered or affect the Bank's rights to interest and other payments due hereunder at the rate and times herein set forth.
  - (i) The Bank shall subject to the right of any prior encumbrances be entitled to keep and retain the duplicate Certificate(s) of Title during the continuance of this security, subject to production to the Registrar of Titles from time to time at the request and cost of the Mortgagor to enable endorsements thereon of any transaction affecting the Mortgaged lands which maybe subject or subsequent to this security PROVIDED HOWEVER that if the said Certificate(s) of Title or any other documents held by the Bank in relation to the Mortgaged lands or these presents is or are destroyed or suffer damage as the result of any fire, Act of God, civil commotion or the Queen's enemies the Bank shall not be held liable for such loss or destruction nor shall the Bank be called upon to obtain another Certificate of Title copy or copies of any of the said documents in place of those lost and/or destroyed as aforesaid. The Bank however shall be entitled but not obliged to obtain new Certificate(s) of Title and/or certified copy or copies thereof and the costs and expenses of and incident thereto shall be payable by the Mortgagor under the Mortgagor's covenant in Clause 3 (a) (ii) hereof.
- Q} The Mortgagor further HEREBY COVENANTS with the Bank to observe and perform all the covenants and conditions on his part to be observed and performed contained or implied in the Prior Mortgage(s) described in the said Schedule and hereby irrevocably authorise the Bank in the event at any time of any default hereunder or under the Prior Mortgage(s) by the Mortgagor to pay off the Prior Mortgage(s) on such terms as may be permitted thereby or as may be accepted by the Prior Mortgagee(s) and to procure transfer thereof to the Bank or the discharge thereof at the Bank's election. If the prior Mortgage(s) be discharged as aforesaid all moneys paid to redeem the same and the cost and expenses of so doing together with the costs of discharge shall be paid by the Mortgagor to the Bank on demand and until paid shall be deemed to be added to the amount of loan then owing to the Bank (hereinafter called "the Principal Loan") and bear interest at the rate being charged on the Principal Loan and shall be secured in every respect as the said Principal Loan is hereby secured and all the powers provisions and covenants contained or implied in this Instrument and in the Registration of Titles Act in relation to the said Principal Loan and the interest thereon shall be applicable thereto. If the Prior Mortgage(s) be transferred to in the Mortgagee as aforesaid the costs of and incidental to such transfer shall be repaid and secured as is in this Clause provided in respect of the discharge thereof.
- (k) That whenever the whole or any part of any sum payable under paragraph (a) of Clause 3 hereof shall

remain unpaid for three days after the date hereinbefore covenanted for payment thereof respectively or whenever there shall be any breach or non-observance of any of the covenants or conditions herein contained or implied, or whenever there shall be any other default mentioned and referred to in section 105 of the Registration of Titles Act all moneys intended to be hereby secured shall become due and payable and so remain until full payment thereof and be recoverable by suit or otherwise as and for moneys then due and payable to the Bank under the covenants hereof. The Powers of Sale and of distress and of appointing a Receiver and all ancillary powers conferred upon the Bank a mortgagee by the Registration of Titles Act shall be conferred upon and be exercisable by the Bank without any notice to or demand on or consent by the Mortgagor NOT ONLY on the happening of the events mentioned in the said Act BUT ALSO whenever the whole or any part of the principal moneys or any payment under Clause 3 (a) above or other sums of money payable hereunder shall remain unpaid for three days after the date on which the same should have been paid under the covenants hereof AND ALSO whenever the Mortgagor shall be provisionally or absolutely adjudicated bankrupt or enter into a compromise Agreement with creditors AND ALSO in the following events:

- (i) if an order shall be made or a resolution passed for the winding up of the Mortgagor (being a company) other than for the purposes of an amalgamation or reconstruction approved by the Bank.
- (ii) if a receiver of the Mortgagor's undertaking or any part thereof shall be appointed and such appointment shall in the opinion of the Bank be prejudicial to the security hereof.
- (iii) if a distress or execution be levied or enforced upon or against any of the Mortgaged lands.
- (iv) if the Mortgagor shall stop payment or shall without the consent in writing of the Bank cease to carry on its business or threaten to cease to carry on the same.
- (v) if the Mortgagor (being a company) becomes insolvent or shall be deemed under Section 204 of the Companies Act to be unable to pay its debts.
- (vi) if the Mortgagor (being a company) is designated to be a Non-resident controlled Company for the purposes of the Exchange Control Act.
- (vii) if the Mortgagor (being an individual) becomes or is designated or is deemed by Law to be a Non-Resident of Jamaica for the purposes of the Exchange Control Act.
- (viii) if and whenever there shall be any breach or non-observance of any of the covenants conditions provisions or Agreements between contained or by Law implied. AND THAT immediately on the happening of any of the events aforesaid the whole of the Principal, interest and all other moneys remaining payable under this Instrument shall become due and payable and may also be recoverable by suit or otherwise as and for moneys then due and payable by the Mortgagor to the Bank under the covenants herein contained and shall so remain until full payment thereof and upon any sale made under this statutory power the Purchaser shall not be concerned to see or enquire into the regularity or propriety of such sale.

At any time after the security has become enforceable the Bank may appoint a receiver of the property subject thereto upon such terms as to remuneration and otherwise as it shall think fit and may from time to time remove any such receiver and appoint another in his place; any such appointment or removal shall be in writing. A receiver so appointed shall be the agent of the Mortgagor which shall be responsible for his acts and defaults and for his remuneration costs charges and expenses.

A receiver so appointed shall be a receiver and manager and entitled to exercise all the powers conferred on a receiver by the Act and by way of addition to and without limiting those powers such receiver shall

- (m) have power.-
  - (i) to take possession of and get in the Mortgaged Premises;

- (ii) to carry on or concur in carrying on the business of the Mortgagor (where applicable) and do all such things as he may in his absolute discretion deem proper for carrying on such business;
- (iii) to sell or concur in selling any of the Mortgaged Premises or otherwise deal therewith at such price or prices and on such terms in the interest of the Bank as he shall think fit;
- (iv) to make any arrangement or compromise which he shall think expedient in the interest of the Bank;
- (v) to appoint and effect all such repairs improvements and insurances as he shall think fit;
- (vi) to appoint managers accountants servants workmen and agents for the aforesaid purposes upon such terms as to remuneration or otherwise as he may determine;
- (vii) to do all such other acts and things as may be considered to be incidental or conducive to any of the matters and powers aforesaid which he may or can lawfully do as agent of the Mortgagor.

**PROVIDED ALWAYS THAT** nothing herein shall make the Bank liable to such receiver and manager as aforesaid in respect of his remuneration, costs, charges or expenses or otherwise.

- (n) The net profits of essaying on any such business and the net proceeds of any sale by the receiver shall 'subject to any prior ranking claims thereon be applied by him as follows:
  - (i) In payment of all costs charges and expenses of and incidental to his or any other appointment of a receiver hereunder and the exercise by him or any other such receiver of all or any of the powers aforesaid including his remuneration or that of any other such receiver and all outgoings properly paid by him;
  - (ii) In or towards payment to the Bank of all arrears of interest unpaid in respect hereof;
  - (iii) In or towards payment to the Bank of all other moneys due under this Mortgage;
  - (iv) In payment of any surplus to the Mortgagor,

**PROVIDED THAT** if the receiver shall be of opinion that the security may prove deficient payments may be made on account of unpaid principal and other moneys before unpaid interest due under this Mortgage but such alteration in the order of payment of principal and other moneys and interest shall not prejudice the rights of the Bank to receive the full amount to which it would have been entitled if the primary order of payment had been observed or any less amount which the sum ultimately realised may be sufficient to pay.

- (o) No person or persons dealing with the Bank or any receiver appointed by it shall be concerned to inquire whether any event has happened upon which any of the powers herein contained are or may be exercisable or otherwise as to the propriety or regularity of any exercise thereof or of any acts purporting or intended to be in exercise thereof or whether any moneys remain owing upon the security of this Mortgage.
- (p) Entry into possession of the mortgaged lands or any part thereof shall not render the Bank or any such receiver liable to account as Mortgagee in possession.
- (q) That no neglect omission or forbearance on the part of the Bank to take advantage of or enforce any right or remedy arising out of any breach or non-observance of any covenant or condition herein contained or implied shall be deemed to be or operate as a general waiver of such covenant or condition or the right to enforce or take advantage of the same in respect of any breach or nonobservance Thereof either original or recurring,
- (r) If the rate of interest payable hereunder is higher than the rate payable by law on a Judgment debt the taking of any Judgment on any of the covenants herein contained shall not operate as a merger of the said covenant in such Judgment or affect the Bank's eighth interest at such higher rate as well after as before Judgment;



- (s) Any demand or notice hereunder may be properly and effectually made given and served on and to the Mortgagor if signed by any Director, Manager, Acting Manager or Assistant Manager of the Bank or any Attorney-at-Law on behalf of the Bank and sent by registered post addressed to the Mortgagor at the address stated in Item 2 of the said Schedule and every such demand or notice sent by post as aforesaid shall be deemed to have been received on the second day following the posting thereof.

Where the context so requires words importing the masculine gender shall also include the feminine and neuter genders AND if there shall be more than one Mortgagor;

- (i) the term "the Mortgagor" shall include each and every and any one or more of them;
  - (ii) their liability to the Bank under the covenants Agreement stipulations and obligations herein contained shall be a joint and several liability; and
  - (iii) they shall be deemed in Clause 8 hereof to mortgage to the Bank all their respective estates and interest in the lands hereinafter mentioned,
5. The giving of time to the Mortgagor or the neglect or forbearance of the Bank in requiring or enforcing payment of the principal moneys and interest hereby secured or any other variation of the provisions of this Instrument or other dealing between the Mortgagor and the Bank shall not in anyway prejudice or affect this security or the covenants of the Mortgagor hereinbefore contained or the continuing liability of the Mortgagor by virtue thereof.
6. The Bank shall be entitled to exercise its remedies under this Instrument concurrently, consecutively or in such order as the Bank in its discretion may from time to time decide and without exercising or exhausting any one remedy before proceeding with another.
7. Notwithstanding anything herein contained the Bank's right of entry on the Mortgaged lands shall be exercised in such a manner as to avoid causing un-necessary disturbance to or interference with the occupants of the Mortgaged lands (if any).
8. AND FOR BETTER SECURING to the Bank the payment in manner aforesaid of all principal moneys, interest, costs and other moneys payable hereunder the Mortgagor being registered as the proprietor of an estate in fee simple in the lands described in Item 9 of the said Schedule as "the Mortgaged Premises" subject to the incumbrances (if any) endorsed on the Certificate(s) of Title therefor DOETH HEREBY MORTGAGE to the Bank all his estate and interest and all the estate and interest which he is entitled to transfer and dispose of in the Mortgaged Premises.

AS WITNESS the hand/seal of the Mortgagor the day and year first written in the said Schedule. SCHEDULE

- 1.. DATE OF MORTGAGE: The Sa<sup>th</sup> day of .: a<sup>th</sup> ° 2441.
- 2, . THE MORTGAGOR: - DEBTOR 1, Businessman of [REDACTED]
- 3, THE BANK: EAGLE COMMERCIAL BANK LIMITED, a Company duly registered under the Companies Act and having its

registered office situated at 20-22 Trinidad Terrace, Kingston  
in the parish of Saint Andrew.



4. ORIGINAL RATE OF INTEREST: FIFTY PER CENTUM (50%) PER ANNUM.
5. RESTS-AT WHICH INTEREST  
PAYABLE: MONTHLY
6. PRINCIPAL SUM TWELVE MILLION SIX HUNDRED AND NINE  
THOUSAND, ONE HUNDRED AND FIFTY-FOUR  
DOLLARS (\$12,609,154.00).
7. INTEREST DUE TWENTY-TWO MILLION AN EIGHTY-FIVE THOUSAND  
FOUR HUNDRED AND FORTY-FOUR DOLLARS (\$  
22,085,444.00 )
8. ORIGINAL AMOUNT FOR  
STAMP DUTY PURPOSES: THIRTY FOUR MILLION SIX HUNDRED AND NINETY-  
FOUR THOUSAND, FIVE HUNDRED AND NINETY-  
EIGHT DOLLARS (\$ 34,694,598.00)

SM To o-P

9. DESCRIPTION OF THE MORTGAGED

PREMISES:

1. ALL THAT parcel of land part of [REDACTED]  
[REDACTED] in the  
parish of MANCHESTER being the [REDACTED]  
[REDACTED]  
[REDACTED] in the common property therein and  
being the land comprised in Certificate of Title  
registered at [REDACTED]
2. ALL THAT parcel of land part of [REDACTED]  
[REDACTED] in the  
parish of MANCHESTER being the [REDACTED]  
[REDACTED]  
[REDACTED] shares in the common property therein and  
being the land comprised in Certificate of Title  
registered at [REDACTED]

This is the DUPLICATE of a Mortgage  
upon which bears Ad Valorem Stamp  
Duty of \$21,684.00  
[Signature]  
[Signature]



3. ALL THAT parcel of land part of [REDACTED]  
[REDACTED] in the  
parish of MANCHESTER [REDACTED]  
[REDACTED]  
[REDACTED] shares in the common property therein and  
being the land comprised in Certificate of Title  
registered at [REDACTED].

4. ALL THAT parcel of land part of [REDACTED]  
[REDACTED] in the  
parish of MANCHESTER [REDACTED]  
[REDACTED]  
[REDACTED] shares in the common property therein and being the  
land comprised in Certificate of Title registered at  
Volume [REDACTED].

si 5. ALL THAT parcel of land part of [REDACTED] in the parish of MANCHESTER being the [REDACTED]  
[REDACTED] an Strata Plan numbered Nine  
Hundred and Seventy-Seven and Three undivided  
1/219th shares in the common property therein and  
being the land comprised in Certificate of Title  
registered at [REDACTED].

6. ALL THAT parcel of land part of [REDACTED]  
[REDACTED] in the  
parish of MANCHESTER [REDACTED]  
[REDACTED]  
[REDACTED] shares in the common property therein and  
being the land comprised in Certificate of Title  
registered at [REDACTED].

7. ALL THAT parcel of land part of [REDACTED]  
[REDACTED]  
[REDACTED] shares in the common property therein and  
being the land comprised in Certificate of Title  
registered at [REDACTED].

8. ALL THAT parcel of land part of [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] shares in the common property therein and  
being the land comprised in Certificate of Title  
registered at [REDACTED].

9. ALL THAT parcel of land part of [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] shares in the common property therein and  
being the land comprised in Certificate of Title  
registered at [REDACTED].

10. ALL THAT parcel of land part of [REDACTED]  
[REDACTED]  
[REDACTED] shares in the  
common property

therein and being the land comprised in Certificate of  
Title registered at [REDACTED]

ALL THAT parcel of land part of [REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED] shares in the common property und  
therein and being the land comprised in Certificate of  
Title registered at [REDACTED] [REDACTED] .

12. ALL THAT parcel of land part of [REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED] shares in the common property  
therein and being the land comprised in Certificate of  
Title registered at [REDACTED] .

DATED the 6<sup>th</sup> day of & - n 2001

DATED the \_\_\_\_\_ day of \_\_\_\_\_ 47<sup>th</sup>, \_\_\_\_\_ 2001

BETWEEN

DEBTOR 1

AND

EAGLE COMMERCIAL BANK LIMITED

C.S.N

APR 11 18

*W. D. Humphrey*

*book*

*1/6/01*

*no cash  
re 11/14*

INSTRUMENT OF MORTGAGE

RECORDED

AC00197

RECORDED OF JAMES A. BRYAN & A SEPT.

RECORD OF  
COUNTY & TARRANT TEX

Nunes, Stohlefeld, DeLeon & Co.  
Attorneys at Law  
6a Holborn Road

HERESY TIFY T W

DAY OF IV ( 4

AT A MEMOR t, IDUM

THIS INSTRUM51i WAS ENTERED IN THE

ReGisrallasl  
FOLK) 7 & 6





*Leslie Raphael Codlin & Co  
Attorneys-at-Law*



**ACKNOWLEDGEMENT OF SERVICE OF FIXED DATE CLAIM FORM  
ON PARTY DIRECTLY AFFECTED, JAMAICAN REDEVELOPMENT  
FOUNDATION, INC**

IN THE **SUPREME** COURT OF JUDICATURE OF JAMAICA

CLAIM NO. 2008 HCV 03638

**BETWEEN** **DEBTOR 1** **CLAIMANT**  
**AND** **THE ATTORNEY GENERAL** **DEFENDANT**

WARNING: This form should be completed and returned to the registry at the address below within FOURTEEN DAYS of service of the Claim Form on you. See Rule 9.3 (1). However, the Claimant will not be entitled to have judgment entered against you except at the first or subsequent hearing of the claim.

1. Have you received the Fixed Date Claim Form with the above number? YES
2. If so, when did you receive it? April 24, 2009
3. Did you also receive the Claimants' Affidavit in Support of Fixed Date Claim Form sworn to on November 25, 2008? YES
4. If so, on what date did you receive it? April 24, 2009
5. Is your name properly stated on the Fixed Date Claim Form?  
Jamaican Redevelopment Foundation, Inc does not appear on the Fixed Date Claim Form but files this Acknowledgement of Service under Part 56.11(1) of the Civil Procedure Rules as a party directly affected by the Claim.
6. Do you want to defend the claim? YES

RECEIVED 2:26 pm AM  
DATE 29/4/09  
RAPHAEL CODLIN & CO.  
*Mr. Frazer*

7. Do you admit the whole claim? NO
8. Do you admit any part of the claim? NO
9. If so what do you admit?
10. What is your own address? 6 St. Lucia Avenue, 2<sup>nd</sup> floor  
Kingston 5
11. What is your address for service?

% Myers, Fletcher & Gordon  
Attorneys-at-Law  
21 East Street  
Kingston  
Tel. 922-5860-8, Ext. 2408 Fax  
No. 922-4811 or 922-8781  
Attention: Mrs. Sanya Goffe

MYERS, FLETCHER & GORDON

PER:

  
AFFECTED PARTY'S ATTORNEYS-AT-LAW

Dated the 28<sup>th</sup>. day. of April, 2009

**FILED** by **MYERS, FLETCHER & GORDON** of 21 East Street, Kingston, Attorneys-at-Law for *the* Jamaican Redevelopment Foundation, Inc. Attention: Mrs *Sanya Goffe*, whose address for service is that of its said Attorneys-at-Law. Tale: 922-5860-6 Ext. 2429, 2408, 2534 or 2503; Fax: 922-8781 or 922-4811.





*same* Raphael Godlin 260  
64

# AFFIDAVIT OF JANET FARROW

Sworn on behalf of	Person Directly Affected
Sworn by	Janet Farrow
Affidavit No	: 1
Exhibits	: S
Date Filed	-S -O*

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

CLAIM NO. 2008 HCV 03638

BETWEEN

DEBTOR 1

CLAIMANT

AND

THE ATTORNEY GENERAL

DEFENDANT

I, **JANET FARROW** being duly sworn made oath and say as follows:-

1. My address for the purposes of these proceedings is at the 2<sup>nd</sup> Moor, 6 St Lucia Avenue, Kingston 5. I am the Chief Executive Officer of the Jamaican branch of Jamaican Redevelopment Foundation, Inc. (JRF), being a party directly affected by the Claimant's application in these proceedings and I am authorized to swear this affidavit on behalf of JRF.
2. I make this affidavit based upon my own knowledge, public records and information contained in JRF's records. All of the facts deposed to by me which are within my personal knowledge are true and in so far as they are not within my personal knowledge I believe them to be true.
3. I have read the affidavits of Debtor 1 sworn to on July 17 and November 25, 2008 and filed in this claim.

RECEIVED 2:35 AM  
DATE 7/5/09  
RAPHAEL GODLIN & CO.  
PER [Signature]

4. At the time in January, 2002 when Financial Institutions Services Limited (**FIS**), Refin Trust Limited (**Refin**) and Workers Savings and Loan Bank (**WSLB**) sold a considerable portfolio of bad debts to JRF, that transaction was in the public interest.
5. The bad debt portfolio subject of the safe consisted of bad debts (including those owed by the Claimant to Eagle Commercial Bank and Citizens Bank Limited) that originated in many of Jamaica's banks and financial institutions, and which were acquired by the Government of Jamaica ("GOJ") through its acquisition of the assets of those banks and financial institutions through companies the GOJ established for the purpose, namely, FIS, Finsac Limited ("**FINSAC**") and its subsidiary companies (Refin and Recon Trust Limited ("**Recon**")), and WSLB (the subordinated debt and shares of the latter institution having been vested in the Minister of Finance by statutory instrument in 1998).
6. Upon the acquisition by the GOJ of the bad debt portfolio through its companies formed for the purpose, the transactions of those companies, loans or contracts entered into or security given for the payment of debts then owed to those companies were exempted from the provisions of the Moneylending Act.
7. The consideration paid by GOJ for the asset (the bad debt portfolio of those many financial institutions) was taxpayers' money used to enable persons who had deposited funds in those institutions to recoup their deposits.
8. In this way a complete meltdown of the financial sector of Jamaica was avoided, as most of the institutions which held those debts were, by their transfer to the GOJ, able to be rehabilitated either in their original or some kind of restructured form.

ad the GOJ not acquired those bad debts the affected banks and financial institutions would not have been able to repay their depositors as, being unable to collect the money owed them by their bad debtors, they did not have sufficient funds in hand to pay out all their depositors and any such payout would have resulted in the demise of those institutions.

10. The money paid out by the taxpayers of Jamaica to rescue the depositors in those distressed banks and financial institutions was to be recouped by way of recovery of the bad debts acquired by the GOJ through FINSAC and its subsidiaries, and through FIS and WSLB.
11. One way to relieve somewhat the burden absorbed by the Jamaican taxpayer occasioned by the GOJ's acquisition of the bad debt portfolio, was by selling the asset (the bad debts portfolio) as soon as possible. This would result with an immediate infusion of cash to the GOJ being that part of the money paid "up front" by the purchaser for the acquisition of the bad debt portfolio.
12. 1The purchaser of the bad debt portfolio was JRF after a competitive bidding process in \\ which it was, selected by the GOJ as the purchaser. At the time of the--transaction January 30, 2002), what remained of the bad debt portfolio previously acquired by GOJ from the originating banks and financial institutions consisted of the most chronic of the bad debts which GOJ was unable, through its companies set up for the purpose, to recover or settle.
13. In addition to the "up front" payment, the terms of the acquisition of the bad debt portfolio by JRF include a graduated payment by JRF to the seller of the bad debt portfolio (the

GOJ) of a portion of the monies recovered by the JRF from the debtors, as and when the monies are recovered.

14. The sale of the bad debts portfolio was conducted on an "as is" basis. That basis included the interest rates that were contractually agreed upon by the debtors and the relevant bank or financial institution and which rates, in many cases, were greater than that giving rise to a presumption of unconscionability under the Moneylending Act, but which did not give rise to such a presumption because the transactions of the originating institutions were exempted from the provisions of the Moneylending Act.
15. It was in the public interest that the bad debt portfolio be sold for the highest possible price as soon as possible as the taxpayers' funds were earmarked for public sector projects and financing. The longer the bad debt portfolio remained unsold the worse was the GOJ's budgetary deficit, because the GOJ had to borrow more and more money to compensate for that spent to acquire the bad debt portfolio of the banks and financial institutions
16. In selling the debt, the GOJ warranted to the purchaser that it would do nothing to diminish in any way the existing value of this asset (the bad debt portfolio subject of the sale),
17. A failure to grant the purchaser's transactions connected with recovery of the debts acquired from the GOJ, except under the Moneylending Act would have resulted in a diminution in the value of the asset sold by the GOJ to JRF, and jeopardized the

onclusion of a sale, which was to be on a caveat *emptor* basis.

18. The exemption of JRF's transactions referred to in the above paragraph were, and remain, in the interest of the Jamaican public, in that, without the exemption there would have been a diminution in the value of the bad debt portfolio offered for sale which diminution would, in turn, have made the realisation of a sale of the asset by GOJ very unlikely, if not impossible, as it would not then have been an attractive (or even viable) business transaction for any purchaser.
19. The taxpayers benefitted from the "up front" payment made by JRF for the bad debt portfolio (as it lessened the borrowing requirements and/or finance charges of the GOJ at the time of the payment) and continue to benefit from the GOJ's portion of the proceeds of debt recovered by JRF from the chronic delinquent debtors, as and when realised.

SWORN to at , 4 , 'L.L.  
in the parish of '  
this day of May, 2009  
before me:

  
JANET FARROW

JUSTICE OF THE EAC -FOI THE  
PARISH OF /° 7

**FILED** by **MYERS, FLETCHER & GORDON** of 21 East Street, Kingston, Attorneys-at-Law for the Jamaican Redevelopment Foundation, Inc. Attention: Mrs Sanya Gaffe, whose address for service is that of its said Attorneys-at-Law. Tale: 922-5860-6 Ext. 2429, 2408, 2534 or 2503; Fax: 922-8781 or 922-4811.

TO FILE NOTICE ON GROUNDS OF APPEAL OUT OF TIME. \* R 1 CF APPEAL

OF 200

**DEBTOR 1** \_\_\_\_\_  
**SUP EME COU T CIVIL APPEAL NO.**

## REDEVELOPMENT

**FOUNDATION, INCORPORATED**      **1ST DEFENDANT**

**A N D:                    KENNETH TOMLINSON                    2ND DEFENDANT I,**

**DEBTOR 1, being duly sworn, make oath and say as follows:**

1. That I reside at [REDACTED] and I am the Claimant in suit No. HCV 04678 of 2007.

[illegible]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]



[REDACTED] Mandeville in  
the parish of Manchester.

3. That the 1st Defendant, Jamaican Redevelopment Foundation, a Company registered under the laws of the United States in or about 2001, claims to have mortgages over the said lands and to be entitled to sell same because of the said mortgages.
4. *That the suit herein was brought against the 1st and 2nd Defendants by me and I attach hereto marked 'ML 1' and 'ML 2' copies of the Particulars of Claim and Claim Form in the said suit.*
5. That after the said suit was filed, I applied to the Supreme Court for an injunction to restrain the 1st Defendant which, by then, had claimed that I am indebted to it in the sum of \$1,037,779,518.48. I attach hereto mark 'ML 3' copy of the Statement of Account submitted to me on request.
6. That that is impossible for the following reasons. In a previous Statement of Account issued by the same 1st Defendant and I attach hereto mark 'ML 4' copy of that Statement of Account, the 1st Defendant claimed that I was owing the 1st Defendant the sum of \$68,278,153.04 on the 21<sup>st</sup> of June 2002.
7. That at that time, Dennis Joslin was the collector on the account and the said Dennis Joslin sent me a letter on the 24<sup>th</sup> of June 2002, saying that I was owing the sum of \$43M, more than one third less than the sum being claimed by the 1st Defendant.
8. That interest computed by the 1st Defendant, as shown in its Statement, was done at compounded interest with monthly rests. It follows therefore that on the basis of the letter from Dennis Joslin, the computation done by

*the 1st Defendant, would, ex facie, be about one half or certainly less than two-thirds of the over \$1 B which the 1st Defendant is claiming. But there is more than that.*

9. That in none of the documents filed by either Defendants, is there any mention of this enormous discrepancy in the amount claimed by Dennis Joslin *on the 24<sup>th</sup> of June 2002 and* the amount claimed by *the 1st Defendant* three days before that. This is therefore a monumentally serious issue to be tried as regards the amount purportedly owing by me. But that **is not all.**
10. That Mr. Anthony Pearson, Attorney at Law, has deponed to an Affidavit to show that in 1996, I paid the sum of \$15M which was not taken into *account in the computation by the 1st Defendant*. Indeed, *when the 2nd Defendant took over the matter sometime in 2002, the 1st Defendant's figures were* showing that the Claimant was indebted in the sum of \$35,202,466.70. The 1st Defendant was never incorporated before 2001 and therefore could not properly speak to what happened before.
11. That after filing the suit herein, I applied through my Attorneys at Law for an injunction to restrain the 1st Defendant who admittedly is taking steps to sell my property which is valued at \$800M and the matter was heard by Justice Jones *on the 25<sup>th</sup> of February 2008 and* His Lordship handed down his decision on the 29<sup>th</sup> idem saying that the Claimant would only get an injunction if he paid the sum claimed into Court.
12. That the evidence is overwhelming that I could not possibly owe the amount claimed.
13. That if the 1st Defendant, which is a foreign Company and which is not in good standing with the Registrar of Companies, is allowed to sell my

property, it could well leave Jamaica with the total proceeds of sale since it is impossible for me to pay into Court over \$1B as suggested by His Lordship.

14. That the papers for appeal were prepared and were to be filed on Friday *the 7th instant but I have been informed by my Attorneys at Law* and do verily believe, that by the time they were to be stamped up at Stamp Office, it was too late and the Appeal was not filed on Friday as should have been done and are ready for filing today but they would be a day late in any event.

15. That I have also been informed by my Attorneys at Law and do verily believe that based on other payments made by me before the 1st Defendant came into the picture, I have an excellent chance of the Court saying that I do not owe \$1 B and certainly if I owe anything, it must be much less *than half of what the 2nd Defendant is claiming, bearing in mind that I made other payments apart from those stated herein and that the 2nd Defendant was not entitled under the Moneylending Act and the laws of Jamaica generally, to charge fifty percent interest compounded at monthly rest.*

16. That I have been informed by my Attorneys at Law and do verily believe that the 1st Defendant will not be able to prove matters which transpired *before the 2nd Defendant came into existence and that payments made both by Mr. Pearson and other wise, have not been taken into account and it could well be that at the end of the day, I do not owe the 1st Defendant any money.*

I therefore pray that the Honourable Court will grant the relief prayed for herein.

SWORN TO at 2 Duke Street ]  
in the parish of Kingston ]  
this 10<sup>th</sup> day of Mare ]  
BEFORE ME :/

.....  
JUSTICE OF THE PEACE

ATTORNEYS AT LAW FOR THE CLAIMANT.

'ML & ML 2'

I attach hereto the said copies of Particulars of Claim and Claim Form mentioned and referred to in paragraph 4 of my Affidavit.

.....  
JUSTICE OF THE PEACE

'ML 3'

to in paragraph 5 of my Affidavit.

.....  
JUSTICE OF THE PEACE

I attach hereto the copy of the Statement of Account mentioned and referred

**'ML 4'**

*I attach hereto the*  
to in para

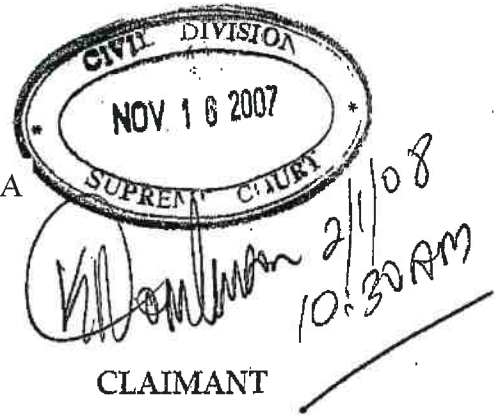
*id ' o py of the Statement of Account mentioned and referred*

Affidavit.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

**PARTICULARS OF CLAIM**  
**IN THE SUPREME COURT OF JUDICATURE OF JAMAICA**

**CLAIM NO: 2007 HCV 04678**



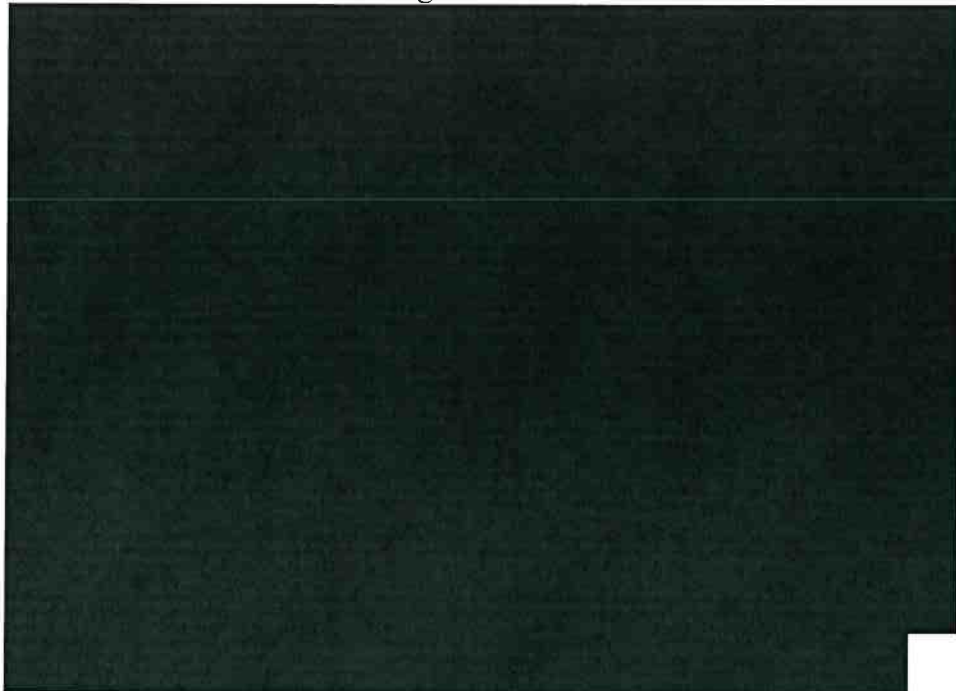
**BETWEEN: DEBTOR 1**

**A N D: JAMAICAN REDEVELOPMENT  
FOUNDATION, INCORPORATED 1ST DEFENDANT A N**

**D: KENNETH TOMLINSON 2N' DEFENDANT**

I. The Claimant, **DEBTOR 1**, of [REDACTED]  
[REDACTED] in the parish of Manchester, is a business  
man and land owner.

2. The Claimant is the owner of the lands *set out in* the Volumes and  
Folios numbers of the following lands:





that the Claimant is not indebted to the 1st Defendant in the sum claimed or at all.

7. The Claimant will contend that in order for the Claimant to be liable to the 1st Defendant, the 1st Defendant would be required to show that it, the 1st Defendant, was properly assigned a debt due to the assignor and that the said assignor had given notice of that debt to the Claimant in circumstances that are conducive to notice given under a proper assignment.
8. The Claimant will further say that neither the 1st nor the 2nd Defendant is entitled to make any claim against the Claimant in relation to the Claimant's properties aforesaid or at all.
9. The Claimant seeks an injunction to restrain the Defendants or either of them from trespassing or in any other way, taking charge of the Claimant's properties.

WHEREFORE THE CLAIMANT CLAIMS:

1. . Declarations as mentioned in these presents;
2. An injunction restraining either the 1st or the 2nd Defendant, their servants, agents or otherwise, from trespassing or otherwise remaining in possession of the Claimant's properties;
3. Damages for trespassing, mesne profit and such further and other relief as to the Honourable Court is deemed just.

I certify that the facts set out in this Particulars of Claim are true to the best of my knowledge, information and belief.

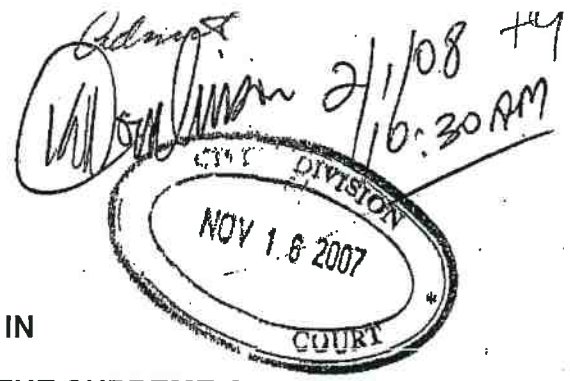
Dated e 16<sup>th</sup> day of November 2007.

\* \ s  
Claimant's Signature

**Filed by RAPHAEL CODLIN & CO., 64 Duke Street, Kingston, telephone numbers 922-275110279; fax. 922-7783, the Attorneys at Law for the Claimant whose address for service is that of his Attorneys at Law.**

fri L

CLAIM FORM



CLAIM NO: 2007 HCV 04678

IN  
THE SUPREME COURT  
OF JUDICATURE OF  
JAMAICA

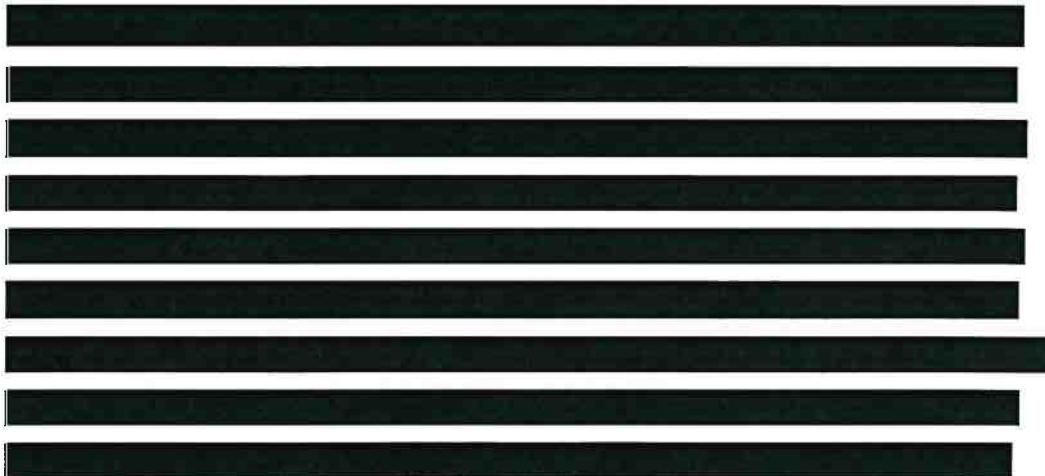
**CLAIMANT A N D: JAMAICAN REDEVELOPMENT**

**FOUNDATION, INCORPORATED                      1ST DEFENDANT**

**A N D:                      KENNETH TOMLINSON                      2ND DEFENDANT**

The Claimant, **DEBTOR 1**, of Shop #25, Bankhouse Mall, 37 Manchester Road, Mandeville in the parish of Manchester, claims against the 1<sup>st</sup> Defendant, **JAMAICAN REDEVELOPMENT FOUNDATION, INCORPORATED**, a Company carrying on business at 6 St. Lucia Avenue, Kinston 5 in the parish of Saint Andrew and the 2<sup>nd</sup> Defendant, **KENNETH TOMLINSON**, of Business Recovery Services Limited, 53 Knutsford Boulevard; Kingston 5 in the parish of Saint Andrew, who is purporting to act as receiver:

1. Recovery of possession of all those parcels of land registered hereunder:





- [REDACTED]
- [REDACTED]
- [REDACTED]
2. Declaration that the Claimant did not borrow any money from the 1st Defendant neither was any advances made to the Claimant by the 1St Defendant in circumstances which could make the Claimant liable to the 1St Defendant in the sum of \$846,231,815.92 or at all.
  3. Declaration that the Claimant being the registered owner of the lands set out in the Duplicates Certificates of Titles hereinbefore mentioned, is entitled to immediate possession and control of the said lands as against the 1St and 2nd Defendants.
  4. An account of all the rents and profits which the Defendants have received as a result of the 2nd Defendant wrongfully taking possession of the lands as aforesaid in circumstances where the 1st and 2nd Defendants or either of them was not entitled to occupy the said premises.
  5. Damages against the 1st and 2nd Defendants for trespassing and mesne profit.
  6. An injunction restraining the 1st and 2nd Defendants from continuing to trespass on the Claimant's premises mentioned in the Duplicates Certificates of Titles aforesaid.

WHEREFORE THE APPLICANT CLAIMS AGAINST THE DEFENDANTS:

1. Declarations as aforesaid;
2. Injunction restraining the Defendants from occupying the Claimants properties;
3. Damages for trespassing;

4. General damages to be assessed;
5. Such further and other relief as to the Honourable Court Is deemed just. I  
certify that the facts set out in the Claim Form are true to the best of my knowledge,  
information and belief.

DATED THE 11 DAY OF NOVEMBER 2007 i\

.....  
CLAIMANT

**Filed by RAPHAEL CODLIN & CO., 64 Duke Street, Kingston, telephone  
numbers 922-275110279, fax: 922-7783, the Attorneys at Law for and on behalf  
of the Claimant filing this document whose address for service is that of his  
Attorneys at Law.**

## **NOTICE TO THE DEFENDANT**

This Claim Form must contain or have served with it either a Particulars of Claim or a copy of a court order entitling the Claimant to serve the Claim Form without a Particulars of Claim.

If you do not complete the form of Acknowledgment of Service served on you with this Claim Form and deliver or send it to the registry (address below) so that it is received within FOURTEEN days of service of the claim Form on you; the Claimant will be entitled to apply to have judgment entered against you. See rules 9.2(5) and 9.3(1).

The form of Acknowledgment of Service may be completed by you or an Attorney at Law acting for you.

You should consider obtaining legal advice with regard to this claim.

**This Claim Form has no validity if it is not served within six months of the date below unless it is accompanied by an order extending the same. See Rule 8.14(1).**

The Registry is at King Street, Kingston, telephone numbers (876) 922-8300-9, fax (876) 967-0669. The office is open between 9:00 a.m. and 4:00 p.m. Mondays to Thursdays and 9:00 a.m. to 3:00 p.m. on Fridays, except on Public Holidays.

DATED THE                      DAY OF                      200

The Claimant's address for service is that of his said attorneys-at-law, Raphael Codlin & Co., of 64 Duke Street, Kingston, telephone numbers 922-275110279, fax 9227783.

**FILED BY RAPHAEL CODLIN & CO., 64 DUKE STREET, KINGSTON  
ATTORNEYS AT LAW FOR THE CLAIMANT.**

**Debtor 1 ("Bank House Mall")**

**Account Statement:** All amounts in

Account Statement: All amounts in Jamaican Dollars									
21-Dec-06	20-Jan-07	/EU	50.60%						
21-Jan-07	Co + +und	*		25,144,937.02	609,156,377.47	584,011,440.45			
21-Feb-07	Co round		50.00%		609,156,377.47				
21-Mar-07	20-Jan-07	20-Feb-07	50.00%	26,227,556.25	635,383,943.72	635,383,943.72			
21-Apr-07	Com and		50.00%						
21-May-07	Com'ound	*	50.00%						
21-Jun-07	20-May-07	30	50.00%	28,420,684.58	688,514,003.83	688,514,003.83			
21-Jul-07	Com'ound		50.00%		688,514,003.83				
21-Aug-07	20-Jun-07	50.00%		28,688,083.50	717,202,087.38	717,202,087.38			
21-Sep-07	Com'ound		50.00%		717,202,087.38				
21-Oct-07	20-Jul-07								
21-Nov-07	Com'ound	*	50.00%	31,170,657.57	779,251,689.27	779,251,689.27			
21-Dec-07	20-Aug-07		50.00%						
21-Jan-08	20-Sep-07		50.00%						
21-Feb-08	20-Oct-07		50.00%						
21-Mar-08	20-Nov-07		50.00%						
21-Apr-08	20-Dec-07		50.00%						
21-May-08	20-Jan-08		50.00%						
21-Jun-08	20-Feb-08		50.00%						
21-Jul-08	20-Mar-08		50.00%						
21-Aug-08	20-Apr-08		50.00%						
21-Sep-08	20-May-08		50.00%						
21-Oct-08	20-Jun-08		50.00%						
21-Nov-08	20-Jul-08		50.00%						
21-Dec-08	20-Aug-08		50.00%						
21-Jan-09	20-Sep-08		50.00%						
21-Feb-09	20-Oct-08		50.00%						
21-Mar-09	20-Nov-08		50.00%						
21-Apr-09	20-Dec-08		50.00%						
21-May-09	20-Jan-09		50.00%						
21-Jun-09	20-Feb-09		50.00%						
21-Jul-09	20-Mar-09		50.00%						
21-Aug-09	20-Apr-09		50.00%						
21-Sep-09	20-May-09		50.00%						
21-Oct-09	20-Jun-09		50.00%						
21-Nov-09	20-Jul-09		50.00%						
21-Dec-09	20-Aug-09		50.00%						
21-Jan-10	20-Sep-09		50.00%						
21-Feb-10	20-Oct-09		50.00%						
21-Mar-10	20-Nov-09		50.00%						
21-Apr-10	20-Dec-09		50.00%						
21-May-10	20-Jan-10		50.00%						
21-Jun-10	20-Feb-10		50.00%						
21-Jul-10	20-Mar-10		50.00%						
21-Aug-10	20-Apr-10		50.00%						
21-Sep-10	20-May-10		50.00%						
21-Oct-10	20-Jun-10		50.00%						
21-Nov-10	20-Jul-10		50.00%						
21-Dec-10	20-Aug-10		50.00%						
21-Jan-11	20-Sep-10		50.00%						
21-Feb-11	20-Oct-10		50.00%						
21-Mar-11	20-Nov-10		50.00%						
21-Apr-11	20-Dec-10		50.00%						
21-May-11	20-Jan-11		50.00%						
21-Jun-11	20-Feb-11		50.00%						
21-Jul-11	20-Mar-11		50.00%						
21-Aug-11	20-Apr-11		50.00%						
21-Sep-11	20-May-11		50.00%						
21-Oct-11	20-Jun-11		50.00%						
21-Nov-11	20-Jul-11		50.00%						
21-Dec-11	20-Aug-11		50.00%						
21-Jan-12	20-Sep-11		50.00%						
21-Feb-12	20-Oct-11		50.00%						
21-Mar-12	20-Nov-11		50.00%						
21-Apr-12	20-Dec-11		50.00%						
21-May-12	20-Jan-12		50.00%						
21-Jun-12	20-Feb-12		50.00%						
21-Jul-12	20-Mar-12		50.00%						
21-Aug-12	20-Apr-12		50.00%						
21-Sep-12	20-May-12		50.00%						
21-Oct-12	20-Jun-12		50.00%						
21-Nov-12	20-Jul-12		50.00%						
21-Dec-12	20-Aug-12		50.00%						
21-Jan-13	20-Sep-12		50.00%						
21-Feb-13	20-Oct-12		50.00%						
21-Mar-13	20-Nov-12		50.00%						
21-Apr-13	20-Dec-12		50.00%						
21-May-13	20-Jan-13		50.00%						
21-Jun-13	20-Feb-13		50.00%						
21-Jul-13	20-Mar-13		50.00%						
21-Aug-13	20-Apr-13		50.00%						
21-Sep-13	20-May-13		50.00%						
21-Oct-13	20-Jun-13		50.00%						
21-Nov-13	20-Jul-13		50.00%						
21-Dec-13	20-Aug-13		50.00%						
21-Jan-14	20-Sep-13		50.00%						
21-Feb-14	20-Oct-13		50.00%						
21-Mar-14	20-Nov-13		50.00%						
21-Apr-14	20-Dec-13		50.00%						
21-May-14	20-Jan-14		50.00%						
21-Jun-14	20-Feb-14		50.00%						
21-Jul-14	20-Mar-14		50.00%						
21-Aug-14	20-Apr-14		50.00%						
21-Sep-14	20-May-14		50.00%						
21-Oct-14	20-Jun-14		50.00%						
21-Nov-14	20-Jul-14		50.00%						
21-Dec-14	20-Aug-14		50.00%						
21-Jan-15	20-Sep-14		50.00%						
21-Feb-15	20-Oct-14		50.00%						
21-Mar-15	20-Nov-14		50.00%						
21-Apr-15	20-Dec-14		50.00%						
21-May-15	20-Jan-15		50.00%						
21-Jun-15	20-Feb-15		50.00%						
21-Jul-15	20-Mar-15		50.00%						
21-Aug-15	20-Apr-15		50.00%						
21-Sep-15	20-May-15		50.00%						
21-Oct-15	20-Jun-15		50.00%						
21-Nov-15	20-Jul-15		50.00%						
21-Dec-15	20-Aug-15		50.00%						
21-Jan-16	20-Sep-15		50.00%						
21-Feb-16	20-Oct-15		50.00%						
21-Mar-16	20-Nov-15		50.00%						
21-Apr-16	20-Dec-15		50.00%						
21-May-16	20-Jan-16		50.00%						
21-Jun-16	20-Feb-16		50.00%						
21-Jul-16	20-Mar-16		50.00%						
21-Aug-16	20-Apr-16		50.00%						
21-Sep-16	20-May-16		50.00%						
21-Oct-16	20-Jun-16		50.00%						
21-Nov-16	20-Jul-16		50.00%						
21-Dec-16	20-Aug-16		50.00%						
21-Jan-17	20-Sep-16		50.00%						
21-Feb-17	20-Oct-16		50.00%						
21-Mar-17	20-Nov-16		50.00%						
21-Apr-17	20-Dec-16		50.00%						
21-May-17	20-Jan-17		50.00%						
21-Jun-17	20-Feb-17		50.00%						
21-Jul-17	20-Mar-17		50.00%						
21-Aug-17	20-Apr-17		50.00%						
21-Sep-17	20-May-17		50.00%						
21-Oct-17	20-Jun-17		50.00%						
21-Nov-17	20-Jul-17		50.00%						
21-Dec-17	20-Aug-17		50.00%						
21-Jan-18	20-Sep-17		50.00%						
21-Feb-18	20-Oct-17		50.00%						
21-Mar-18	20-Nov-17		50.00%						
21-Apr-18	20-Dec-17		50.00%						
21-May-18	20-Jan-18		50.00%						
21-Jun-18	20-Feb-18		50.00%						
21-Jul-18	20-Mar-18		50.00%						
21-Aug-18	20-Apr-18		50.00%						
21-Sep-18	20-May-18		50.00%						
21-Oct-18	20-Jun-18		50.00%						
21-Nov-18	20-Jul-18		50.00%						
21-Dec-18	20-Aug-18		50.00%						
21-Jan-19	20-Sep-18		50.00%						
21-Feb-19	20-Oct-18		50.00%						
21-Mar-19	20-Nov-18		50.00%						
21-Apr-19	20-Dec-18		50.00%						
21-May-19	20-Jan-19		50.00%						
21-Jun-19	20-Feb-19		50.00%						
21-Jul-19	20-Mar-19		50.00%						
21-Aug-19	20-Apr-19		50.00%						
21-Sep-19	20-May-19		50.00%						
21-Oct-19	20-Jun-19		50.00%						
21-Nov-19	20-Jul-19		50.00%						
21-Dec-19	20-Aug-19		50.00%						
21-Jan-20	20-Sep-19		50.00%						
21-Feb-20	20-Oct-19		50.00%						
21-Mar-20	20-Nov-19		50.00%						
21-Apr-20	20-Dec-19		50.00%						
21-May-20	20-Jan-20		50.00%						
21-Jun-20	20-Feb-20		50.00%						
21-Jul-20	20-Mar-20		50.00%						
21-Aug-20	20-Apr-20		50.00%						
21-Sep-20	20-May-20		50.00%						
21-Oct-20	20-Jun-20		50.00%						
21-Nov-20	20-Jul-20		50.00%						
21-Dec-20	20-Aug-20		50.00%						
21-Jan-21	20-Sep-20		50.00%						
21-Feb-21	20-Oct-20		50.00%						
21-Mar-21	20-Nov-20		50.00%						
21-Apr-21	20-Dec-20		50.00%						
21-May-21	20-Jan-21		50.00%						
21-Jun-21	20-Feb-21		50.00%						
21-Jul-21	20-Mar-21		50.00%						
21-Aug-21	20-Apr-21		50.00%						
21-Sep-21	20-May-21		50.00%						
21-Oct-21	20-Jun-21		50.00%						
21-Nov-21	20-Jul-21		50.00%						
21-Dec-21	20-Aug-21		50.00%						
21-Jan-22	20-Sep-21		50.00%						
21-Feb-22	20-Oct-21		50.00%						
21-Mar-22	20-Nov-21		50.00%						
21-Apr-22	20-Dec-21		50.00%						
21-May-22	20-Jan-22		50.00%						
21-Jun-22	20-Feb-22		50.00%						
21-Jul-22	20-Mar-22		50.00%						
21-Aug-22	20-Apr-22		50.00%						





ML 34

Debtor 1 ("Bank House Mali")  
Account Statement All amounts in Jamaican Dollars

			PRINCIPAL			INTE			EST		
DATE	NO. OF DAYS	INTEREST	TOTAL PAYMENT RECEIVED	Principal	Compound Unpaid Interest @ monthly rests	Closing Principal Balance	Interest Payment	Unpaid interest to be Compounded @ monthly rests	Interest Accrual	CUMULATIVE INTEREST -	PAY OFF FIGURE
20-Feb-01	Agreed Balances	-	-	-		12,609,154.00	11110			22,085,444.00	34,694,598.00
20-Feb-01	20-Mar-01	29 50.00%	-			12,609,154.00			507,868.70	22,593,312.70	35,202,466.70
21-Mar-01	Compound				22,583,312.70	35,202,466.70		22,593,312.70	-	-	35,202,466.70
21-Mar-01	20-Apr-01	6 50.00%				35,202,466.70			1,515,661.76	1,515,661.76	36,718,128.46
21-Apr-01	Compound				1,515,661.76	36,718,128.46		1,515,661.76	-	-	36,718,128.46
21-May-01	20-Jun-01	30 50.00%	-			36,718,128.46			1,529,922.02	1,529,922.02	38,248,050.48
21-Jun-01	Compound				1,529,922.02	38,248,050.48		1,529,922.02	-	-	38,248,050.48
21-Jun-01	20-Jul-01	30 50.00%				38,248,050.48			1,646,791.06	1,646,791.06	39,894,841.55
21-Jul-01	Compound				1,646,791.06	39,894,841.55		1,646,791.06	-	-	39,894,841.55
21-Jul-01	20-Aug-01	6 50.00%				41,557,126.61			1,789,265.17	1,789,265.17	43,346,391.78
21-Aug-01	Compound				1,789,265.17	43,346,391.78		1,789,265.17	-	-	43,346,391.78
21-Aug-01	20-Sep-01	31 50.00%				43,346,391.78			1,866,302.98	1,866,302.98	45,212,694.76
21-Sep-01	Compound				1,866,302.98	45,212,694.76		1,866,302.98	-	-	45,212,694.76
21-Sep-01	20-Oct-01	30 50.00%	-			45,212,694.76			1,883,862.28	1,883,862.28	47,096,557.04
21-Oct-01	Compound				1,883,862.28	47,096,557.04		1,883,862.28	-	-	47,096,557.04
21-Oct-01	20-Nov-01	31 50.00%				47,096,557.04			2,027,768.43	2,027,768.43	49,124,325.47
21-Nov-01	Compound				2,027,768.43	49,124,325.47		2,027,768.43	-	-	49,124,325.47
21-Nov-01	20-Dec-01	30 50.00%	-			49,124,325.47			2,046,846.89	2,046,846.89	51,171,172.37
21-Dec-01	Compound				2,046,846.89	51,171,172.37		2,046,846.89	-	-	51,171,172.37
21-Dec-01	20-Jan-02	31 50.00%	-			51,171,172.37			2,203,203.25	2,203,203.25	53,374,375.62
21-Jan-02	Compound				2,203,203.25	53,374,375.62		2,203,203.25	-	-	53,374,375.62
21-Jan-02	20-Feb-02	6 50.00%				53,374,375.62			2,298,063.39	2,298,063.39	55,672,439.02
21-Feb-02	Compound				2,298,063.39	55,672,439.02		2,298,063.39	-	-	55,672,439.02
21-Feb-02	20-Mar-02	28 50.00%	*			55,672,439.02			2,165,039.30	2,165,039.30	57,837,478.31
21-Mar-02	Compound				2,165,039.30	57,837,478.31		2,165,039.30	-	-	57,837,478.31
21-Mar-02	20-Apr-02	6 50.00%	-			57,837,478.31			2,490,224.76	2,490,224.76	60,327,703.07
21-Apr-02	Compound				2,490,224.76	60,327,703.07		2,490,224.76	-	-	60,327,703.07
21-Apr-02	20-May-02	30 50.00%	-			60,327,703.07			2,513,654.29	2,513,654.29	62,841,357.37
21-May-02	Compound				2,513,654.29	62,841,357.37		2,513,654.29	-	-	62,841,357.37
21-May-02	20-Jun-02	31 50.00%				62,841,357.37			2,705,669.55	2,705,669.55	65,547,026.92
21-Jun-02	Compound				2,705,669.55	65,547,026.92		2,705,669.55	-	-	65,547,026.92
21-Jun-02	20-Jul-02	30 50.00%	-			65,547,026.92			2,731,126.12	2,731,126.12	68,278,153.04
21-Jul-02	Compound				2,731,126.12	68,278,153.04		2,731,126.12	-	-	68,278,153.04

# DENNIS JOSLIN JAMAICA, INC

Rep. # 899 (overseas) f \*

2 - 6 OXFORD ROAD  
MUTUAL LIFE BUILDING, 4th FLOOR (NORTH TOWERS)  
P.O. BOX 54, KINGSTON 5, JAMAICA W.I.  
TEL: (876) 754-7053-67 FAX: (876) 754-7079

June 24, 2002

Pearson & Company  
Attorney f s-at-Law 33  
duke street,  
Kingston

PEARSON & CO.

RECEIVED BY: \_\_\_\_\_  
DATE: - \_\_\_\_\_

**Attention: Mr. Anthony Pearson**

TIF#AE+ : \_\_\_\_rd'

Dear Mr. Pearson,

**Re: Your Client Mr. Debtor 1 Eagle Commercial Bank Loan Account**

In response to your letter dated. May 22, 2002 we advised that the account balance was arrived at as follows:

Principal Transferred to Finsac Limited from Eagle Commercial Bank - \$ 7,578,507.57 Interest  
Transferred to Finsac Limited from Eagle Commercial Bank

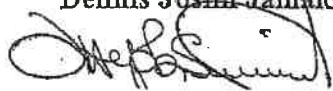
Interest accrued since transfer to Finsac Limited	- \$ 7,150,788.99	
Legal fees to correct breaches on the approved building plan	\$ 63,299.00	
	- \$ 517,500.00	Cost for the
Cost to provide insurance on building from October 2001		Registration of
	\$ 422,280.00	
Cost of Stamp Duty on additional Certificate of Titles		Mortgage on addition
		Certificate of Titles
	- \$ 216,951.00	
Surveyor's fees for the approval of the new building plans		
	- \$ 5,000.00	
Payment to D C Tavares & Finson Limited for withdrawal of auction		
	- \$ 25,875.00	
Legal fees for the registration of mortgage on additional Certificate of Titles		
	\$ 64,280.00	
Cost of Valuation Report done on the property-	\$ 116,237.50	
TOTAL	- 43 888 2 .35	

.../2

We hope you Find the foregoing information in order and we look forward to receiving your proposal to settle the account with expediency.

Should you need any farther information please feel free to contact the undersigned,

Yours truly,  
**Dennis Joslin Jamaica Inc.**



Hepburn-Smith  
Loan Recovery Officer

 <sup>6</sup> Karlen'

Paul. A. Chin  
Loan Recovery Manager



THE  
**J**  
**AMAICA GAZETTE**  
SUPPLEMENT

PROCLAMATIONS, RULES AND REGULATIONS

Vol CXIX

WEDNESDAY, NOVEMBER 20, 1996

501

No. 104

Io. 179

THE MONEYLENDING ACT

THE MONEYLENDING (EXEMPTIONS) (FINANCIAL INSTITUTIONS SERVICES LIMITED)  
ORDER, 1996

In exercise of the powers conferred upon the Minister by subsection (1) of section 14 of the Moneylending Act, the following Order is hereby made:-

1. This Order may be cited as the Moneylending (Exemptions) (Financial Institutions Services Limited) Order, 1996.
2. Loans or contracts entered into or security given for repayment thereof, being loans made by Blaise Building Society, Blaise Trust Company and Merchant Bank Limited and Consolidated Holdings Limited and assigned to Financial Institutions Services Limited in accordance with the Schemes of Arrangement entered into by the said Blaise Building Society, Blaise Trust Company and Merchant Bank Limited and Consolidated Holdings Limited and their respective creditors and approved by the

Supreme Court of Judicature of Jamaica on the 26.n day of October.

PRINTED BY DANIELA PRINTING SERVICES LTD. 11, ROYAL HIGHWAY, PRESTON, LANC., ENGL.

1995 pursuant to Suit No. E303., of 1995,. Suit No. E304 and Suit No. E.305 of 1995 respectively, or contracts entered into thereby or security given thereto (respectively) within one year from the coming into operation of this Order are hereby declared to be exempt from the provisions of *the* Moneylending Act,

Dated this 19th day of November, 1996.

OIRMAR DADES,

Minister of Finance and Planning.

No. 8401042M