

1 Tuesday, 13th January 2009

2 (10.30 am)

3 Opening Statement by SIR ROBIN AULD

4 SIR ROBIN AULD: Good morning, everybody. I think you all
5 know I am Robin Auld.

6 The Inquiry, of which these hearings are part has
7 been prompted, there's no gainsaying, by an increasing
8 volume over the last few years of allegations of
9 corruption in relation to ministers and other elected
10 members of the legislature in the conduct of their
11 public duties. These allegations startled the UK House
12 of Commons Foreign Affairs Committee in July of 2007, as
13 is well known. Most of the allegations were and
14 continue to be made anonymously for fear or claimed fear
15 of retribution from those against whom they were made.
16 The Foreign Affairs Committee described a palpable
17 climate of fear in its report to the House of Commons
18 a year later and recommended the appointment of
19 a Commission of Inquiry "with full protection for
20 witnesses".

21 As you know, I was appointed last July by the then
22 Governor, His Excellency Richard Tauwhare, to conduct
23 this Inquiry under the Territory's Commissions of
24 Inquiry Ordinance. The job given to me by my terms of
25 reference has two parts. The first is to investigate

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1 the possibility of corruption or other serious
2 dishonesty in recent years in relation to past and
3 present elected members of the Territory's legislature.

4 There are, I suppose, three aspects to that.

5 The first is that I am concerned with
6 the possibility, not with proof, of corruption. I have
7 no power to determine issues of fact or to direct any
8 particular outcome. It is not my job to make findings
9 of guilt or to exonerate those against whom allegations
10 have been made. The most I can do -- if I have
11 information of possible corruption or other
12 dishonesty -- is to recommend further and more searching
13 investigations, say, by the police and/or some other
14 public enforcement body with a view to criminal
15 prosecution, recovery of the proceeds of crime if proved
16 and/or consideration of other sanctions.

17 Secondly, you will have noticed the wording of

18 the term of reference -- "corruption or other serious
19 dishonesty ... in relation to elected members of the
20 legislature". It concerns possible criminality, both by
21 the bribed and the bribers, if any.

22 Thirdly, the possible criminal conduct with which I
23 am concerned is that, in the terms of reference words,
24 "in recent years", in recent years in relation to both
25 "past and present" elected members of the legislature.

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1 Sadly, there is nothing new about allegations of
2 corruption in the Turks and Caicos Islands. Sir Louis
3 Blom-Cooper QC, in his powerful reports in the 1980s
4 lamented the widespread scope for it here. The Foreign
5 Affairs Committee, in its investigation in 2007 and
6 2008, whilst expressing particular concern about alleged
7 excesses of the present administration, acknowledged
8 similar allegations about its predecessors.
9 However, practicality and time has led me not only to
10 confine my inquiries to the last eight or ten years but
11 also to focus particularly on the period of this
12 administration.

13 Anyone with any familiarity of the public affairs
14 and commercial life of the Territory knows that
15 the escalating volume of allegations, true or false, has
16 reached a crescendo. The pressing concern is for
17 the health of the Territory and its people today and for
18 the future -- not what may have happened some years ago.
19 The vast bulk of the information put before the Foreign
20 Affairs Committee and this Inquiry is in fact of alleged
21 corruption under this administration, relatively little
22 about its political predecessors. That may be in large
23 part a symptom of the passing of time, dimming, as it
24 does, keenly felt grievances and memories and leading to
25 disappearance of evidence. I should also mention that

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1 a likely source for canvassing such earlier
2 transgressions, namely present ministers and other
3 members of the House of Assembly has produced very
4 little. Personal letters that I wrote to all of them
5 and others, inviting whatever assistance they could give
6 me in my task were in the main greeted with silence. In
7 short -- in contrast to the many complaints about

8 them -- there were very little complaints from them or
9 others about their predecessors.

10 Many of you will have seen from the Commission's
11 regular press statements that its staff have made wide,
12 searching and profitable investigations. They have also
13 spent some time on the islands, examining and obtaining
14 copies of public records and interviewing those who have
15 come forward with information. The result, some six to
16 seven months now into the Inquiry, is a vast and still
17 growing body of information, bearing mostly on
18 ministerial and public officials' alleged misconduct
19 over the last few years, a re-run in large part of
20 material placed publicly and in confidence before
21 the Foreign Affairs Committee of the UK House of
22 Commons.

23 Well, that's the first part of my job. The second
24 part as defined by my terms of reference is to report on
25 any indications of systematic weaknesses in the law,

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1 governance and administration of the Territory. It is
2 clearly complementary to the first part of the Inquiry.
3 If things have gone badly wrong, despite the recent
4 constitutional and other changes in governmental and
5 administrative structures, another look at them is
6 necessary, isn't it? On such matters I have had
7 the benefit of a large volume of written evidence from
8 a variety of knowledgeable and influential sources.
9 There are also valuable audit and other public reports
10 prepared for this and earlier administrations.

11 The Commissions of Inquiry Ordinance allows me to
12 determine the procedure to be followed at the Inquiry as
13 a whole and in any oral hearings that it involves. In
14 determining the procedure, I have had to keep in mind
15 the essentially inquisitorial nature of the whole
16 exercise, of which these oral hearings, as I have said,
17 are but a part. First, there are so many transactions,
18 business relationships and practices involved and
19 parties to consider, often extending over a period of
20 several years. Secondly, there's the short time in
21 which I have to submit my report, originally four, now
22 seven months. Thirdly, as I have already emphasised,
23 there is the preliminary nature of my role.

24 So here I am, with much of the Commission's
25 enquiries made and information in but still short, still

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1 short of full and accurate disclosure from a number of
2 persons, in the main ministers, in the present
3 administration alleged to have profited from bribery.
4 I have made repeated complaint in the Commission's press
5 statements about the absence of hard and satisfactory
6 disclosable information from them, not so much about how
7 they spent their money but where they got it from.
8 Hence the summonses that I have been obliged to serve on
9 them to produce documents and give evidence of their
10 interests and how they acquired them. There is also
11 other oral evidence to call, evidence that for obvious
12 reasons can only be a fragment, a fragment of that
13 already accumulated in writing by the Commission in its
14 inquisitorial role.

15 With me are Alex Milne, senior counsel to the
16 Inquiry; shortly to be assisted by Sarah Clark, junior
17 counsel to the Inquiry; and also Jacqueline Duff,
18 the Solicitor to the Inquiry who sits nearer to me; and
19 Laurance O'Dea and Bahar Ala-eddini, who are over on my
20 right-hand side, and are probably the best known names
21 to all in this room in the Inquiry for their conduct of
22 the business of its correspondence over the last few
23 months. As readers of the Commission's press statements
24 know, I had hoped to conduct separate oral examinations
25 under each head, the first, in December of last year, as

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1 to ministerial disclosure of interests, and the second
2 this month of other witnesses. That is how we planned
3 it. However, because of the delays in obtaining full
4 and accurate disclosure of ministerial interests, I have
5 had to combine the two in one series of oral hearings
6 starting today.

7 Before I say any more I should mention that
8 the whole Inquiry, including these hearings, is
9 a "judicial proceeding" under the law of the Turks and
10 Caicos Islands. It comes with various formal trappings
11 of such a proceeding, including powers to deal with
12 contempt of court. I say that not to be formal or
13 "heavy", but to ask all present to observe the basic
14 courtesies and consideration to people taking part in
15 the Inquiry, in particular witnesses. Giving evidence
16 is always and at best an anxious and nerve-racking
17 business, and it requires concentration by

18 the questioner and the questioned. Those subjected to
19 the ordeal are entitled to silence, no gestures, oral or
20 otherwise, and a minimum of movement in the room.
21 Anyone disregarding those decencies will, I am afraid,
22 be very quickly removed and in addition, in extreme
23 cases, possibly subject to punishment for contempt of
24 the Commission.

25 Having said that, I hope to conduct the proceedings

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1 relatively informally and, with everybody's
2 co-operation, in as relaxed an atmosphere as possible in
3 the circumstances. Breaks in the proceedings will be as
4 few and as short as humanely possible, for we have much
5 to do in the short time available. But witnesses may
6 need the occasional short rest, and so will the court
7 reporters, producing the LiveNote daily transcript who
8 sit on my left here. Attorneys, witnesses and I should
9 remember to speak clearly, sufficiently loudly and not
10 too quickly, otherwise their already testing job can be
11 made unpleasant, verging on impossible.

12 (10.45 am)

13 Also, please remember that we are in a hotel, whose
14 guests are here to enjoy themselves and in peace. All
15 of us should follow the directions of hotel staff and
16 police security officers while here. Unfortunately, it
17 has not been possible to provide on-site parking for
18 those attending the hearings, but directions will be
19 given for nearby off-site parking and I think probably
20 have been this morning. Refreshments should be
21 available just outside the Inquiry to the entry room for
22 those attending at cost, which I hope will be modest.
23 No other facilities are open to those attending only for
24 the purpose of the hearings.

25 This is the programme. The hearings will continue

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1 throughout January and as necessary into February,
2 sitting normally from 10.30 am to 1.00 and 2.00 pm to
3 4.30 pm. They will include not only an examination of
4 ministers and other members of the House of Assembly as
5 to their interests but also an opportunity for giving
6 evidence orally or in writing to those who I consider
7 may be implicated or concerned in any subject matter of
8 the Inquiry.

9 At the hearing the Governor, if he wishes and he
10 does wish, may be represented by the Attorney General or
11 another public officer holding a legal appointment. Any
12 other person whom the Commission notifies that it
13 regards as a subject of the Inquiry or to be implicated
14 or concerned in its subject matter may also be
15 represented by an attorney.

16 Now, just a few words about the procedure that
17 I shall adopt, all or much of which is to be found in
18 the Commission's press statement of 23 December of last
19 year, when read with the Commissions of Inquiry
20 Ordinance. Today's transcript of these opening words of
21 mine will also, I hope, serve as a useful aide-memoire.

22 The first stage of the hearings, that relating to
23 ministers and other members of the legislature's
24 disclosure of interests, will begin in a few minutes.
25 There will be no opening addresses by counsel or anyone

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1 else. Mr Milne, as counsel to the Commission, will
2 start, subject to any submissions from the Bar, by
3 calling the Honourable Dr Michael Misick, the Premier,
4 who attends in response to a Commission summons for
5 an examination as to his interests.

6 The procedure for the Premier will be the same as
7 that for any other ministers, former ministers or
8 members of the legislature, summoned to produce
9 documents and give evidence as to their interests. In
10 each case the purpose of the examination is to make good
11 inadequacy of disclosure where it exists. Mr Milne will
12 also consider, in the light of the evidence of each
13 minister or former minister, whether to call his or her
14 permanent secretary or other senior government official
15 to deal with any matters arising from the minister's or
16 other member's evidence. Each such witness may be
17 examined by his attorney, if any, and with my
18 permission, the attorney of other parties affected by
19 the evidence. Finally, he or she may be examined again
20 by Mr Milne. That is the first stage.

21 In the second stage of the hearings, that of oral
22 evidence to be given by others across the whole range of
23 the Commission's terms of reference, the fragment to
24 which I referred a little while ago, Mr Milne will take
25 a similar course. He will examine each witness in

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1 chief. With my permission each such witness may be
2 cross-examined by or on behalf of any person whom
3 I consider -- and notify in advance where possible -- as
4 the subject of or implicated by such evidence. He or
5 she may then be further examined by Mr Milne.

6 The third stage, any person whose conduct I consider
7 to be the subject of the Inquiry or to be in any way
8 implicated or concerned in its subject matter by oral
9 evidence in these hearings at the earlier stages may
10 give evidence orally or in writing in relation to it.
11 If the witness does so orally, he may be examined in
12 chief by an attorney instructed by him for the purpose.
13 He may then be examined by Mr Milne and if he wishes,
14 re-examined by his attorney. Any such person who seeks
15 or is requested by me to give evidence in writing will
16 be given a reasonable time in which to do so.

17 The fourth stage, finally the last, there will be
18 an opportunity for closing addresses by or on behalf of
19 all involved as witnesses in any of the earlier stages,
20 to be followed by a single address by Mr Milne.

21 So that is the pattern. I should add that I may,
22 under the Commissions of Inquiry Ordinance, receive and
23 consider any material, whether by way of oral evidence,
24 witness statements, documents or otherwise, even though
25 it wouldn't be admissible as evidence in civil or

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1 criminal proceedings. I may determine how such material
2 should be given and by whom and it is a matter for me
3 what weight to give it.

4 I will require all oral evidence to be given on oath
5 or by affirmation and normally in public. If, in
6 response to application, I agree to hear evidence in
7 private, I may prohibit publication to, or disclosure
8 by, any persons attending before me, of all or part of
9 such evidence privately given. And I may award persons
10 attending before the Commission, in response to
11 a summons or by request, a sum which in my opinion
12 represents the loss caused to that person by attendance.
13 All of this comes, much summarised form, from
14 the Commissions of Inquiry Ordinance.

15 Evidence given in the Inquiry, whether or not given
16 in confidence, shall not be admissible against
17 the person giving it -- as distinct from against any
18 other person -- in any civil or criminal proceedings,

19 except for perjury or contempt. That doesn't mean that
20 the witness is immune from subsequent criminal
21 proceedings, if there are any, prompted by information
22 or evidence arising in the Inquiry. In addition, all
23 evidence given before the Commission will be absolutely
24 privileged and no witness giving it shall be liable to
25 any civil proceedings in respect of it. In all of this

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1 I shall try to conduct the Inquiry in such a way that it
2 does not risk prejudicing the fairness of any subsequent
3 proceedings.

4 The next and final stage will be for me to write
5 a report and make recommendations as provided by my
6 terms of reference. In doing that, I will keep well in
7 mind the preliminary nature of the Inquiry. I shall
8 concentrate on matters of real substance and importance
9 to the present and future well-being of the Territory.

10 I have probably missed a number of important matters
11 that I should have mentioned, and as the hearings get
12 underway, I shall no doubt think of more or be prompted
13 by representations from the bar to add this or that. If
14 so, I shall give proper notice to all concerned and do
15 it, I hope, in a way that is fair.

16 Now, before I call on Mr Milne to introduce himself
17 and Ms Duff and to hear any submissions that there may
18 be from the bar, I should remind you that
19 the Commission's Secretariat are as always here to help
20 you. They can be contacted here in the hotel or by
21 email or telephone as indicated in the Commission's
22 website.

23 I am sorry to have taken so long over what is
24 essentially a housekeeping exercise, but it seemed
25 important to me to set out the limitations and framework

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1 of the exercise that I am about and the issues with
2 which we are going to have to grapple over the next
3 three or four weeks in different ways. Mr Milne.

4 MR MILNE: Thank you, Sir Robin. My name is
5 Alexander Milne. I am a barrister in England and Wales
6 and for the purposes of the Commission, I am also called
7 to the bar of the Turks and Caicos Islands and I am
8 senior counsel to the Commission of Inquiry.

9 SIR ROBIN AULD: I will take representations from the Bar.
10 Where should I start? With you, Mr Fitzgerald.
11 MR FITZGERALD: Thank you, sir. There is just two matters.
12 One is of an administrative nature and the other is
13 an application which we have given notice of in our
14 letter yesterday.
15 SIR ROBIN AULD: Would you just like to introduce yourself
16 and those with you and we will just go the rounds and
17 then you and anybody else who have any submissions to
18 make can then make them.
19 MR FITZGERALD: Yes. I am Edward Fitzgerald, I am
20 Queens Counsel from London and I represent the Premier,
21 and with me is Maurice Glinton of the Bahamas bar, who
22 is also representing the Premier, and Akierra Misick of
23 the Turks and Caicos bar who is representing the Premier
24 with me. So that is our team.
25 MR SMITH: Good morning.

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1 SIR ROBIN AULD: Good morning.
2 MR SMITH: I am Oliver Smith from the firm of
3 Stanfield Green and I represent the Honourable Deputy
4 Premier, Mr Floyd Hall and the Honourable Lillian Boyce.
5 Thank you.
6 MR SIMONS: Good morning, Sir Robin. I am Carlos Simons QC
7 of the Miller Simons O'Sullivan law firm and I represent
8 the Honourable Galmo Williams.
9 MR WILSON: Good morning, Sir Robin. I am Melbourne Wilson.
10 I represent the Honourable Jeffrey Hall from
11 Wilson Associates.
12 MS GLINTON: I am Samantha Williams-Glinton, and I am here
13 on behalf of the Attorney General.
14 MS BROOKES: I am Angela Brookes. I am also here on behalf
15 of the Attorney General's chambers.
16 SIR ROBIN AULD: Thank you very much indeed, all of you.
17 Now, Mr Fitzgerald.
18 MR FITZGERALD: Sorry, I jumped the gun. Two matters then.
19 The first is just an administrative matter because we
20 have submitted various supporting documents in the last
21 day and can I just check that you have, sir, firstly
22 the 50 page statement dealing with the more detailed
23 questions that were posed to the Premier and that was
24 supplied to the Commission yesterday.
25 SIR ROBIN AULD: I have that and I have read it.

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1 MR FITZGERALD: And secondly the Premier's short opening
2 statement addressed to you in writing, indicating his
3 wish to co-operate fully with the Commission and also
4 dealing with and denying the allegations of dishonesty
5 and corruption.

6 SIR ROBIN AULD: Thank you, I have that and I have read it
7 too.

8 MR FITZGERALD: Thirdly, there is a bundle of supporting
9 documents to go with appendix 5 of his statement. They
10 are just documents which support the origin of the
11 funds. That is to say they indicate what's on
12 the cheques or what is in the particulars of cheques
13 provided by the Belize Bank and the various other banks
14 involved.

15 SIR ROBIN AULD: This is supporting information submitted
16 yesterday?

17 MR FITZGERALD: No, this was provided today but it supports
18 the schedule in appendix 5.

19 SIR ROBIN AULD: I have not seen that, but I think Mr Milne
20 may have.

21 MR FITZGERALD: I have shown it to counsel.

22 SIR ROBIN AULD: I don't suppose you have had time to
23 examine it.

24 MR MILNE: I have not had a chance to read it at all, sir,
25 no.

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1 MR FITZGERALD: The fourth matter is a comprehensive bundle
2 of correspondence. That is just so that one has both
3 the questions and the answers, and also some of the
4 e-mails didn't find their way into volumes 1 or 2. Sir,
5 I hope you have that.

6 SIR ROBIN AULD: I don't think I have it but I have no doubt
7 the Secretariat have it and I will have it when I need
8 it.

9 MR FITZGERALD: Finally, there are two further signed
10 letters from the directors of the J&T banker, dealing
11 with the allegation that there was anything suspect
12 about the loan in May 2007, and denying that there was
13 anything suspect in that loan, and a statement also
14 from Mario Hoffmann, who I understand was not approached
15 by the Commission, but has now made a signed statement
16 denying any impropriety in relation to the Salt Cay
17 project.

18 SIR ROBIN AULD: These are statements produced this morning,

19 are they?
20 MR FITZGERALD: They were sent this morning. I think they
21 were signed --
22 SIR ROBIN AULD: I can see Mr Milne nodding. He has
23 obviously received them. I suspect he has not had
24 a chance to read them but we have got them.
25 (11.00 am)

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1 Application by MR FITZGERALD
2 MR FITZGERALD: The next matter is an application which
3 I know you have been given notice of by our letter.
4 It is concerning the procedure to be adopted. As
5 you know, the Premier has submitted the signed statement
6 which responds in some detail to the allegations made
7 against him and to the detailed questions posed by
8 counsel to the Commission in the letter of the
9 6th January and he has also submitted a short opening
10 statement which I know you have had.
11 Arising from that my first application is that
12 before the Premier is questioned by counsel to the
13 Commission, I be permitted to take the Premier through
14 the main points of that statement orally. If I can just
15 indicate the basis of that application, of course
16 I accept that the Commission is master of its own
17 procedure, subject only to the rules of fairness or
18 natural justice and I accept that you indicated in your
19 press statement of 23rd December, the procedure that you
20 intending to adopt.
21 But we respectfully submit that it would be fairer,
22 given the somewhat accusatory tone of some of the
23 questions posed, for the Premier to be taken through his
24 response by his own lawyer initially and it would also
25 enable him to make clear at the outset and publicly what

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1 is his response to the detailed questions posed by
2 counsel to the Commission and indeed the allegations
3 that you have referred to that have been in the public
4 domain. That's my first application.
5 The second application is that he at least be
6 permitted to make an opening statement. You have
7 the text of the opening statement which he would wish to
8 make. The purpose of that would simply be to make clear
9 just two things at the outset. Firstly, his serious

10 intention to co-operate with this Commission and
11 secondly his firm denial of any dishonesty or corruption
12 on his part, in particular, in relation to the questions
13 posed about his relationship with certain developers
14 which he has dealt with very comprehensively in his
15 statement.

16 That is my application: that there be a slight
17 modification of the procedure originally envisaged to
18 permit those two alterations. That's my application.

19 SIR ROBIN AULD: Those are your applications, Mr Fitzgerald.
20 Thank you.

21 MR FITZGERALD: There is one further matter I think I should
22 raise at a later stage, which is the question of, once
23 the witness commences giving evidence, what your
24 position would be as to any further consultation with
25 counsel. Obviously the normal rule in judicial

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1 proceedings would be that once the witness is giving
2 evidence, there would be no further consultation.
3 I just really want to know what the position is.

4 SIR ROBIN AULD: Thank you.

5 MR FITZGERALD: So those are the three matters I wish to
6 raise with you.

7 SIR ROBIN AULD: Thank you, Mr Fitzgerald. Are there any
8 other submissions from the bar before I ask Mr Milne to
9 respond? Thank you. Mr Milne.

10 Reply by MR MILNE

11 MR MILNE: Sir, the approach, as you have already stressed
12 in your opening remarks, is that of an inquisitorial
13 process, and the concern that I would have would simply
14 be that we would start to distort that inquisitorial
15 process at this stage and perhaps become --
16 a quasi-accusatorial process become a quasi-trial, which
17 is not the intention of the Commission, I know, and not
18 the intention of counsel.

19 Obviously it would be my intention to take
20 the Honourable Premier through his evidence as it has
21 already been disclosed to the Commission, in what I hope
22 will be a clear order allowing Mr Fitzgerald to respond
23 at a later stage and clarify any matters that he wishes
24 to deal with.

25 Dealing with the final point, the one which

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1 Mr Fitzgerald touches, I can see no difficulty with
2 counsel being allowed to consult, if necessary and
3 appropriate, during the course of proceedings at the
4 natural breaks, if matters arise which had not
5 previously been placed before the witness. Clearly, he
6 should have the opportunity to take instructions should
7 he wish to clarify matters during the course of those
8 hearings.

9 SIR ROBIN AULD: I am glad that you say that, Mr Milne. It
10 seems to me that Mr Fitzgerald and his lay client ought
11 to have an opportunity for reasonable consultation on
12 matters of that sort that may require attention which
13 haven't been given previous thought.

14 What about Mr Fitzgerald's second application that
15 the Premier be permitted to make an opening statement of
16 the kind which we have in, I think, the two-page
17 document given and to which Mr Fitzgerald has referred?

18 MR MILNE: With respect to Mr Fitzgerald, if that were to be
19 the case then effectively it would set aside
20 the decision that the Commission has already made that
21 there be no opening statements from any parties in this
22 proceeding and, whilst I am sure that nobody would seek
23 to subvert the process by using it for, as it were,
24 political point-scoring, it is a risk that
25 the Commission has to recognise, that there are high

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1 tensions behind this Inquiry, that there are raised
2 emotions all round and it may be better for the purposes
3 of the Inquiry as a whole if we simply focus on question
4 and answer at this stage, to get at the facts because we
5 ultimately are seeking the facts.

6 SIR ROBIN AULD: Those are your submissions?

7 MR MILNE: Those are my submissions, yes.

8 RULING

9 SIR ROBIN AULD: Mr Fitzgerald, as I think I made plain in
10 the Commission press statements and I hope this morning,
11 what we are doing today is not the Inquiry and it is
12 not, as I know you accept and Mr Milne has just
13 emphasised, a accusatorial process with a conviction or
14 an acquittal at the end of it.

15 What we are here about today is essentially a very
16 limited exercise and a wider inquisitorial exercise to
17 take evidence from witnesses on summons as to why in
18 the view of the Commission they have not properly
19 disclosed their interests.

20 It is a limited exercise of that sort for which
21 the next two weeks has been designed and it seems to me
22 that Mr Milne is correct in what he says, that we should
23 confine ourselves to that essentially mechanistic
24 exercise of looking at the adequacy of disclosures made,
25 finding out the extent of the inadequacy, if it is there

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1 or its absence, if not there, and following up any
2 sources of money or other interests that should have
3 been disclosed and are not.

4 For statements to be made by the Premier, and I can
5 understand why he would wish to make it, of an opening
6 nature and for you to take him through his answers to
7 points that may or may not be yet taken against him by
8 Mr Milne in his analysis, I think would be wrong and
9 would skew the whole process about which we are engaged.

10 I regret, from your point of view at any rate, that
11 I reject your first two applications, but the third one
12 seems to be fine and you should be free to consult with
13 the Premier as you in your good judgment will decide
14 from time to time.

15 MR FITZGERALD: I am obliged.

16 SIR ROBIN AULD: Thank you. Now, Mr Milne, are we ready?

17 I gather you would like to affirm?

18 A. Yes.

19 HONOURABLE PREMIER MICHAEL MISICK (affirmed)

20 Cross-examination by MR MILNE

21 MR MILNE: Good morning, Mr Premier.

22 A. Good morning, sir.

23 Q. I am obviously going to be with you for some time
24 because there are a number of questions that
25 the Commission would seek answers to. I would reiterate

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1 what Sir Robin Auld has already said about answers
2 being, as far as we possibly can, like questions, kept
3 short and not too fast because a full note is being
4 taken of everything that is said.

5 Firstly, can I thank you on behalf of the Commission
6 for being here today and for the documentation that has
7 been submitted by you and on your behalf by your
8 attorneys over recent weeks and months. There are, as
9 I have already said, a number of matters that arise, in

10 fact many matters that arise from that. No doubt there
11 will be subsequent witnesses who will come before this
12 Tribunal who will touch upon the same subjects that you
13 will. You have, through your attorneys, provided
14 a number of business, legal and banking documents; would
15 you agree with that?

16 A. Yes.

17 Q. May I take it that you do not then rely in any way upon
18 legal, professional privilege or legal privilege in
19 respect of your documents as regards any subsequent
20 witnesses?

21 A. I didn't understand the question.

22 Q. You, as a lawyer, will understand that the lay client in
23 any lawyer/client relationship has what is called legal
24 privilege. You are entitled to say in certain
25 circumstances that you do not wish your lawyer to reveal

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1 your conversations with that lawyer. Do you understand?

2 A. Sorry, is the question am I voluntarily agreeing to give
3 up my legal privilege, is that the question?

4 Q. Yes.

5 A. Yes.

6 Q. I can take that as an affirmative?

7 A. Yes, between myself and my lawyer?

8 Q. Yes.

9 A. Yes.

10 Q. Unless there be any doubt, I am not simply talking about
11 the attorneys who represent you in these proceedings,
12 but attorneys who have represented you on other
13 occasions. Shall I clarify?

14 MR FITZGERALD: Sir, I wonder if it could be made clear, is
15 this being said that in relation to any proceedings, for
16 example, matrimonial proceedings, that he is waiving
17 privilege or just in relation to these matters.

18 MR MILNE: I am not referring specifically to matrimonial
19 proceedings, sir. But on other occasions you have had
20 other attorneys represent you in business matters, and
21 at least one of those attorneys, who is your brother,
22 who I understand is Chalmers Misick, is likely to be
23 giving evidence in due course. Do you rely upon legal
24 privilege in relation to your business relationship with
25 him, or would you urge him to make full disclosure on

25

1 your behalf?

2 A. I urge everyone to make everyone to make full disclosure

3 on my behalf, and as I stated earlier I waive legal

4 privilege in relation to that.

5 SIR ROBIN AULD: Everyone includes Mr Chalmers Misick?

6 A. Yes.

7 SIR ROBIN AULD: Thank you.

8 MR MILNE: Mr Premier, those of us who come to

9 the Commission, come to the Inquiry with little previous

10 knowledge of the Turks and Caicos Islands, have

11 essentially had to piece together some of the history of

12 the political movements in this country and governance.

13 Obviously we have had the opportunity to read

14 the reports from Sir Louis Blom-Cooper which have been

15 touched upon by Sir Robin in his opening comments.

16 You now are a gentleman of mature years. I will not

17 ask you to reveal your precise age, but you have been

18 involved in government for a number of years, would that

19 be correct?

20 A. Yes.

21 Q. I think you served during the 1990s as a member of the

22 former legislative council, is that right?

23 A. Yes.

24 Q. And as a minister?

25 A. Yes.

26

1 Q. But you were elected by your party, the PNP, in 2003,

2 indeed by the electorate, to become Chief Minister as

3 you were at the time of the Turks and Caicos Islands?

4 A. Yes.

5 Q. You have remained Chief Minister and subsequently

6 Premier since that time?

7 A. That is true.

8 Q. So the period that we are concerned with is largely that

9 period from 2003 onwards, when you have been on any view

10 at the heart of government within the Turks and Caicos

11 Islands.

12 A number of sources have said that there was,

13 I think, a radio statement or a comment made in public

14 by yourself back in 2003 that when you became

15 Chief Minister, that your net worth was in the order of

16 about \$50,000. Do you remember whether you ever said

17 that?

18 A. That I said that?

19 Q. Yes.

20 A. Absolutely not.
21 Q. Would it have been true if you had said it?
22 A. No.
23 Q. I realise that this may be a --
24 A. I can expand on that.
25 Q. I was going to invite you to. I was going to ask

27

1 whether you could say what your net worth was at
2 the time that you became Chief Minister. I appreciate
3 it may be a very rough figure.
4 A. I have been working from the time I was 18, selling real
5 estate on Providenciales since 1984, and by the time
6 I became Chief Minister, had already been involved in
7 a lot of businesses and had established myself in our
8 community not only as a business person but also as
9 a politician.
10 In this jurisdiction there is no requirement for
11 accounting purposes. We have no taxes or income tax.
12 So there is absolutely no way that -- and in relation to
13 the -- sir, in relation to the declaration,
14 the declaration of interest, there is no requirement to
15 put a dollar amount on anyone's net worth. What you are
16 required to declare is assets and in some case
17 liabilities in terms of the (inaudible) figure. So
18 there's absolutely no way that I would have known or
19 others would have known what my net worth would have
20 been in 2003.
21 (11.15 am)
22 Q. Right. Presumably it is not something that you would
23 have spoken about publicly in any event?
24 A. Absolutely not.
25 Q. Up to the time when you became Chief Minister, am

28

1 I right in thinking that you regarded yourself as, and,
2 forgive me, this is not meant to be flippant, part
3 politician, part lawyer and part real estate developer?
4 A. Did I regard myself as that?
5 Q. Yes.
6 A. I have been in the real estate business since 1983/1984.
7 I was called to -- went to law school and qualified as
8 a lawyer, although -- and when I became Chief Minister,
9 and have been a politician since I was elected in 1991.
10 Q. You were an associate, I think, with Saunders & Co, the

11 attorneys?
12 A. Yes.
13 Q. Not a partner but an associate at that firm. You were
14 also professionally involved on a business level with
15 Prestigious Properties, which I think was a company that
16 you had helped to build up with family members, is that
17 correct?
18 A. Yes.
19 Q. When you entered government, you obviously, at that
20 point, became not only an elected but a paid public
21 official. Give us, if you would, in a sentence or two,
22 a flavour of what it is to be Chief Minister, Premier of
23 the Turks and Caicos Islands. Would you regard it as
24 a demanding job?
25 A. In a word, yes.

29

1 Q. Is it a job that fills your every working or every
2 waking moment?
3 A. It is a job that fills my every waking thought.
4 Obviously as Chief Minister you have a number of other
5 ministers and officials that you rely on. As a minister
6 you primarily are concerned with policy matters and so
7 in life there has to be a balance.
8 Q. Your base was on Grand Turk and remains on Grand Turk at
9 the Premier's office there?
10 A. We have Premier's office throughout the Turks and Caicos
11 Islands.
12 Q. You spend some time obviously on Providenciales and some
13 time on Grand Turk and no doubt tour to the other
14 islands when needs demand?
15 A. In recent years I have worked more out of Providenciales
16 than Grand Turk.
17 Q. I am going to ask you a few questions about
18 the remuneration for being Chief Minister and Premier.
19 I do that for this reason to put in context what we will
20 have to consider later which is your earnings from other
21 sources. You have disclosed a number of salary slips
22 reflecting the payments that you received as
23 Chief Minister, is that correct?
24 A. Yes.
25 Q. One of those salary slips is to be found at page 101 in

30

1 the bundle, for those who need it, it is from June --
2 A. Sorry, which bundle?
3 Q. If you would like to take the black bundle, I think it
4 is volume 1 of your own papers.
5 A. What page?
6 Q. Page 101. Do you have that?
7 A. Yes, I do.
8 Q. We see there as an example your salary at the time.
9 This of course was around the time of your election as
10 Chief Minister. Your monthly salary amounted to
11 \$2,092.04 and you received allowances of \$1,000 a month.
12 Correct?
13 A. Sorry, that is -- at that time I was not
14 the Chief Minister.
15 Q. Right. This is before you became Chief Minister?
16 A. Yes.
17 Q. So this in fact representing?
18 A. Paid as a Member of Parliament.
19 Q. So simply as a member of the Legislative Council?
20 A. Yes.
21 Q. You became Chief Minister precisely when?
22 A. In August 2003.
23 Q. Right.
24 What was your salary then when you became
25 Chief Minister?

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1 A. If you turn to 102, you will see that -- that's the only
2 indication that I have -- that in 12/2/04, which would
3 have been shortly after, the basic salary was \$10,416
4 per month.
5 Q. So that is your basic salary at that stage then.
6 \$10,416.67 a month which amounts, together with
7 allowances of \$1,500 a month, to some \$143,000 per
8 annum. Perhaps you would take that from me?
9 A. I will. I am a lawyer, not an accountant.
10 Q. In April 2007, if you turn to page 105, that had risen
11 by virtue of the fact that your allowances had gone up
12 to \$11,500 per calendar month, yes?
13 A. Yes.
14 Q. So your monthly income, \$21,916, and your annual income
15 by that stage, \$262,992.
16 A. Well, I think you have to -- in order not to mislead
17 the public, I think it is important to deal with the
18 salary as Premier.
19 The salary itself is one thing. There are a number
20 of allowances that ministers receive, including housing

21 allowance, and when you compare that, for example, my --
22 as a Premier, my base salary is 150,000, which is
23 the same as the Governor. As Premier there's
24 an official residence in Grand Turk, and also I gather,
25 the housing allowance for the residence in

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1 Providenciales. Again in comparison, the Governor has
2 a mansion in Grand Turk with a golf course, and he also
3 has a beachfront condominium in Providenciales. So
4 I think we have to put the salary and allowances in its
5 right context.

6 Q. But it was your government presumably that voted for
7 the increase?

8 A. Yes, absolutely.

9 Q. So that was in fact an increase overall, if one takes
10 the two figures together and I take on board what you
11 say about separation between allowances and salary, but
12 it comes as effectively a single cheque, a single bank
13 transfer into your account each month effectively in
14 cash?

15 A. Well, I mean you can do the maths, and that's what it
16 is, but the fact is I believe that in relation to that,
17 there's nothing here to show any corruption or
18 dishonesty. Ministers' salary is published. When we
19 came to office, not only were ministers underpaid but so
20 were civil servants and over the last several years we
21 have increased civil service pay significantly. In many
22 cases over 50 per cent.

23 Q. Well, this increase in your income is actually 84
24 per cent on that occasion, and subsequently in
25 September 2005, it went up again by a further,

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1 relatively modest, 9.5 per cent. So essentially since
2 you came to power, your salary and allowances as
3 Chief Minister has doubled. Would you agree? You have
4 gone from \$143,000 per annum to \$288,000 per annum?

5 A. What I would agree is certainly the allowance has
6 increased significantly. But the salary has not
7 increased significantly.

8 Q. I simply do this to put this in context, Mr Premier,
9 because I hear what you are saying about these being
10 published, but the Commission had grave difficulties

11 getting hold of these figures from any public source.
12 We were provided them by ultimately
13 the Cabinet Secretary to whom we are very grateful. We
14 had to ask specifically for those. You tell us they are
15 published and widely known?
16 A. Yes, they make up part of the annual estimate and
17 expenditure in our budget.
18 Q. You do appreciate that in fact, certainly working on
19 yesterday's exchange rates, that your salary exceeds
20 that of Gordon Brown, who, for all his failings, handles
21 a somewhat bigger economy than the Turks and Caicos
22 Islands?
23 MR FITZGERALD: Sir, I think that is a grossly unfair
24 question given --
25 SIR ROBIN AULD: I was going to say you should not hold that

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1 against the Premier.
2 MR FITZGERALD: But Gordon Brown has about six grace and
3 favour houses. He does not need an allowance. He has
4 Downing Street. I think that question is totally
5 unfair.
6 A. Sir, I submit I have done more for Turks and Caicos than
7 Gordon Brown has done for England.
8 SIR ROBIN AULD: If I may take the opportunity of this
9 slight digression, do you know, Mr Milne or Premier,
10 what is the institutional basis for the awarding of
11 allowances and assessing? Is there an ordinance, is
12 there a piece of subordinate legislation which provides
13 for this? How is it organised?
14 A. How is ministers and --
15 SIR ROBIN AULD: Yes, how are you entitled to an allowance?
16 Presumably there is some piece of legislation that
17 entitles that, is there?
18 A. I am not sure of that, but I know that historically and
19 having served in the early 1990s and having been in
20 politics here in the Territory for a while, historically
21 what happens is that the -- obviously in considering
22 salaries for civil servants as well as members,
23 the cabinet, all of its decision in terms of increasing
24 salaries was not my personal decision.
25 SIR ROBIN AULD: But there must be some constitutional

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1 provision entitling you to a salary and as to how it is

2 to be assessed and as to how it is made up by way of
3 salary and allowances. Is there not something --
4 A. Not to my knowledge.
5 SIR ROBIN AULD: It is all decided in cabinet?
6 A. It is all decided in cabinet.
7 SIR ROBIN AULD: At discretion?
8 A. At the cabinet's discretion. The cabinet's discretion
9 ultimately approved by the House of Assembly.
10 MR MILNE: Am I right, Mr Premier, that your government was
11 the first to decide that there should be
12 government-provided houses for the Premier on both
13 Grand Turk and on Providenciales?
14 A. Yes.
15 Q. The government bought you a house on Grand Turk back,
16 I think, in 2004?
17 A. Without looking at it, that could be the case.
18 Q. Do you ever use that house?
19 A. Yes.
20 Q. How often have you stayed there?
21 A. I have used it many times. I have stayed there many
22 times. I have had many Christmas or other entertainment
23 there. The background, and it is important again to put
24 all this in the right perspective, when we came to
25 office, as part of our -- we believe that it is not

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1 about me, sir. It is about the office of the Premier
2 and our quest to uplift our people. The government and
3 the taxpayers of this country has for the last 50 years
4 provided housing, transportation, security,
5 entertainment allowance, aeroplane for the Governor, and
6 we feel that it was also only right that the senior or
7 the leader of the government business, the people's --
8 the head of government should also be afforded the same
9 privilege as the Governor, and which is also customary,
10 not only in the Caribbean but in the wider world.
11 Q. Forgive me, Mr Premier --
12 A. If you are saying it is too good for us, then
13 I understand.
14 Q. From the point of view of somebody who comes from
15 outside, it might appear that there was a process of
16 trying to catch up with the Governor; is that what you
17 are trying to describe here?
18 A. I am more concerned about the electorate. That was done
19 in 2003, when we won the election 8 to 5. We won
20 the election again in 2007, 13 to 2. So that is

21 an indication that certainly the voting public did not
22 see that as a problem.
23 (11.30 am)
24 Q. So the fact that you were elected again, you regarded it
25 as an endorsement of the decisions that had already been

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1 taken?
2 A. Of the policies of my government. Yes.
3 Q. Tell me, am I following you correctly, that you feel
4 that it reflects well upon the Turks and Caicos that
5 there should be a higher profile Premier, perhaps
6 a better paid Premier, is that your view?
7 A. I believe that the office of the Premier and ministers
8 should be given the same privilege and the same -- that
9 office of Premier and ministers around the world is
10 given.
11 Q. Right. Do you compare yourself to other sovereign
12 nation states or to other British overseas territories?
13 A. I don't compare myself.
14 Q. You are seeking to compare the standard that you would
15 wish to see in the Turks and Caicos to that in other
16 countries or in other overseas territories?
17 A. Well, as I said, I don't compare myself. I have seen
18 the way other Premiers, whether it is Bermuda or other
19 countries operate and again I don't compare myself.
20 That's the belief that we took. And we stand by that
21 belief.
22 Q. So if people were to suggest that you were effectively
23 creating a system that benefited you personally, your
24 response would be that you felt you were benefiting
25 the office that you held, rather than your own position?

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1 A. My position is that we are building a nation and we are
2 establishing institutions for that nation.
3 As Premier I am here today and in this business we
4 are here today, gone tomorrow. Again, it is not about
5 me, it is about building the institutions for this
6 generation and the generations to come.
7 The same way as in England, someone had to start
8 providing accommodations for the Prime Minister at
9 Downing Street, and country estates and so on and so
10 forth.
11 Q. Turning, if we could, please, to your declarations.

12 There have been quite a number of declarations that have
13 been considered. By that I mean the material that you
14 have provided, firstly under your obligation of the
15 ordinance as a Member of Parliament and subsequently as
16 a minister. I will take you to it in a moment. And
17 secondly, the declarations that you have made at the
18 request of the Commission of Inquiry.

19 You will appreciate that at the outset the statutory
20 requirement for declaration, that is revealing publicly
21 or at least on record the payments, entitlements,
22 liabilities, yourself as a minister, that was taken as
23 the starting point. That was already an obligation
24 under which you were placed by virtue of your elected
25 office, would you agree?

39

1 A. To disclose my information in the register of interest?

2 Q. Yes.

3 A. Yes.

4 Q. The Commission of Inquiry took that as a starting point
5 and invited you and your colleagues on the cabinet and
6 government to provide, as it were, an up-to-date
7 declaration at the point when the Commission began,
8 which was in practice around September of last year, as
9 if you were performing the exercise over again, do you
10 recall that?

11 A. Yes.

12 Q. It was as a result of that that you provided material to
13 your attorneys who then forwarded it to the Commission
14 of Inquiry?

15 A. That's when I began providing information, yes.

16 Q. You see I am not seeking to question you about meetings
17 that you had with them. But you would have been made
18 aware, no doubt you would have seen the letters from
19 the Commission of Inquiry, as to the requests that were
20 coming forward and you would understand that this was
21 being treated very seriously, that this was something
22 that was searching?

23 A. Well, I understand that it was something to be treated
24 very seriously. I at the time provided my lawyers with
25 information that was requested and I have, as indicated

40

1 in my opening statement, issued a full and frank

2 disclosure of my income, my assets, my liabilities, my
3 loans and all of my dealings.

4 Q. You understand obviously that the obligation to disclose
5 to the registrar, the Register of Interests, is a legal
6 one?

7 A. Yes.

8 Q. It is effectively your task under the law, as it is that
9 of your colleagues, to provide this information. I am
10 going to turn and I would invite you to turn, if you
11 would, please, to the beginning of volume 1 in the black
12 volumes that you have before you, those personal
13 documents.

14 A. Sorry, what page?

15 Q. The very beginning. In fact it is page A1. Immediately
16 behind the end notes.

17 SIR ROBIN AULD: This is black volume 1?

18 MR MILNE: It is, sir, yes. The index at the front should
19 read "The Honourable Michael Misick Documents Volume 1".
20 If we turn past the index, we have a small initial
21 bundle labelled A1 to A17, I think. These are
22 the documents that were provided by your attorneys to
23 the Commission, at the very beginning of our
24 investigations.

25 You recognise those?

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1 A. Yes.

2 Q. Did you see them at the time?

3 A. Yes.

4 Q. Did you check their accuracy?

5 A. I saw it at the time.

6 Q. Did you check their accuracy?

7 A. I saw it at the time.

8 Q. Can I take that as a no, Mr Premier?

9 A. No, I said that I saw it at the time.

10 Q. I will ask the question again --

11 SIR ROBIN AULD: You saw them at the time but I think
12 Mr Milne wants to know whether you checked them.

13 A. I saw it, I went through it at the time of the -- and
14 these were based on the --

15 SIR ROBIN AULD: These are your own returns.

16 A. These are based on my recollections at the time.

17 SIR ROBIN AULD: Presumably you wrote them, did you, or were
18 they written for you?

19 A. They were written for me but obviously based on my
20 knowledge of my recollection.

21 SIR ROBIN AULD: When you signed them, you signed them as

22 true?
23 A. I am not sure what I signed them.
24 SIR ROBIN AULD: All Mr Milne wants to know is yes, you saw
25 them, but were you content that they were correct at the

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1 time?
2 A. To the best of my knowledge at the time.
3 SIR ROBIN AULD: Thank you.
4 MR MILNE: Your attorneys would not have had any independent
5 source other than you; they would have been relying upon
6 what you told them? Is that correct?
7 A. At the time, yes.
8 Q. Would you agree now, with the benefit of hindsight,
9 certainly as far as we are concerned, that they are not
10 complete?
11 A. Can you repeat that question?
12 Q. Would you agree now that they are not complete?
13 A. With the benefit of hindsight and after much other
14 recollection, when they were submitted at the time, they
15 were not complete. But it is also fair to note that
16 subsequent to them being submitted, that I have made
17 excessive disclosure to supplement what was originally
18 submitted.
19 MR MILNE: Sir, I propose to go through these in some
20 detail.
21 SIR ROBIN AULD: This might be a good moment for a short
22 break?
23 MR MILNE: If there is to be a break, this may be a good
24 moment.
25 SIR ROBIN AULD: I am going to break for a little while,

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1 principally to give the court reporters a little break
2 and also the witness too, but I don't want it to be very
3 long. Five-minute breaks tend to stretch into half
4 an hour at these gatherings. So let's keep it to about
5 five to ten minutes at the very most.
6 (11.39 am)
7 (A short break)
8 (11.49 am)
9 MR MILNE: Mr Premier, do you have in front of you please,
10 in the bundle we were looking at a moment ago, which is
11 volume 1 of your individual documents at page A1?

12 A. Yes.

13 Q. That is a document prepared by Misick & Stanbrook on
14 your behalf, that is your attorneys, in response to
15 a request and submitted -- forgive me, I can't put
16 a precise date -- around September of last year as one
17 of the first responses to the request for information by
18 the Commission of Inquiry?

19 A. Yes.

20 Q. As you have already told us, you had seen it before it
21 was dispatched?

22 A. Yes.

23 Q. The information provided in there, and obviously I bear
24 in mind that many of those listening can't see this
25 document, it is essentially a series of summaries

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1 reflecting the declarations that were or should have
2 been made in the various years during the current
3 administration, yes?

4 A. Yes.

5 Q. So the first document we see, which runs to, I think
6 three pages, two pages, is for 2003 and what is set out
7 within that document, at pages A1 and A2, is a list of
8 items. The Register of Interests asked certain
9 questions. The Commission asked essentially the same
10 questions. You were asked to declare as of 2003 what
11 were your remunerated directorships of companies, your
12 employment, to indicate your trade or profession and to
13 indicate any financial sponsorship and gifts received as
14 a candidate or member of the House of Assembly.

15 You were asked to declare any overseas visits and
16 asked to declare any real property, essentially land or
17 large assets. The figure that appears to be adopted,
18 and we are not complaining about this, is \$10,000.
19 Something over \$10,000 would be declarable, disclosable.
20 You are also asked to declare shareholdings and indeed
21 any creditors, any persons or bodies corporate to which
22 you owed money.

23 Entries were put in for all of these.

24 The request made by the Register of Interests covers
25 the candidate or the elected official, yourself in this

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1 case. It covers very close relatives, so it covers
2 specifically the spouse of the elected official and any

3 children. In this case I don't think any declarations
4 are made in relation to any of the -- to your spouse.
5 At the time am I right in thinking in 2003 you were not
6 married?

7 A. No.

8 Q. We are not concerned in this case with children.

9 I leave that to one side. What you declared in this
10 document clearly was to some degree with the benefit of
11 hindsight, you were being asked to put this document
12 together in 2008, to reflect your financial position
13 back in 2003. Yes?

14 A. Yes.

15 Q. That was your understanding as well?

16 A. Yes, that I was being asked to -- yes, it was.

17 Q. In relation to your remunerated directorships, I am only
18 going to go through this one, the others we can do
19 perhaps a great deal faster. You declared three in this
20 document. You declared yourself to be a remunerated
21 director of Prestigious Properties (1995 Limited) which
22 is the full title of the company running
23 Prestigious Properties. It is a well known real estate
24 agency on the Turks and Caicos, yes?

25 A. Yes.

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1 Q. You also declared yourself as a director, it was
2 described as the Alexandra Spa and Resort Limited and as
3 a director of Grace Bay Plaza Limited.

4 In terms of employment, you referred -- you put in
5 your own name, I think that is simply to indicate it is
6 you you are talking about -- Saunders & Co,
7 the attorneys, Prestigious Properties and of course
8 TCIG, because by this stage you were employed as
9 an elected official in the Turks and Caicos Islands
10 government.

11 Trade and profession, you describe yourself as
12 lawyer/politician/estate agent. Financial sponsorship
13 and gifts received, you put in brackets here "(to be
14 provided)". Yes?

15 A. Yes.

16 Q. Overseas visits, I am looking over the page, again, you
17 put in brackets "(to be provided)". Real property owned
18 over \$10,000, you listed three properties: a condominium
19 at the Provo Golf Club; a parcel with a number
20 50500/226, I think that is North Caicos, is that right?

21 A. Yes.

22 Q. And another parcel, 60718 is how it is listed here,
23 although that in fact is probably an incorrect number.
24 That may be a typographic error since they are usually
25 six-digit numbers, but that would be a Providenciales

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1 property?

2 A. That is a correct number and it is Providenciales.

3 Q. I see.

4 SIR ROBIN AULD: Is it a Providenciales property?

5 A. Yes it is.

6 MR MILNE: Shareholdings, Prestigious Properties again, and
7 Alexandra Resort and Spa, the two of them and nothing
8 else. Creditors, Barclays Bank and Belize Bank.

9 A. Yes.

10 Q. That was the declaration as made in 2008 regarding 2003.

11 Did you seek to check the original 2003 declaration
12 that you made?

13 A. You mean the one to the house, the Register of
14 Interests?

15 Q. Yes.

16 A. I can't recall whether I seek to do it, but again

17 I think this has to be put in its right perspective.

18 Sir, in relation to the Register of Interests and there
19 is no excuse for it, there were members as a matter of
20 fact that never even declared an interest at all and in
21 addition to that the registrar, if you look at the -- if
22 you go through the Register of Interests, it has been a
23 cross-party culture to report in the manner in which
24 I did. Particularly in relation to gifts and party
25 political donation, there has been no one who has ever

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1 declared, probably with the exception of one new member
2 who probably declared a small amount and this is
3 primarily because, particularly the small nature of our
4 Territory, persons giving political contribution would
5 have preferred to be not named. So you can check
6 the registry for yourself and see that not only have
7 I never done, that neither have any other Member of
8 Parliament for that matter.

9 Q. Mr Premier, with respect, I have not even put
10 the originals to you yet; I simply asked if you checked
11 the original. Can I take that as a no?

12 A. No, I said that I cannot recall whether I checked

13 the original in preparing this.
14 Q. Right. The original is somewhat different, isn't it?
15 A. As I said, I cannot recall what I checked the
16 original -- while preparing this.
17 Q. We have a copy of the original. In fairness we have
18 the original of the original. But you have a copy
19 beside you. If you take your red bundle 5 from
20 the volumes in that box. If you turn to page 224, that
21 should be behind divider 16. Do you have that?
22 A. Yes.
23 (12 noon)
24 Q. This in fact is the registrar's summary of your
25 declaration at the time, which is the official record,

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1 a photocopy of that, across two pages, yes?
2 A. Yes.
3 Q. Compared to what you told in 2008 about 2003, you
4 omitted to mention Grace Bay Plaza in 2003 altogether,
5 do you agree?
6 A. Yes.
7 Q. Employment or office, you rendered "nothing to declare".
8 Yes?
9 A. Mmm hmm.
10 Q. Trade or profession, nothing to declare?
11 A. Yes.
12 Q. Financial sponsorships, nothing declared?
13 A. Yes.
14 Q. Overseas visits, nothing declared?
15 A. Yes.
16 Q. Land or property was described as no more than dwelling
17 house in North Caicos, commercial properties in
18 Providenciales?
19 A. Yes.
20 Q. Shareholdings Prestigious Properties, simply the words
21 "Prestigious Properties", and Alexandra Resorts.
22 Yes?
23 A. Yes.
24 Q. Liabilities, Barclays Bank, First Caribbean Bank, was
25 that the same bank that you intended by that? Is

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1 First Caribbean in fact connected to Barclays?
2 A. First Caribbean was -- it is the same bank.

3 Q. And Belize Bank, yes?

4 A. Yes.

5 Q. The simple question, first of all, Mr Premier, is why
6 was your memory of 2003 so much clearer in 2008 than it
7 appears to have been in 2003? Why was it that you can
8 make a fuller declaration five years later than you
9 could at the time?

10 A. Well, the simple answer is that, as I said, back in --
11 if you go through the registry -- there has been
12 a cross-party culture not to -- to enter these as
13 correct as possible based on your recollection and in
14 many cases there were members and members of the
15 opposition who were then in the government from 1995 to
16 2003, who never declared their interests at all. So
17 the fact that the Register of Interests never followed
18 up on that, there was a lax approach to --

19 Q. Please finish.

20 A. -- to entering the Register of Interests.

21 Q. So notwithstanding the fact that it is a legal
22 obligation, ministers as a whole were quite prepared to
23 adopt a lax approach to it.

24 A. I am saying members, all members of the House of
25 Assembly, formerly House of Assembly at the time,

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1 declared their interests to the best of their ability.
2 There were members who didn't at all and there was no
3 sanction. So based on that, there was a lax approach to
4 try to give -- in registering interest to the best of
5 your recollection. In 2003 I gave it to the best of my
6 recollection. Now, in hindsight, perhaps I should have
7 thought about it even more carefully but it is what it
8 is.

9 Q. Mr Premier, with respect, when you say to the best of
10 your recollection, you simply made no declaration in
11 most -- and you missed out Grace Bay Plaza which is one
12 of only three directorships. It is not as if you are
13 missing one out of maybe 20 or 30 where one could
14 perhaps overlook it. You seem to have simply forgotten
15 --

16 A. I didn't miss it intentionally. Neither was I dishonest
17 or corrupt in missing it out.

18 Q. Did it strike you when you entered Parliament as
19 Chief Minister that you ought to set an example?

20 A. Did it strike me that I ought to?

21 Q. Yes. Were you satisfied with a lax approach?

22 A. Sir, I have always declared interest based on my

23 knowledge in terms of the cross-party culture. It is
24 what it is.
25 Q. But I am sorry to harp on about this, and I don't want

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1 to make more of this than perhaps is appropriate, but
2 you weren't basing your declaration in 2003, when you
3 made the original declaration upon any sort of
4 recollection. It was your daily knowledge. You knew
5 when you filled out the form, when you sat down and
6 wrote out the form and thought to yourself, which
7 directorships do I have, that you had three, not two.
8 So why did you only do two? Is it simply that this is
9 not sufficiently important spending time on?

10 A. No, that was my recollection at the time.

11 Q. So you simply forgot that you were a director of
12 a company?

13 A. That was my recollection at the time.

14 Q. And five years later you remembered that back in 2003
15 you were the director of a company?

16 A. Absolutely. That's why I declared it.

17 Q. As far as the declaration that we have from you, that is
18 the declaration made in 2003, you said in that
19 declaration in terms:

20 "Financial sponsorship and gifts received to be
21 provided."

22 Yes? You said in relation to overseas visits, to be
23 provided, yes?

24 A. Yes.

25 Q. You said in relation to those two, that is the financial

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1 sponsorship and gifts received and overseas visits, to
2 be provided, in relation to each of your declarations to
3 the Commission for 2003, 2004, 2005, 2006 and 2007.

4 The Commission is still waiting for the full
5 declaration. Have you had any financial sponsorship in
6 the last five years?

7 A. I have and so have the party, and I believe to the best
8 of my knowledge, in relation to the appendix 5, some of
9 those have been identified.

10 Q. We were given documents this weekend, yesterday, in fact
11 appendix 5, with references in it to financial
12 sponsorship. Is that what we have been waiting for

13 since September?
14 A. I am not sure what you have been waiting for but as
15 I said --
16 Q. We have been waiting for your declaration of financial
17 sponsorship since September. Is that everything in your
18 appendix 5?
19 A. What page is it?
20 Q. So if there have been financial sponsorship gifts in
21 the last five years, you would have known from year to
22 year what that financial sponsorship and gifts was?
23 A. Would I have known?
24 Q. Yes.
25 A. Again, there's no -- again, that is something that

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1 I have to try to recall. We have no campaign finance
2 laws. There is no statutory requirement to -- other
3 than on the registry of interests to say what they are
4 and therefore it is a question of trying to recall and
5 having been -- it would be very difficult to recall all
6 of the financial, political contributions that have been
7 given over the last ten years.
8 Q. Yes. If I sat you down now with a pad of paper and
9 a pencil, you might have difficulties setting out in
10 detail financial sponsorship that you received in
11 perhaps 2003; that would be a reasonable response on
12 your behalf to say well I have difficulties remembering?
13 A. In relation to the financial contribution, I have
14 declared under appendix 5 --
15 Q. I am sorry I could not hear that answer, you have
16 declared?
17 A. Yes.
18 Q. You have declared what?
19 A. Financial contribution.
20 Q. When did you declare it?
21 A. In appendix 5.
22 SIR ROBIN AULD: This is the document delivered yesterday,
23 is it?
24 A. I don't know when it was delivered.
25 SIR ROBIN AULD: I want to identify the document, that is

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1 all.
2 MR FITZGERALD: Yes, it is.
3 SIR ROBIN AULD: Thank you.

4 MR MILNE: In the short time available to me, I accept,
5 Mr Premier, that you have made declarations in that
6 appendix 5 going back a number of years to financial
7 sponsorship that you have received. That is gifts from,
8 we are told, political supporters, correct? Those gifts
9 being perhaps for political purposes.

10 A. Well, I received contribution from political supporters
11 to further -- in relation to political support and also
12 in relation to some personal political support.
13 The culture of -- again of the political, and I think
14 you have to put it in the context of islands where
15 politicians are not only help their party to win
16 an election but also we are expected to help our
17 constituents when they have problems. So political
18 support comes from many different angles.

19 Q. The figures that are in that appendix are substantial
20 figures, tens of thousands of pounds. I beg your
21 pardon, dollars. Is that right?

22 A. Substantial is relative.

23 Q. You don't regard \$10,000, \$50,000 as a major sum?

24 A. Well, as I said, substantial is relative in terms of
25 political support. You have to put it in context of our

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1 own Territory, which is an archipelago, with many
2 islands.

3 Over the years both myself and my party have
4 received political contributions. Now --

5 Q. Mr Premier, let me make it clear, the freedom that comes
6 with democracy to vote for one's party includes
7 the freedom to donate to a party. No political system
8 in the Western world survives without money. I think
9 every sensible person in this room knows that.

10 Those who support a party are entitled to declare so
11 openly and to contribute to the running of that party or
12 to the election of their officials. So we are not
13 arguing about that, because I suspect that you and
14 I would be in agreement on it.

15 The issue here is simply this though: you have
16 yesterday, after several months, provided a list in
17 which you specify political contributions, financial
18 support provided to you over a period of some years;
19 correct?

20 A. Yes.

21 Q. You are telling us that that is essentially your
22 compliance with what the Commission has asked you to do?

23 A. To the best of my knowledge.
24 Q. Right. However, the Commission has already seen
25 the actual declarations that were made under your legal

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1 and binding obligation to the registrar of interests, as
2 you will no doubt anticipate.

3 Rather than writing in the originals to be produced,
4 you have provided a return, which in each case, 2003,
5 2004, 2005, 2006, 2007 declared nothing. Why is that?

6 A. This is information that I had to rely on from third
7 party, particularly the bank. So it is a question of
8 receiving information from the third party, going
9 through it carefully and to the best of my recollection
10 being able to identify what is political contribution.

11 SIR ROBIN AULD: When you say third parties, to whom are you
12 referring?

13 A. The bank.

14 SIR ROBIN AULD: The bank?

15 A. Yes, in terms of monies going into a bank.

16 SIR ROBIN AULD: These would have been contributions made
17 through the banking system.

18 A. Were deposited in --

19 SIR ROBIN AULD: Yes.

20 A. Yes.

21 SIR ROBIN AULD: These would have been records I imagine
22 which would have been available to you at the time as
23 well as later.

24 A. At the time of?

25 SIR ROBIN AULD: At the time when the transfer payments were

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1 made.

2 A. I don't understand that.

3 SIR ROBIN AULD: If the payments were made to you through
4 the banking system, ie through a banking account that
5 you held each year, that information would have been
6 available to you from your own bank accounts at the time
7 when you were preparing each declaration, from 2003 to
8 2007.

9 A. Yes. But I thought I answered the question why I didn't
10 declare back in 2003/2004, because of the cross-party
11 culture.

12 (12.15 pm)

13 SIR ROBIN AULD: It is the cross-party culture again?

14 A. Yes.
15 MR MILNE: Mr Premier, let us make clear that this is not
16 a case of you having to go back to the PNP and say: did
17 you have to bank \$100,000 from a political contributor
18 who mentioned my name? You are not having to seek
19 information from your party. The document that you
20 provided yesterday lists payments into your personal
21 bank accounts from contributors who would, one might
22 reasonably conclude, have handed you a cheque, written
23 you a letter, given you a sack of cash, we know not, but
24 they would have given you the money in some form or
25 fashion and no doubt would have at least wanted

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1 a receipt.
2 So why is it that you have to consult with other
3 people in order to recall that?
4 A. I had to get my bank statement to see what was
5 deposited. The bank had to then -- as you should
6 know -- banks only keep records for a certain period of
7 time and after that they put it in the archives and they
8 have to get it out and get the deposits and go through
9 it carefully and that is what has happened.
10 Q. Mr Premier, with respect, you are struggling in 2008 to
11 put together records. In 2003, you would not have had
12 that much difficulty recalling who gave me financial
13 sponsorship, if any, this year. 2004, who gave me
14 a major contribution this year. 2005, 2006, 2007. Why
15 is it that you could not declare these items, as was
16 your statutory duty, to the registrar of interests? You
17 are the Chief Minister and the Premier ultimately of
18 a British Overseas Territory. Why didn't you obey
19 the law, sir?
20 A. Sir Robin, I declare my interests to the best of my
21 ability at the time and as I said in relation to
22 the political contributions, I stand by what I have
23 said: that based on cross-party culture I did not --
24 I did not and neither did any other member declare
25 political contributions. Now, you could ask me that

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1 same question all day, that is the answer.
2 SIR ROBIN AULD: You are saying that all your colleagues --
3 political colleagues in office at the time behaved as

4 you did?

5 A. Exactly, and in some case, before we came to office,
6 there were senior ministers who never declared anything
7 at all.

8 MR MILNE: So the fact that somebody else declared nothing
9 at all was your authorisation --

10 A. I am not saying that --

11 Q. -- to part declare what you did declare?

12 A. That is not what I am saying. I am just giving it as
13 an example of the lax nature in which members of
14 Parliament at the time declare interests. That is not
15 an indictment or indication as to why I should or
16 shouldn't. I think I have explained that.

17 Q. In your 2003 form, sent in by your attorneys. You were
18 asked about overseas visits. You put "to be provided".
19 Are we going to receive a list of those overseas visits?

20 A. I think you have received a list.

21 Q. Are you going to provide us with a list of the overseas
22 visits?

23 A. I have provided a list.

24 Q. When was that provided?

25 A. I provided you with a printout from my ministry in

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1 relation to all of the visits that I have made in
2 the last -- since I became Premier.

3 Q. You see your declaration of 2003, 2004, 2005, 2006, 2007
4 in each case declared nothing. Nothing declared. Why
5 was that the case?

6 MR FITZGERALD: Sir, I wonder whether my learned friend
7 could be a little bit more specific because he has shown
8 him one entry which is for 2003, but none of the other
9 Register of Interests and he is asking questions
10 about -- he is also asking questions about why didn't
11 you declare political donations in 2003 and one can see
12 that in relation to the unexplained credits, there is no
13 political donation declared in relation to 2003. I just
14 wonder if my learned friend could be a little bit more
15 specific in fairness --

16 SIR ROBIN AULD: Would you like him to go through it year by
17 year, Mr Fitzgerald?

18 MR FITZGERALD: If he is going to ask him questions about
19 what he said in the Register of Interests,
20 the declaration of interests, I wonder if he could just
21 show him the documents.

22 SIR ROBIN AULD: Let's go through it year by year. Can you
23 do that, Mr Milne?

24 MR MILNE: I have the originals, sir. I am happy to hand
25 these --

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1 MR FITZGERALD: It has not formed part of any of the
2 documents. The only document we have been served with
3 has been the 2003 document.
4 MR MILNE: Obviously if my learned friend wishes to see
5 them. In each case, I don't think that the Premier is
6 disputing that there's nothing declared and each of the
7 records is marked as "nothing declared" for each year in
8 relation to overseas trips. Would you agree that is
9 correct, Mr Premier?
10 A. In relation to overseas trips it says:
11 "In capacity as member of the House of Assembly but
12 not paid out of personal or public funds."
13 SIR ROBIN AULD: What are you looking at, Mr Premier?
14 A. The overseas visits.
15 SIR ROBIN AULD: Which bundle are you in, please?
16 A. I am in bundle 1, A3. It can be A2. Just
17 the definition of overseas visit. Now, it could very
18 well be that the reason why nothing was declared and
19 again based on my recollection, is that the majority of
20 the times, but not all, that I travelled, I travelled as
21 Chief Minister at the expense of public funds.
22 It could very well be that, but in any event,
23 I accept that in all of those years nothing was
24 declared.
25 MR MILNE: You would accept that you have travelled once or

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1 twice during the course of your Premiership, at the very
2 least?
3 A. I am sorry?
4 MR MILNE: You have travelled during the course of your
5 Premiership, is that not correct?
6 A. I have travelled?
7 Q. Yes.
8 A. I don't understand the question. I travel every day.
9 I travel from Grand Turk to Providenciales, from
10 Providenciales to North Caicos.
11 Q. And you have been abroad?
12 A. Absolutely, how do you think all this investment gets
13 in? By me going out and promoting the islands and

14 bringing investment back here.
15 Q. I am sure we will come to that in due course,
16 Mr Premier. Concentrating for the moment upon this: is
17 it your evidence in that case that there has been no
18 travel that falls within the strict terms of
19 the Register of Interests since you became
20 Chief Minister?
21 A. That is not my evidence.
22 Q. Then do I take it that there has been travel that has
23 fallen within that category?
24 A. I am saying that what my evidence is, is that -- to your
25 question as to why I didn't declare it, that I have

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1 no -- at the time I have no recollection. I can't go
2 through year to year as to whether I travelled without
3 the public paying for it. I am saying that in most, if
4 not all of the times, the public was paying for it.
5 Now, that is my evidence.
6 Q. You didn't regard it as necessary to make a record of
7 that year by year so that you could provide it to the
8 Register of Interests?
9 A. No.
10 SIR ROBIN AULD: Who was the Registrar of Interests in those
11 early years?
12 A. The same person, Mr Alfred Bean.
13 SIR ROBIN AULD: He was the registrar throughout much of the
14 time, most of the time with which we are concerned, was
15 he?
16 A. Most of the time I was in Parliament.
17 SIR ROBIN AULD: Did he have an office?
18 A. He worked out of the Parliament. I don't know whether
19 he had a physical office, but he worked -- I do not
20 think he had a physical office, no.
21 SIR ROBIN AULD: To what extent did he check the returns
22 that were made or make enquiries as to the lack of
23 declarations? Did he do any of that?
24 A. He has never checked with me anyway. I mean in terms of
25 purely a process what would happen is that, this is no

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1 indictment on Mr Bean, who is a fine gentleman, but in
2 most cases he would bring -- when it is due -- the form
3 to Parliament, when we are in session and most MPs would
4 there fill out the form.

5 SIR ROBIN AULD: It was his obligation, was it, to lodge
6 the forms in Parliament, the returns, that he
7 summarised?
8 A. Yes.
9 MR MILNE: Can we turn to the issue of declared employment.
10 You have, when putting in the return to the Commission,
11 told us that you were employed in 2003 by
12 Prestigious Properties, Alexandra Spa and Resort --
13 Prestigious Properties, I beg your pardon, Saunders & Co
14 and TCIG?
15 A. Yes.
16 Q. In the original declaration made in 2003, again, no
17 employment declared?
18 A. Yes.
19 Q. Employment for most people involves working most days.
20 Did you not remember that you were employed when you
21 filled out that form?
22 A. Are you serious?
23 Q. Did you not remember that you were employed?
24 A. I don't know how to answer that question.
25 Q. Why didn't you declare it?

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1 A. Again, based on the cross-party culture of being lax but
2 filling out the Register of Interest, I failed to submit
3 that information. In hindsight I should have.
4 Q. You have told us that you were employed by
5 Saunders & Co in 2003, yes?
6 A. Yes.
7 Q. Saunders & Co being the attorneys with whom you were
8 an associate?
9 A. Yes.
10 Q. In the subsequent declarations that were made to
11 the Commission, reflecting the years 4, 5, 6 and 7,
12 Saunders & Co are not mentioned. The obvious conclusion
13 that the Commission drew from that was that upon
14 becoming Premier, upon becoming Chief Minister, you
15 relinquished your work with Saunders & Co. Was that
16 correct?
17 A. No. If you check the Saunders & Co letterhead, you will
18 see my name has been on the letterhead since 2003, to
19 date.
20 Q. You were asked about employment, yes?
21 A. Yes.
22 Q. You did not declare to the Commission employment with
23 Saunders & Co after 2003, so from 2004 onwards there is

24 no declaration. Were you or were you not employed by
25 Saunders & Co after that point?

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1 A. I have not -- in retrospect it seems as if I omit to
2 include it. In some cases the filling out of this form,
3 while it was done on my instruction, in some cases when
4 the -- if you check the original form, I would say same
5 as the last year. So I have no explanation as to why it
6 was left off, but again because of the lax nature,
7 I never check with a fine toothcomb to make sure that
8 Saunders & Co was on it.

9 Q. Mr Premier, let me make clear that I am not asking you
10 at present about the originals. Saunders & Co was not
11 mentioned in any of those as far as I am aware. It was
12 not mentioned in 2003?

13 A. Are you saying it was not?

14 Q. I believe not. I will be corrected if I am wrong.

15 A. No employment was mentioned in 2003.

16 Q. 2003, employment of office, nothing to declare. That is
17 what we touched upon a few moments ago. In 2008, that
18 is September, some four or five months back, you were
19 asked to help fill out these forms. You were asked for
20 the information by the attorneys. You filled out
21 the forms or provided them with the information to fill
22 them out. In those forms you chose to add that you were
23 employed by Saunders in 2003 but not subsequently. Are
24 you saying now that that is incorrect?

25 A. That what is incorrect?

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1 Q. Are you saying that you were wrong when you put that you
2 stopped working for Saunders & Co?

3 A. I was wrong when I stopped working for them? What I am
4 saying, sir, is that in -- have you checked
5 the registry? In 2003 I didn't list any employment.
6 So -- my position is that based on the cross-party
7 culture --

8 Q. Mr Premier, forgive me, I don't wish to cut across you.
9 But if we go through the cross-party culture again, we
10 will be here rather longer than we need to. I am not
11 asking you --

12 A. All I have is time.

13 (12.30 pm)

14 Q. Sir, I think you are well aware I am not asking you

15 about what went into the register in previous years.
16 You have given your answer. The Commission has heard
17 it. What I am asking you about is the exercise carried
18 out in September last year when you were requested to
19 provide the declaration as to who you were working for
20 in 2003, 2004, 2005, 2006, 2007. The choice that was
21 made, presumably by yourself, was to say that you worked
22 for Saunders in 2003 but not after that. Was that true?
23 A. Okay, now I see where you are going.
24 SIR ROBIN AULD: Sorry, I didn't hear your answer.
25 A. I said now I see where he is going.

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1 In subsequent years, 2004, 2005, 2006, as a matter
2 of fact this is the first time I have noticed that
3 Saunders & Co has been deleted. I have since been
4 called to the bar in 2002. I have always been
5 associated with Saunders & Co. So the fact that that is
6 not listed in the subsequent year is incorrect.
7 Q. Were you working for them?
8 A. When?
9 Q. In 2004, 2005, 2006, 2007?
10 A. As I said, I am on their letterhead --
11 Q. Were you working for them, sir?
12 A. Do you want me to answer the question or?
13 Q. It is a simple question. Were you working for them? It
14 is a yes/no question.
15 A. You can't tell me how to answer the question. I am on
16 their letterhead and I have been a consultant for
17 Saunders & Co since I have been called to them since
18 serving.
19 SIR ROBIN AULD: Were you paid from time to time as
20 a consultant to Saunders & Co?
21 A. Yes.
22 MR MILNE: Why did you not declare that?
23 A. I have.
24 Q. The forms that you sent in omitted it altogether?
25 A. I have now declared it.

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1 Q. So you were receiving money from Saunders & Co as what,
2 as an associate?
3 A. As a consultant from time to time, based on what I was
4 consulted on.

5 Q. So you were doing work for Saunders & Co?
6 A. Well, let me put it this way, there is nothing in our
7 law that prohibits ministers, even a Premier, from
8 working while holding public office.
9 Q. Were you working for Saunders & Co?
10 A. I have explained that.
11 Q. What was the nature of the work that you were doing?
12 A. From time to time, I provided some consultancy based on
13 my wide experience in real estate and other industries
14 here.
15 Q. Did that not conflict with your role as Chief Minister?
16 A. No.
17 Q. You felt it was perfectly appropriate to continue to
18 give legal advice to individuals despite the fact that
19 you were the Chief Minister of what you have described
20 as an emerging nation?
21 A. I have explained that there is nothing in our laws that
22 prohibits ministers from working privately once there is
23 no -- even the law does not prevent it, but once there
24 is no conflict. Any of the stuff that I have done, in
25 my view has not been a conflict.

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1 Q. Could you please indicate to the Commission which were
2 the cases upon which you were giving advice?
3 A. I can't recall that.
4 Q. Do you have a record of that?
5 A. As I said, Mr Saunders may have, but I can't recall
6 that.
7 Q. Would Saunders & Co have a record of that?
8 A. I don't know.
9 Q. You see, Saunders & Co provided a letter in which they
10 set out your salary in 2004 and 2005 and indeed in 2006.
11 They were paying not massive amounts but not
12 insubstantial amounts of money to you each year.
13 A. Can you direct me to those amounts that you are
14 referring to, massive?
15 Q. Yes, volume 1, 291. Page 291. Do you have that in
16 front of you, sir?
17 A. I do.
18 Q. That is a note from Saunders & Co, payments to
19 Michael Misick. It sets out reference, going back to
20 2002, I am not concerned with that. That was a
21 commission, it said, in relation to a client named
22 there.
23 2003, they made an election contribution, \$1,000.
24 2004, they paid you \$10,000 in salary. They made you

25 a loan of \$25,298.50. December 2004, another 15,000 in

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1 salary, December 2005, 30,000 in salary. April 2006,
2 they gave you a wedding gift. December 2006, they gave
3 you \$35,000 in salary. Finally, in January of 2008,
4 the firm loaned you \$275,000.

5 So that appears to be an ongoing regular
6 relationship with this firm which you tell us you are
7 a consultant for.

8 A. Yes.

9 Q. Can you not remember the names of any of the clients for
10 whom you provided consultancy advice?

11 A. At this time I cannot. I provide the consultancies to
12 the firm and to Mr Saunders. At this time I cannot
13 recall the name of the client.

14 Q. Thank you.

15 SIR ROBIN AULD: Just going back to Mr Milne's initial
16 question: why didn't you declare these payments, why did
17 you put "nothing to declare" on the returns.

18 A. On the returns for?

19 SIR ROBIN AULD: For post-2003 with Saunders. Why does it
20 not appear in your returns at the time?

21 A. As I said in -- all of the 2003 -- you mean based on
22 what I gave the Commission or what I gave the registrar?

23 SIR ROBIN AULD: Why did you not declare these payments in
24 your accounts at the time, year-by-year? That was
25 Mr Milne's thrust of the questioning on this.

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1 A. Again my question is, is it in relation to
2 the information I submitted to the Commission or in
3 reference --

4 SIR ROBIN AULD: It is in relation to your returns in which
5 you said you had nothing declared. You did not include
6 them in your --

7 A. Yes, I didn't include any of the employment.

8 SIR ROBIN AULD: Mr Milne's question is why not, given these
9 amounts that he has shown you in this memorandum from
10 Saunders & Co.

11 A. Again, based on the cross-party culture of being lax in
12 filling out the Register of Interests.

13 MR MILNE: As a matter of interest, what was the loan for,
14 please, Mr Premier?

15 A. Well, do I have to declare what my loans are for, sir?
16 Q. It is unusual, I would suggest, to borrow over a quarter
17 of a million dollars from somebody who you provide
18 consultancy services for. Do you think that is a common
19 occurrence?
20 A. I am sorry?
21 Q. Do you think it is a common occurrence to borrow from
22 your employer on a regular basis? You borrowed from
23 Saunders & Co on two occasions in the small sheet that
24 they gave us.
25 A. Certainly here it is not unusual to borrow from your

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1 employer. But my question is, am I obliged to say what
2 my loans are for?
3 SIR ROBIN AULD: I think you should answer the question,
4 Mr Premier.
5 A. Okay, the loans were to pay bills that I had incurred.
6 MR MILNE: Could you please take up the bundle which your
7 attorneys provided to the Commission this morning, which
8 is the correspondence bundle.
9 SIR ROBIN AULD: Which of us has got this, Mr Milne?
10 MR MILNE: I have a copy, sir. I don't know if a copy has
11 been handed to you, but it should begin with -- my
12 learned friend, Mr Fitzgerald, kindly put together
13 a bundle. It starts from a letter from Mr O'Dea dated
14 August 2008. It is simply the correspondence that has
15 been exchanged between the different parties. Do you
16 have a copy of that, sir?
17 SIR ROBIN AULD: I don't. (Handed)
18 MR MILNE: Could you please turn to page 75 of that bundle.
19 SIR ROBIN AULD: We had better identify this bundle. This
20 is a bundle provided by the Premier's attorneys today.
21 MR MILNE: If I can assist though. I am afraid I have not
22 been able to cross-reference this to original documents.
23 But these same -- the same letter with which I am
24 concerned, it is page 406 to 408 of the second bundle of
25 Mr Misick's material. Mr Premier, you can stick with

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1 one that you have for the moment but that would be fine.
2 Do you have that in front of you?
3 A. Which one is that.
4 Q. The letter of 18th November 2008, coming from --
5 I describe it as a letter. It may have originally been

6 in e-mail format but it comes from your attorney?
7 A. Yes.
8 Q. It is signed by your attorney on page 77 of the little
9 bundle you had. If we look at page 75, that is
10 the second page of that letter, which should be at
11 page 407 of our bundle, of the original bundle,
12 the question of your employment with Saunders & Co was
13 raised by the Commission with your current attorneys and
14 they were asked why is it essentially that there has
15 been no declaration of the Saunders & Co employment.
16 The letter that was written back answering many queries
17 and answering many questions that has been raised,
18 included this, in relation to our earlier questions:
19 "The characteristics of the payments from
20 Saunders & Co were made by that firm. Our client was
21 not employed by the firm after 2003 and our client was
22 simply responding to the Commission's request in
23 supplying the source of funds received by him. He was
24 aware that he had obtained funds from Saunders & Co. We
25 requested Saunders & Co to provide the details which

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1 they did. This does not mean that the earlier
2 declaration was incomplete or inaccurate."
3 Your attorneys are saying you were not working for
4 Saunders & Co. Can you see that that might cause
5 confusion? Could you please explain to us which is
6 the truth?
7 MR FITZGERALD: Sir I wonder -- my learned friend has asked
8 questions about a consultancy and about employment
9 interchangeably. I think it is important to clarify
10 what he is talking about. That is to say, a declaration
11 in relation to a consultancy as opposed to employment
12 day to day by a firm. I think that is the point.
13 SIR ROBIN AULD: Employment does not mean necessarily
14 a contract of service, does it? It includes contract of
15 services which would embrace consultancy work.
16 MR FITZGERALD: I agree that that -- I think if one looks at
17 the context, that is clearly what my instructing
18 solicitors -- sorry, what the attorneys were saying.
19 The distinction is between being a consultant and being
20 an employee on a day-to-day basis.
21 SIR ROBIN AULD: Yes.
22 MR MILNE: Mr Premier, you are saying things to this
23 Commission which appear to be in contradiction to what
24 your attorneys have said on your behalf a matter of

25 weeks ago when specifically asked about it.

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1 A. I stand by my answer.

2 Q. Were you asked to provide that information to your
3 attorneys before they answered that letter?

4 A. I can't recall.

5 Q. But what you are saying effectively is that
6 the information provided on your behalf is clearly
7 wrong, in that regard?

8 A. What I am saying is that I stand by my answer in
9 relation to being an ongoing consultant. Now, there
10 might have been some confusion in relation to employee
11 versus consultant but I stand by my answer.

12 Q. You told the Commission when you put in the response,
13 that is the 2008 response, that you were also working
14 for Prestigious Properties. What were you doing for
15 Prestigious Properties whilst Chief Minister and
16 Premier?

17 A. I had been a real estate salesman since 1983.
18 (12.45 pm)

19 Q. Were you selling real estate?

20 A. I have.

21 Q. Were you selling real estate in 2003 through to 2007?

22 A. I have.

23 Q. You have been selling real estate whilst you have been
24 Chief Minister and Premier?

25 A. Yes.

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1 Q. How many hours a week do you devote to doing that?

2 A. I can't recall how many hours a week. A real estate
3 agent by the very nature does not clock in time.

4 Q. So would you go into the office?

5 A. I have on occasions.

6 Q. Would you take calls from customers?

7 A. I have on occasions.

8 Q. Would you take people out on views?

9 A. We have employees to do that but I also have -- I mean,
10 yes, on occasions.

11 Q. I come back to some of the questions I asked earlier on
12 about the demanding nature of your job as Chief Minister
13 and to the fact that it consumed your every waking hour,
14 but there seems to have been plenty of time to act as
15 consultant?

16 A. Sorry, that was your characterisation.
17 Q. You said it consumed your every waking thought. I think
18 that was your response. Was that right?
19 A. Yes.
20 Q. So as Chief Minister you were still able to continue in
21 practice as a real estate agent?
22 A. Sorry, was I able to?
23 Q. Able to remain in practice as a real estate agent?
24 A. There is no legal impediment for me not to have done it.
25 Q. Shall I take that as a yes?

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1 A. I mean there is no legal impediment.
2 Q. I am aware there is no legal impediment but should
3 I take your answer as a yes, you remained in employment
4 as a real estate salesman?
5 A. I am a director and shareholder of
6 Prestigious Properties and since 1983 have participated
7 in the selling of properties throughout the islands and
8 that's what I have done all my life.
9 Q. Many of the properties throughout the islands are Crown
10 land originally, aren't they?
11 A. Originally?
12 Q. Yes.
13 A. Well, I mean, yes, the 4,000 acres that Provident
14 Limited had, that was Crown land.
15 Q. We will come back to this, perhaps not today, but we
16 will come back to it soon. But Crown land is -- it is
17 a controversial topic on the islands, isn't it,
18 the sale, dispersal, transfer of Crown land is something
19 that excites a lot of discussion.
20 A. Is that your --
21 Q. I am suggesting that that is the common knowledge of
22 most people who live on the Turks and Caicos Islands,
23 would you disagree with that?
24 A. Well, Crown land or land period is always an exciting
25 topic.

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1 Q. It may be exciting but it excites controversy.
2 The government, your government have received over
3 the years a number of official reports on Crown land
4 policy. There are debates on Crown land policy. There
5 is discussion about a further ordinance on Crown land

6 policy.

7 A. Yes.

8 Q. It is part of the political discourse?

9 A. And we have -- when we came to office, prior to coming
10 to office, only expatriates were able to get Crown land
11 primarily, and we have changed the policy and it is
12 a policy we are proud of. It is a policy that has
13 empowered so many Turks and Caicos islanders, whereby no
14 Crown land would be distributed unless Belongers are
15 involved, and over the last six years, we have empowered
16 hundreds if not thousands of Belongers in relation to
17 Crown land, and it is something that we are very, very
18 proud of.

19 Q. Mr Premier, did you regard it as part of your duties as
20 Chief Minister to get out there with your lads and sell
21 this stuff on a day-to-day basis to individuals?

22 A. No, I have never sold Crown land and neither does
23 Prestigious Properties.

24 SIR ROBIN AULD: You say you never sold Crown land.

25 A. And neither does Prestigious Properties. Prestigious

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1 Properties --

2 SIR ROBIN AULD: You didn't act as agent in a sale.

3 A. Only government can deal in Crown land.

4 SIR ROBIN AULD: Presumably Prestigious Properties would
5 have acted as agents for the onward sale of land which
6 was originally Crown land, would they?

7 A. I mean, if you start from the basis of -- from
8 the beginning with Memorial.

9 SIR ROBIN AULD: Yes.

10 A. Everything was Crown, then, yes.

11 SIR ROBIN AULD: Yes.

12 MR MILNE: So we can be clear --

13 A. I don't know, sir, how you can make a distinction
14 between in 1970, the government at the time gave
15 Provident Limited 4,000 acres of land which they
16 subdivided and they have sold and so has real estate
17 agents. I don't know how you can make a distinction
18 between that and government giving a poor person from
19 North Caicos or Grand Turk a piece of land and they get
20 it in line with the government policy, and then for
21 whatever reason decide that they want to sell it. So
22 are you then saying that it is okay for an expatriate
23 who gets Crown land to on-sell it, but for a Belonger
24 who gets Crown land and is in line with what the law and
25 the policy provides, that because he is now trying to

- 1 empower himself, that he is corrupt?
- 2 SIR ROBIN AULD: Mr Premier, I don't think really that is
3 the line of questioning. It is not a judgmental
4 question at the moment at any rate. It is simply to
5 know how you were rewarded for your work with
6 Prestigious Properties in the disposal of land, some of
7 which may have originally, recently or in the longer
8 distance, have been Crown land. How were you rewarded
9 by Prestigious Properties for the work you did for them?
- 10 A. In relation to Prestigious Properties, I have always
11 been rewarded by a directors' fee and by commission.
- 12 SIR ROBIN AULD: Directors' fees and commissions?
- 13 A. Yes.
- 14 MR MILNE: Commission being directly related to the property
15 that you had helped to sell yourself?
- 16 A. Either helped to sell or -- in the industry you can
17 either sell it yourself or you can benefit by referral
18 fee. There are many ways of -- you can be a listing
19 agent and still benefit. So there are many ways of
20 getting commission.
- 21 Q. I want to be clear because I don't want there to be any
22 misunderstanding at a later stage. As a shareholder you
23 would be entitled to dividends from a company. Correct?
- 24 A. Yes.
- 25 Q. As a director you may be entitled to a director's

- 1 stipend, some form of payment for attending meetings and
2 making overarching policy decisions, yes?
- 3 A. Yes.
- 4 Q. You are telling us that you received shareholders'
5 dividends, that you received directors' fees and you
6 received commission for hands-on work; that is your
7 evidence?
- 8 A. For what?
- 9 Q. Hands-on work?
- 10 A. Well, I mean, what do you -- what I am saying is that
11 I have received the director's fee, I have received
12 commission and I have received -- what is the other one
13 you asked? Dividends, yes.
- 14 Q. Yes.
- 15 At the request of the Commission your attorneys

16 provided details, some details from
17 Prestigious Properties. Those documents are contained
18 in the bundles you have in front of you and particularly
19 at page 267, the first bundle, you have what is known as
20 a quick report. It is an accountant's tool, a printout
21 from a computer essentially.

22 Do you recognise that document, 267? Is that
23 a familiar document?

24 A. I am not the accountant at Prestigious Properties but
25 I am sure I have seen it, I am sure my lawyers have

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1 shown it to me.

2 Q. What that represents essentially is what you might call
3 an internal account within the company. No doubt it is
4 a system adopted by many professional bodies in relation
5 to employees or indeed directors. Your account is
6 debited on occasions and credited on occasions.

7 No doubt you are entitled to certain payments and
8 you will be docked certain monies and it will be
9 balanced out on a day-by-day basis, yes? Does that
10 tally with your experience of Prestigious Properties?

11 A. I am sorry?

12 Q. Is that an accurate description of how
13 Prestigious Properties works?

14 A. Whether it is on a day-by-day basis, I am not sure.

15 SIR ROBIN AULD: But all these entries on this page relate
16 to you, do they?

17 A. According to the information, yes.

18 MR MILNE: On some occasions you owe the company money, on
19 other occasions they owe you money. So essentially it
20 is balanced out no doubt on that basis they will make
21 the decision --

22 MR FITZGERALD: Sir, I think perhaps one -- I hesitate to
23 interrupt my friend, but perhaps the key may be at the
24 top, "client trust funds Grace Bay Plaza". I think that
25 may be important.

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1 SIR ROBIN AULD: Sorry I didn't hear that, Mr Fitzgerald.

2 MR FITZGERALD: At the top of page 267, one sees client
3 trust funds owed in respect of Grace Bay Plaza. That's
4 the property that was managed, in which he has
5 an interest. So that is what this is about.

6 MR MILNE: I am very grateful to my learned friend because

7 that was a clarification we had been seeking for a long
8 time. I am happy that that has now been given.

9 MR FITZGERALD: Does my learned friend then accept that that
10 is the case?

11 MR MILNE: I would prefer it to be endorsed by my learned
12 friend's client, but if Mr Premier is prepared to
13 endorse it as being correct, then we will move forward.

14 SIR ROBIN AULD: Can you explain the entry there? What were
15 you doing for Grace Bay Plaza?

16 A. What was I doing for it? I own Grace Bay Plaza. I am
17 the major shareholder in Grace Bay Plaza.

18 SIR ROBIN AULD: You are the major shareholder?

19 A. Yes.

20 SIR ROBIN AULD: So this account is recording what, then?

21 A. It should be recording income and expenditure. It is
22 a rental property.

23 SIR ROBIN AULD: So when people pay rent to you and when you
24 make expenditure for refurbishment and so on, you are
25 debited, I suppose. All right.

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1 MR MILNE: Sir, I am going to move on to deal with this in
2 more detail and I am conscious of the time. I know that
3 I won't be able to complete this before we take the
4 midday break. I am in the Commission's hands as to when
5 would be a good point.

6 SIR ROBIN AULD: Yes, I think that is a good time.
7 2 o'clock.

8 (1.00 pm)

9 (The short adjournment)

10 (2.00 pm)

11 SIR ROBIN AULD: Yes, Mr Milne.

12 MR MILNE: If you please, sir. Mr Premier, before lunch we
13 touched upon the issue of Prestigious Properties and you
14 had told us that you were director, shareholder and to
15 some degree employee of Prestigious Properties during
16 your years as Chief Minister and Premier.

17 We looked at a couple of documents. I don't know if
18 you have the bundle in front of you. The documents that
19 were provided in relation to Prestigious Properties fall
20 into various different categories. Do you have
21 the bundle there? It is probably the first of the two
22 bundles.

23 A. Bundle 1?

24 Q. The black ones, yes. 1. So this is your personal
25 documents, volume 1. We looked before lunch at page 267

1 which was identified to us as being an accounting report
2 for Grace Bay Plaza. We heard the name Grace Bay Plaza
3 because -- you declared your involvement in
4 Grace Bay Plaza as being a directorship. I think in
5 fact you mentioned that you own 80 per cent of
6 Grace Bay Plaza, is that correct?

7 A. Yes.

8 Q. For those of us who are not familiar with the islands,
9 what is Grace Bay Plaza exactly?

10 A. It is a commercial real estate property in Grace Bay.

11 Q. Effectively a shopping plaza or something of that
12 nature?

13 A. Some shops and restaurants.

14 Q. Shops, restaurants, offices above or just shops and
15 restaurants?

16 A. Shops, restaurants. I mean, Prestigious Properties
17 manages it so I don't know who the tenants are.

18 Q. I am not greatly concerned with the tenants. But given
19 that you are Premier and you own it, I assume you know
20 something about how it is being run?

21 A. It has been managed as indicated. The property manager
22 is Prestigious Properties.

23 Q. You effectively direct any earnings from that through
24 Prestigious Properties, if we follow this sheet
25 correctly, is that how it works?

1 A. Prestigious Properties is the property manager of the
2 Grace Bay Plaza.

3 Q. So they collect rent.

4 A. Yes.

5 Q. They pay presumably the bills?

6 A. Yes.

7 Q. Rates, whatever is imposed by the government, and they
8 would pay the costs and then pass on to you through
9 their accounting report any proceeds, any profits that
10 might be made? I will take that as a yes. I am afraid
11 it does not show up on the transcript if you nod. So
12 an affirmative or a negative would be helpful.

13 That is in relation to Grace Bay Plaza,
14 Prestigious Properties, as I understand it, also manage
15 other properties for you. You have a golf club
16 condominium?

17 A. Yes.
18 Q. And one of the Prestigious Properties documents relates
19 to a golf club condominium?
20 A. What I can say is that I owned that before 2003 and so
21 based on what Sir Robin said this morning, I am not sure
22 whether that is relevant to now.
23 SIR ROBIN AULD: I am lost now. Prestigious Properties,
24 does that manage your golf club condominium; that was
25 the question.

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1 A. Yes.
2 MR MILNE: Prestigious Properties manage your golf club
3 condominium; they manage Grace Bay Plaza; they manage
4 a property which is the Cinema Plaza, is that right?
5 A. Yes.
6 Q. Which again is a property that you own?
7 A. Yes.
8 Q. So in each case you don't have hands-on involvement;
9 the money comes to you through Prestigious Properties?
10 A. Yes.
11 Q. Albeit you are a director, shareholder and employee of
12 Prestigious Properties?
13 A. Yes.
14 Q. You also obviously receive dividends. Now we have
15 a document within the bundle which is -- somebody,
16 somebody before it reached the Commission, I stress, had
17 written on "dividends". That is page 89 in that bundle.
18 If you could turn to that, please.
19 You receive dividends, you told us by virtue of the
20 fact you were a director of Grace Bay Properties. Again
21 we have a quick report. It is debit/credit report
22 setting out what you would be entitled to.
23 It also includes deductions which are made for
24 expenses, and if I take an example, perhaps Mr Premier,
25 it would appear that some arrangement was made whereby

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1 health insurance was taken out and the debits for that
2 health insurance go through Prestigious. I am not
3 criticising this, but that is an example of the sort of
4 debit that is taken from the credits that you accrue
5 before it ever reaches you, correct? And other expenses
6 that are accrued during the course of the working life

7 are taken from it. It is clear from that that there are
8 references to director fees. What I am looking at at
9 present is the pages that cover, this is page 89 of the
10 bundle, these go back as far as January 2002 to 2003.
11 The sums that are being credited to you, presumably
12 director fees are \$1,000, on one or two occasions,
13 \$2,000, and then there's an annual dividend, appears to
14 be \$40,000 on page 90.

15 That would be for 2003.

16 So these are the monies that are falling due to you,
17 yes?

18 A. Yes.

19 Q. Does this document tell us when the money is actually
20 paid to you? Can you tell from looking at that document
21 when you would actually have received money from
22 Prestigious Properties?

23 A. Yes, I think.

24 Q. How can you tell that? What is it that tells you from
25 that form that you would have received money?

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1 A. It would have the date and the amount next to it.

2 SIR ROBIN AULD: But it looks like a running account,
3 doesn't it? Is the line drawn on a monthly basis and
4 a payment made to balance it and you start again or
5 what?

6 A. I am sorry?

7 SIR ROBIN AULD: Is the line drawn on a monthly basis and
8 payment made one way or another and then you start
9 again?

10 A. I don't know. I don't do the accounts. So I can only
11 go by what I now see. It shows that on the 11th --
12 24/11 that I received \$40,000 in dividend.

13 MR MILNE: Mr Premier, with respect it doesn't actually say
14 that. What it says is that you were credited with
15 \$40,000. There is a difference. My bank account may be
16 credited with money but I don't have it until I draw
17 the money out. Do you see the analogy?

18 A. No.

19 Q. You have an account with Prestigious Properties?

20 A. Yes.

21 Q. I am sure that you knew that, given your involvement
22 with Prestigious Properties. You knew there was
23 an accounting process: you knew there was an accountant?

24 A. I knew there was a what?

25 Q. You must have known there was an accountant. There must

- 1 be an accountant at Prestigious Properties who does
2 the books?
- 3 A. Yes, of course.
- 4 Q. Presumably, that person or persons are responsible from
5 time to time paying you money?
- 6 A. Okay.
- 7 Q. Yes? How do you get the money?
- 8 A. Either by way of cheque, as written out to me, or by way
9 of, as shown in this, by way of them paying expenses
10 directly on my behalf.
- 11 Q. So either you get a cheque for funds that are due to you
12 because you have accrued dividends, you have accrued
13 director's fees, whatever?
- 14 A. Commission, whatever.
- 15 Q. Or else they would pay a bill on your behalf and
16 obviously that is reduced from your credit balance?
- 17 A. Yes.
- 18 Q. The question I have is simply this: is there anything on
19 the face of this document that would make it clear that
20 you actually had money transferred to you from
21 Prestigious Properties?
- 22 A. To me, yes. But I can't speak for you.
- 23 Q. Well, I think you said earlier on that you were not
24 an accountant.
- 25 A. Yes.

- 1 Q. Neither am I. I simply read a balance sheet like this
2 and I see credits and debits but I don't see money going
3 to you?
- 4 A. I thought you were a banker before you were a lawyer.
- 5 Q. Could you please explain to us what it is on this
6 document that shows you actually had money transferred
7 to you?
- 8 A. From my reading of it, if it says dividends, 40,000, it
9 means I receive a dividend of 40,000.
- 10 Q. You would receive a credit for 40,000 but would you have
11 received a cheque for 40,000?
- 12 A. Quite possibly.
- 13 Q. Quite possibly is not really what I am looking for,
14 Mr Premier. It is yes, no, I can tell from this
15 document. I don't want to seem picky but this is
16 potentially quite an important point later on.

17 A. That's my answer, sir.
18 SIR ROBIN AULD: Mr Milne, I am puzzled by this. Forgive me
19 for interrupting. This running account, if that's what
20 it is, shows on the occasion of the 40,000 dividend
21 payment, on credit, a change in the balance from credit
22 of 23,000-odd to a debit of 16,000-odd. It suggests
23 movement out of the running account at about that time,
24 doesn't it?
25 MR MILNE: That is a very real possibility, sir. Yes. But

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1 it doesn't make clear on the face of it -- I was
2 looking -- hoping Mr Premier would be able to assist us
3 by clarifying exactly how he would know first of all
4 what he was due, if he was being paid the correct amount
5 by Prestigious and when it was being paid.
6 A. It is obvious that if there's a \$23,000 balance or
7 whatever, it is obvious that 40,000 was paid in
8 dividend.
9 Q. You say that but then it would be obvious from that,
10 I suggest, that each time \$1,000 director's fee is
11 credited that that was coming out in a cheque as well.
12 Were you getting cheques for \$1,000?
13 A. Yes.
14 Q. So were each of the credits we see on there likely to be
15 payments to you?
16 A. Not necessarily to me.
17 Q. Who were they payments to if they were not to you?
18 A. It could have been paid to a third party.
19 Q. These are credits. If a payment is made to a third
20 party, at your request, as indeed does happen on
21 occasions, then there is a debit entered because it is
22 being effectively taken off, removed from your money.
23 SIR ROBIN AULD: But these figures are accrual, they are all
24 on an accrual basis. They are as and when the credit
25 becomes an entitlement or the debit becomes due. They

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1 are not a record of the mechanical movement of money,
2 are they?
3 A. I am not sure of that.
4 SIR ROBIN AULD: It says accrual basis.
5 A. I am not the accountant, but I believe that in a lot of
6 cases there were cheques that were issued. The \$1,000
7 were cheques that were issued. My recollection is

8 getting a lot of cheques for \$1,000 on a monthly basis.
9 MR MILNE: That is your recollection?
10 A. Yes.
11 Q. So when you received a check for \$1,000, it will show
12 against your bank account as having been paid into one
13 of your bank accounts?
14 A. Not necessarily.
15 Q. Why not?
16 A. Because I could have cashed it and used the money.
17 Q. So you might have cashed the \$1,000 cheque and used
18 the cash straightaway?
19 A. I could have.
20 Q. But wouldn't it be easier simply to pay the \$1,000
21 straight into your bank account and draw the \$1,000 out
22 immediately?
23 A. Not necessarily.
24 Q. Because that way it would show on your bank account.
25 The bank would have to deal with the cheque, wouldn't

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1 they? The bank will have to process the cheque
2 regardless?
3 A. I am not sure where you are going with this.
4 SIR ROBIN AULD: Don't worry about where he is going. Just
5 deal with it question by question.
6 A. I have answered the question and he, you know -- I have
7 received \$1,000, sometimes I deposit it, sometimes
8 I cash it.
9 MR MILNE: If you received a cheque for \$40,000, would you
10 cash that?
11 A. That's a hypothetical question.
12 Q. Did you ever cash a cheque for \$40,000? That is not
13 a hypothetical question.
14 A. Not to my knowledge. Not to my recollection.
15 Q. With all of these, then, must we assume that if there is
16 a credit to your account, be it \$1,000, \$40,000,
17 whatever, that represented a payment out to you?
18 Is that your evidence, please?
19 A. What's the question?
20 Q. Whenever we see a credit on this account, must we assume
21 that you received that money in your hand, a cheque or
22 cash?
23 A. Well, I mean, I don't know. In my hand I don't know.
24 But wherever there is a credit, it would be reasonable
25 to assume that the money was received by me.

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1 SIR ROBIN AULD: But that ignores the balance, whether it is
2 in debit or credit on the right-hand side of the page?

3 A. I am sorry?

4 SIR ROBIN AULD: That ignores the balance on the right-hand
5 side of the page which may be in credit or debit to you.

6 A. Absolutely.

7 SIR ROBIN AULD: This is clearly a running account, isn't
8 it?

9 A. Yes.

10 MR MILNE: Let me take you to a different document. This
11 one is a little easier to understand. Page 286 of the
12 same bundle, bundle 1.

13 I say it is easier to understand. In fact, to look
14 at it, it is almost impossible to understand because it
15 is a series of numbers, it is a series of dates, it is
16 a series of code numbers, but what it says across
17 the top of it is this:

18 "Premier Michael Misick Allowance Report".

19 Indeed we received this on apparently 9th October,
20 2008.

21 Somebody, and I am not seeking to be picky, has made
22 an error in this document on the face of it because it
23 has been sorted in such a way that the dates are in
24 completely the wrong order for payments. It has been
25 sorted according to the first day of the month rather

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1 than the year, then the month, then the day.

2 However, what it appears to record is a series of
3 actual payments to you. Actual physical payments to
4 you. We know that because we have taken that report,
5 the allowance report, and we have sorted it in correct
6 date order. If you would go, please, to volume 3 of
7 your bundle. That is the black bundle. Your individual
8 documents, volume 3.

9 What that contains, at page 1124, sorted by year and
10 sorted by date are the payments to you on the allowance
11 report.

12 A. 1124?

13 Q. 1124 and 1125. Do you have that?

14 A. Is that in relation to Prestigious?

15 Q. Yes. Now, Mr Premier you are going to have to take, I
16 am afraid, my word for this because we would be here for
17 a day and a half if I had to take you through every

18 single item on this, but what was done was that
19 the report printed out by Prestigious in the wrong date
20 order was re-typed and then sorted in the correct date
21 order, yes?
22 A. I will take your word for it.
23 Q. Thank you. What this shows is a series of payments --
24 MR FITZGERALD: I thought we were looking first at
25 a government report and now at the Prestigious report.

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1 My learned friend, the last document he took us to from
2 which it was derived was a report of government.
3 MR MILNE: No. It is page 286.
4 A. That is a government report.
5 MR FITZGERALD: It is a government report, not a Prestigious
6 report at all. In other words the last thing we were
7 talking about was a government report and now we are
8 talking about Prestigious.
9 MR MILNE: I understood this was given to the Commission on
10 the basis that it was a Prestigious report.
11 A. No.
12 Q. You recognise the document?
13 A. Sorry do I recognise it?
14 Q. Yes.
15 A. Yes.
16 Q. Right. Is that a government report?
17 A. Yes.
18 Q. Thank you for enlightening us on that.
19 SIR ROBIN AULD: This was something provided on 9th October
20 last year with a bundle of other documents?
21 A. Because it says ...
22 MR MILNE: So these in fact are government payments to you?
23 Yes?
24 A. 286 or 1124.
25 Q. It is the same thing?

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1 A. It is not the same thing.
2 Q. Let me talk you through it again, Mr Premier.
3 The document at page 286 is an allowance report that was
4 forwarded to the Commission by your attorneys. Maybe we
5 have misunderstood something that was said about it. In
6 any event, we were told that this was an allowance
7 report. We believe that to be Prestigious Properties.

8 Am I right now in thinking that you say it is not
9 Prestigious Properties, but it is a government document?
10 A. 286?
11 Q. 286?
12 A. Is a government's document.
13 Q. Fine, thank you.
14 A. Sorry, I was asked to submit all of my allowance and
15 subsistence in relation to travel, all of my overseas
16 travel, and that is what 286 to 290 is.
17 Q. Fine. I am grateful for your clarification on that
18 point. In that case we will come back to that later
19 because it will have relevance in a different context,
20 but the document there is you are telling us has nothing
21 to do with Prestigious?
22 A. 286?
23 Q. Yes.
24 A. No.
25 Q. Thank you. So Prestigious Properties, we will stay with

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1 the topic while we have it. Anything that you received
2 from Prestigious Properties would have come from
3 the payments that we see set out in those quick reports?
4 Yes?
5 A. I am not sure.
6 Q. Let's try a different approach, Mr Premier. How often
7 did you get money from Prestigious Properties?
8 A. I can't recall.
9 Q. Was it once a week, once a month, once a year?
10 A. I cannot recall.
11 Q. Was it irregular periods or was it regular ones?
12 A. I cannot recall.
13 Q. Do you remember getting any money from
14 Prestigious Properties at any stage?
15 A. Yes.
16 Q. When?
17 A. Over the period from 1983 to 2008.
18 Q. You would receive those cheques, you would receive that
19 money from Prestigious Properties in person handed to
20 you?
21 A. In person?
22 Q. Yes.
23 A. Not necessarily in person.
24 Q. Posted?
25 A. I am sorry.

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1 Q. Would it be posted to you? Would it be a bank transfer?
2 A. I can't recall the exact nature. Sometimes -- in
3 various different forms. Sometimes in person,
4 sometimes --
5 SIR ROBIN AULD: Presumably Prestigious Properties has
6 a ledger account referable to you which would record
7 all payments made, how much and when.
8 A. Presumably.
9 SIR ROBIN AULD: Well, you own 80 per cent of
10 Prestigious Properties?
11 A. No, I wish I did.
12 SIR ROBIN AULD: But you have the means of solving this
13 problem very quickly, I should think, haven't you? Who
14 is the man in charge at Prestigious Properties who keeps
15 the ledger accounts and monies owed and paid to
16 directors and shareholders in various forms?
17 A. The accountant.
18 SIR ROBIN AULD: Who is he?
19 A. It is a she.
20 SIR ROBIN AULD: Who is that?
21 A. I can't remember her name.
22 SIR ROBIN AULD: You can't remember her name?
23 A. No.
24 MR FITZGERALD: I am informed that the name is Cora Malcolm,
25 the accountant.

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1 SIR ROBIN AULD: Thank you.
2 MR FITZGERALD: That is my learned friend Akierra Misick's
3 recollection.
4 SIR ROBIN AULD: Thank you very much.
5 MR MILNE: You see, Mr Misick, we will in a few moments come
6 to the question of bank accounts, and as you will
7 appreciate, there are issues as to the source of some of
8 the funds that go into your bank account. But if
9 I follow your evidence correctly, you have great
10 difficulty saying when you would have received any given
11 cheque from Prestigious Properties. You have no record,
12 you kept no record of when you received money from them.
13 A. Well, the appendix 5 would show when I received monies
14 from Prestigious Properties, which you have because it
15 would show it going into my account.
16 Q. We have a variety of monies going into your account.
17 What we are seeking is confirmation from

18 Prestigious Properties as to exactly you were paid, when
19 you were paid and what you were paid. What we have
20 instead, and what we have pointed out to your attorneys,
21 is that this is simply an accountant's internal
22 spreadsheet that has been printed out. Now, from your
23 knowledge, as owner, director and employee of
24 Prestigious Properties, is there any system employed
25 that would demonstrate when you were given a cheque?

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1 A. I am not sure.
2 Q. We will leave that where it is for the moment. Maybe we
3 will be assisted at some stage by somebody else. But as
4 matters stand, you were receiving monies in 2003 onwards
5 from Prestigious Properties, yes? And from Alexandra
6 Resort or not?
7 A. Yes.
8 Q. How much were you receiving from Alexandra Resort?
9 A. I believe primarily, and at some stage I was receiving
10 a director's fee of 1,500 a month.
11 Q. You were getting a director's fee of 1,500 a month?
12 A. Yes.
13 Q. You are sure that it was 1,500?
14 A. That is my recollection.
15 Q. How were you receiving that? Was that also a cheque?
16 A. Yes.
17 Q. So you would get 1,500 a month from Alexandra. Roughly,
18 how much do you think each year or each month you would
19 be getting from Prestigious?
20 A. I can't answer that.
21 Q. You can't say?
22 A. I can't say.
23 Q. It is wholly impossible to say?
24 A. I can't say.
25 Q. So let's go back to 2003, since we are starting from

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1 there.
2 Those are the only two directorships you declare.
3 You don't mention any other trade or profession but you
4 tell us now that you may have received some monies from
5 Saunders & Co. Was there any other income coming in to
6 you?
7 A. I have declared all of the income at appendix 5 coming
8 into me. I stand by my declaration.

9 Q. Let's move on slightly. You have made declarations to
10 the Commission concerning your bank accounts. Is that
11 right?
12 A. Yes.
13 Q. You recall doing that?
14 A. Yes.
15 Q. Essentially, you have told the Commission that you had
16 a number of bank accounts. You have also told
17 the Commission, correct me if this is wrong, that you
18 have declared all of your bank accounts to
19 the Commission, yes?
20 A. As of now?
21 Q. As of now?
22 A. Yes.
23 Q. Those bank accounts, I am not going to read out
24 the numbers because it is a private business. It is no
25 concern of anybody else at present. If I have to

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1 identify an account, I will do so by only part of the
2 number?
3 A. What is the page you are at? What should I look at?
4 Q. You don't need to look at anything for the moment. I am
5 asking you to use your memory. You have told us -- do
6 you know how many bank accounts you have, Mr Misick?
7 A. I have declared the bank --
8 Q. I know you have declared them but do you know of them?
9 A. Yes.
10 Q. So if I asked you, you would be able to say yes or no,
11 is that correct?
12 A. Well, it depends on the question.
13 Q. You have got an account with the First Caribbean
14 International Bank?
15 A. Yes.
16 Q. You also have an account with the Belize Bank?
17 A. Yes.
18 Q. Both of those based in the TCI?
19 A. Yes.
20 Q. You have an account, at least for our relevant period
21 was a joint account with your wife at the TCI bank,
22 again at TCI, yes?
23 A. With my ex-wife, yes.
24 Q. That's three accounts?
25 A. I am sorry?

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1 Q. Three accounts on TCI we are concerned with here. You
2 had or have two accounts in the USA?

3 A. Yes.

4 Q. Both with HSBC Bank?

5 A. Yes.

6 Q. One had been based at Beverly Hills in California?

7 A. Yes.

8 Q. One based in Miami?

9 A. Yes.

10 Q. You have since told us about another account, which
11 I will come back to in a few minutes, in a company name
12 which I believe is also in the TCI?

13 A. Yes.

14 Q. You have confirmed to us that those are all
15 the accounts, the full extent of your personal bank
16 accounts.

17 It is important that I clarify exactly at this stage
18 what disclosure has been made to the Commission, do you
19 follow? The Commission was given the bank statements
20 for the Belize Bank account in the TCI. Those are
21 statements which cover effectively the full period we
22 might have been looking at from January 2003 up to the
23 latter part of last year. For the record they are in
24 Mr Misick's file, pages 107 to 174.

25 You provided First Caribbean International Bank

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1 statements from 22nd August 2003. Those statements only
2 ran as far as 14th September 2007. That is the extent.

3 So they omit the last year. Those statements are at
4 pages 175 to 240. There is one additional statement put
5 in at page 411 which was sent separately.

6 You have provided us with TCI bank account
7 statements. That was the joint account with your wife.
8 Those statements start from December 2005. In fairness,
9 that appears to have been when the account itself was
10 started up and run up to the recent past at pages 412 to
11 page 446. Those are the three bank accounts in the TCI,
12 the main ones. With the HSBC accounts, the joint
13 account that you operated with your wife in
14 Beverly Hills only covers the period from 1st July 2006
15 until 31st March 2008.

16 So it is a little short of two years. The account
17 was not started at the beginning of that period.
18 The account pre-dated that period: there was money in

19 it. It was clearly being active before then. There are
20 statements at 240.1 to 266.

21 Your sole, that is personal HSBC account in Miami,
22 you provided us with statements from 24th January last
23 year to 27th October last year. So a period of only
24 about nine months. They are at pages 499 to page 517.

25 Those statements, with respect, Mr Premier, are not

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1 complete. The account was clearly active and open
2 before that period, although we will accept that
3 the period that we were shown had little banking
4 activity going on. There appeared to be very little
5 happening from month to month.

6 I have a series of questions that arise specifically
7 from the bank accounts that you have disclosed to us.
8 These questions for the most part have been put to you
9 or put to your attorneys in letters. I have to ask you
10 them again because regretfully they have not been
11 answered by the letters we have had back and while
12 I know there have been considerable correspondence from
13 your attorneys, these are questions which remain
14 unanswered and they are issues with which the Commission
15 is concerned with.

16 I am going to deal firstly with the Belize Bank. In
17 the Belize Bank statements, the statements had run, as
18 I have said already, from January 2003. They were in
19 your sole name. It was spelt correctly as far as we can
20 tell in that it was in the name of Michael Misick, with
21 one S, and they were sent to you on a monthly basis.

22 The statements that were sent to us, however,
23 changed because in February, between June 2005 and
24 February 2006, the bank account, although it retained
25 the same number, suddenly changed the title of the bank

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1 account, and it went from being in your sole name to
2 being in your name, misspelt with two Ss, and V
3 Hutchinson.

4 That went on for the best part of eight months.

5 A. For which period?

6 Q. I beg your pardon, I can't hear you?

7 A. What period.

8 Q. This was 2005 through to 2006.

9 We asked in a letter why that had happened and
10 apparently the statements with which we are concerned
11 were pages 139 to 147 in your bundle.

12 The letter of response on 15 October 2008, your
13 attorneys told us:

14 "Vanessa Hutchinson has never been a signatory on
15 this account."

16 Were those your instructions to them?

17 A. I believe that there was a letter from the Belize Bank,
18 I can't put my hands on it now, that clarifies
19 the situation in relation to the mix up of those
20 accounts which was submitted to you.

21 Q. Mr Premier, I am asking you whether those were your
22 instructions to your attorneys. Did you tell them that
23 Vanessa Hutchinson had never been a signatory on that
24 account?

25 MR FITZGERALD: Sir, I am just concerned that if my learned

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1 friend could put the actual letter that he is referring
2 to, the terms of it. I think at page 50 of the
3 correspondence bundle, I take it that is what my learned
4 friend is referring to. If he could just put the terms
5 of that to the witness.

6 A. I don't have the correspondence bundle. (Pause)

7 MR FITZGERALD: As I understand it, my learned friend is
8 asking questions arising from a letter written on
9 15th October. I wonder if he could ensure that
10 the witness sees what exactly was written which is at
11 page 50 halfway through.

12 MR MILNE: I am afraid I don't have that to hand.

13 SIR ROBIN AULD: I have it. It is in the bundle provided
14 this morning. This is my copy of it by Mr Fitzgerald.
15 (Handed)

16 MR MILNE: The response from the attorneys was that:

17 "The account in question was the joint account held
18 with our client's wife. It was originally in our
19 client's sole name. Vanessa Hutchinson has never been
20 a signatory on that account."

21 Was the Belize Bank statement a joint account with
22 your wife at the time?

23 A. When, in 2005?

24 Q. 2008.

25 A. All right. The Belize Bank account was a sole account.

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1 When I got married in 2006, shortly thereafter I believe
2 I added my ex-wife to that account.
3 SIR ROBIN AULD: I thought I saw a reference there to
4 Miss Hutchinson being a former girlfriend.
5 MR MILNE: That may be the case.
6 SIR ROBIN AULD: I think it says it in the letter.
7 A. It says in the letter and there's a letter, sir, from
8 Belize Bank that --
9 MR MILNE: Mr Premier, before you go any further, can I make
10 clear I have read that letter. The question I asked you
11 and the question which I am still waiting for an answer
12 on is this, when your attorneys wrote to the Commission
13 and said that she had never been a signatory on the
14 account, was that on your instructions or not?
15 A. Let me explain that. That is a fact. The account in
16 relation to Vanessa Hutchinson who was a former
17 girlfriend of mine, and the bank explained that in their
18 letter, was not a current account but was a fixed
19 deposit account. At the time that account was opened,
20 Vanessa Hutchinson and I were co-habiting. After that
21 break-up, she was removed off the fixed account, and
22 which was long before 2003. So I don't work in the
23 bank. So the bank may state one S, two S, it is not my
24 fault.
25 Q. Did you notice that in 2005, well after apparently she

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1 was removed from the account, her name had been put back
2 on it by the bank?
3 A. No.
4 Q. You didn't read your bank statements and saw that it was
5 suddenly in somebody else's name?
6 A. No I didn't notice it.
7 Q. This went on for eight months. There would have been at
8 least eight statements that you would have had coming in
9 a joint name and you never looked at those?
10 A. No.
11 Q. Okay. We are told by the Belize Bank subsequently that
12 she was added to the main account in May 2000, and
13 indeed there was a term deposit of \$30,000 in the year
14 2000, so before you became Chief Minister obviously, but
15 that by July of 2002 she was removed from both accounts.
16 A. That's my recollection.
17 Q. So she was a signatory on the account?
18 A. Between 2000 and 2002?

19 Q. Yes.
20 A. I mean, one is not relevant. It is before I became
21 Premier. In any event, my recollection was that she was
22 on the term deposit.
23 MR FITZGERALD: Sir, again my learned friend is referring to
24 a letter from the Belize Bank which I don't think
25 the witness has got before him but which we have

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1 available.
2 SIR ROBIN AULD: Is that in the bundle that you gave or
3 I have received from you this morning?
4 MR FITZGERALD: Yes.
5 SIR ROBIN AULD: What page number is it?
6 MR FITZGERALD: Page 1. Sir, can I give it to the witness.
7 SIR ROBIN AULD: The witness should see it.
8 MR FITZGERALD: It confirms exactly what he is saying.
9 (Handed)
10 SIR ROBIN AULD: If what you say is right, Mr Fitzgerald,
11 page 1 of Mr Milne's bundle should confirm it.
12 MR MILNE: I have that in front of me, sir. I have that.
13 The question -- sir, I think I have all the answers
14 I am going to get.
15 Is there anything you wish to add, Mr Premier?
16 A. To what? To the letter?
17 Q. To your answer already given.
18 A. The letter speaks for itself.
19 Q. Let me move on. One of the other statements that was
20 sent to us, apparently in error by your attorneys, was
21 a statement from a bank account which had not previously
22 been declared. It was a bank account jointly between
23 yourself and a man called C Williams. That is at your
24 bundle, page 148.
25 A. That was not sent in error. It was sent as part of

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1 the full disclosure.
2 Q. I think I should point out, Mr Premier, that what you
3 sent us was the Belize Bank account which was the same
4 number all the way through apart from March of that
5 year, I think it was March 2007, which -- I beg your
6 pardon, March of 2006 in fact. When suddenly the wrong
7 statement was put in for March of 2006, a single sheet
8 statement was put in and then it reverted to
9 the original account. So if you intended to send that,

10 you did so by duplicating the missing sheet from
11 the true account?
12 A. I mean, I don't know how to understand it but what I can
13 say is that the statement in relation to myself and
14 Mr Carlton Williams was sent as part of -- this account
15 has been long closed and is sent as part of a further
16 disclosure, because I believe the Commission asked, did
17 I have any other account in Belize which at the time
18 I could not think about, and the account in relation to
19 Mr Williams was never a current account. Mr Williams is
20 a partner with me in the Grace Bay Plaza property and as
21 you see, there is a zero balance. When we purchased
22 that property, there was an original loan from
23 the Belize Bank which has been since paid off. That is
24 what that is in relation to.
25 Q. The request that was made was that you would provide

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1 bank accounts disclosure for this period. The statement
2 that was sent to the Commission was for an account that
3 in March of 2006 was still an open account?
4 A. Which one was that?
5 Q. Page 148. It may have been subsequently closed, but in
6 the period with which we are concerned, it was still
7 very much an open account, even if it had a zero
8 balance. It clearly had been active before then.
9 A. I just explained that to you. I said there was a loan
10 account. It was not a current account. It was a loan
11 account that Mr Williams and I had when we bought
12 Grace Bay Plaza back in 2000 or whenever it was.
13 Q. You say that, but at the top of the page, it is headed
14 up, "US Dollar Domestic Cheque Account".
15 A. Again, I don't work in the bank so I don't know what the
16 bank puts up top but I am telling you what the nature --
17 Q. Do you understand what is meant by "US dollar domestic
18 cheque account"?
19 A. I am not a banker. I am telling you from my
20 recollection that in relation to this account, which
21 shows a zero balance, there was a loan that Mr Williams
22 and I got in relation to the purchase of
23 Grace Bay Plaza.
24 MR FITZGERALD: Again, I wonder if my learned friend would
25 just read on. It does say "US domestic cheques and/or".

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1 SIR ROBIN AULD: I was wondering about the "and/or".
2 MR FITZGERALD: It seems to be anything they want it to be.
3 MR MILNE: We were told when we pointed this out that you
4 would obtain the statements for that account. We still
5 await those statements. Are we going to receive them?
6 A. That is a loan account that has been closed. I don't
7 know who you were told that by.
8 Q. We were told that by your attorneys and we rather
9 assumed that they did so on your authorisation.
10 A. What is it that you would like?
11 Q. We would like the statements to the account, since we
12 were promised them and we have not had them. Can that
13 be done?
14 A. I can check with the bank.
15 SIR ROBIN AULD: Who can check with the bank? You will
16 check with the bank?
17 A. I can check with the bank. The lawyers can check with
18 the bank. This is what it is.
19 SIR ROBIN AULD: It is not that long ago. They ought to be
20 able to resurrect the account when it was active.
21 MR MILNE: Your other bank accounts, you have
22 First Caribbean International Bank. As I have already
23 indicated, the statements stop running in September of
24 2007. Can you tell us, please, whether you have made
25 any efforts to get the statements from them up to date?

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1 A. Yes, we have. I have requested directly and through my
2 lawyers all of the statements of my bank accounts. And
3 I have submitted to you all of the statements that
4 I have received thus far and any statements that is
5 outstanding, we probably have not yet received and as
6 soon as we receive it, you will have it.
7 Q. This goes back to October. They have had two or three
8 months to get the statements. Can you assure us that
9 you have actively been pursuing these because you will
10 appreciate this is an important part of the Commission's
11 work?
12 A. Absolutely. My lawyers have been trying to get all of
13 these statements in relation to all of my accounts.
14 SIR ROBIN AULD: Mr Fitzgerald, can you or those instructing
15 you tell us when the bank was asked for these
16 outstanding statements?
17 MR FITZGERALD: Are we talking in relation to the
18 Belize Bank?
19 SIR ROBIN AULD: The First Caribbean. When were they asked

20 to produce these statements?
21 MS MISICK: Sir, we first wrote to the bank in November.
22 Actually we first wrote to the bank in October
23 requesting these statements. When we received the first
24 set of statements which we forwarded on to the
25 Commission, we realised that some statements, pages were

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1 missing. So we then wrote back to the bank in November
2 and in December and I personally attended on the bank to
3 obtain these missing statements and was told that they
4 were in their archives.
5 SIR ROBIN AULD: Where are they, round the corner?
6 MS MISICK: I don't know, sir.
7 SIR ROBIN AULD: It is a branch in Providenciales?
8 MS MISICK: It is a Providenciales branch, the bank that
9 I attended on, but as to where the archives are,
10 I cannot comment on. Further to that, they cited that
11 they had short staff. It was a vacation period so they
12 didn't have enough people to attend to these archives to
13 find them. A week later I wrote to them requesting more
14 information and then they said their computer system did
15 not have the statements in them due to a glitch. So
16 that's where we are working with on the bank end there,
17 sir.
18 SIR ROBIN AULD: So when are we going to see the statements?
19 MS MISICK: Sir, I honestly do not know. It isn't for
20 trying to obtain them from the bank.
21 SIR ROBIN AULD: When was this First Caribbean account first
22 disclosed?
23 MS MISICK: I think one of our first earlier letters to the
24 Commission, sir, this was the liabilities, where we did
25 mention that there was a loan held at this bank account.

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1 As to when the statements were disclosed, I will have to
2 check the correspondence bundle for the exact date but
3 they were disclosed sometime in October/November. We
4 have had e-mails going back and forth as to the delay in
5 missing statements with the Commission, sir.
6 SIR ROBIN AULD: Your lay client can answer this, I am sure.
7 He doesn't keep copies of his own bank account
8 statements. You don't keep your own --
9 A. We don't pay any taxes here so there's no need to.

10 SIR ROBIN AULD: Yes, Mr Milne. Thank you, Ms Misick.
11 MR MILNE: Sir, we will move on. We are now going to turn
12 to two accounts that you hold in the USA, particularly
13 the Beverly Hills account, HSBC.
14 You disclosed some statements, as you indicated,
15 just short of two years' worth of those. Was there any
16 particular reason why we didn't receive more statements?
17 Is that all the bank had on their records?
18 A. In relation to the Beverly Hills account, which was --
19 I can see my name was on it as a co-signatory. But that
20 account was always operated and controlled by my
21 ex-wife.
22 So I wrote to the accountant who -- her accountant
23 who deals with the bank and I asked her for full
24 statements in relation to those accounts. Today is
25 the first time I am aware that you don't have all of the

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1 statements of that account. So the statements that were
2 sent to me by the accountant was passed on to my lawyers
3 and on to you.
4 Q. Could you turn, please, to page 249 in your first
5 bundle. Do you have that in front of you?
6 A. Yes.
7 Q. That is a statement in the HSBC account which we see is
8 headed up with your wife's name and your name and
9 an address given in the Beverly Hills area which no
10 doubt was an address that you use there.
11 This statement that I am looking at covers
12 the period, essentially July 2007. The statement is one
13 of, as I said, two years' worth. The bank account was
14 reasonably active. In 2007, in July, on 20th July,
15 which is about the middle of that page, a transfer of
16 \$100,000 is made into that account and there is
17 a reference and it makes it clear that that is coming
18 from the Belize Bank, Turks and Caicos and
19 the West Indies. If one moves down it is not clear from
20 this what the number of the account is. However,
21 the person sending it is named and that is yourself. So
22 you appear to have transferred \$100,000 from
23 the Belize Bank in the Turks and Caicos to your joint
24 account with your wife, HSBC, in Beverly Hills. Nothing
25 on the face of that would necessarily attract any

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1 criticism or even comment.

2 However, you have given us your bank statements for

3 that period, for the Belize Bank in the Turks and Caicos

4 and there is no corresponding debit from that account.

5 Can you explain that?

6 A. I would have to confirm that what you say is in fact

7 true. At this stage I can't recall. My assumption

8 would be that it came out of my account. At this stage

9 I can't recall where it would have come from. My

10 assumption would be it came out of my Belize Bank

11 account.

12 Q. You assume it comes from your account?

13 A. That would be my assumption, yes.

14 Q. Because you only have one account, you have told us, at

15 the Belize Bank in the Turks and Caicos?

16 A. In my name.

17 Q. In your name. Do you have accounts that are not in your

18 name? It is a serious question, I am not being flippant

19 in any way, Mr Premier. Do you have accounts that are

20 not in your name?

21 A. The one that you are aware of, My Way Productions 2.

22 Q. There is an account, My Way Productions 2 but it does

23 not come from that account. It comes from

24 Michael Misick. Do you have any other accounts?

25 A. No.

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1 Q. So how do you explain that \$100,000 comes from

2 an account in your name, at the Turks & Caicos Bank,

3 that is -- let me get this absolutely right --

4 the Belize Bank, Turks and Caicos, on 20th July 2007 and

5 it is not from an account that we know anything of?

6 A. I assume that it came from my account. I have no other

7 information at this time and unless I can confirm it

8 with the bank, I would have to say that it came -- I

9 would have to see from where else it would come from,

10 but I assume it came from my account. That is why it

11 says Michael Misick.

12 SIR ROBIN AULD: Would these be IBAN numbers, IBAN reference

13 numbers to the account of the transmitting bank here?

14 MR MILNE: It is very difficult to tell from this, sir.

15 SIR ROBIN AULD: There are a series of reference numbers,

16 some of which may be an identification of

17 the transmitting bank, I don't know.

18 MR MILNE: It clearly states Belize Bank, Turks and Caicos,

19 West Indies, Providenciales in fact. It is specific to

20 that extent. It says where it is going to. It says
21 sender Michael Misick, STFEDSEQ. But we have not so far
22 been able to identify anything further from that.

23 If it assists you, that was 20th July, can I take
24 you please to page 162 of that bundle.

25 SIR ROBIN AULD: Are we to keep this page open?

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1 MR MILNE: Please.

2 MR FITZGERALD: I do not know whether I can assist. We have
3 in our appendix 5 a reference item 78 to 100,000
4 transferred from Belize Bank, "(draw down J&T Banks)".

5 We have the back-up materials to that. So I wonder
6 if I can refer my learned friend to item 78 of
7 appendix 5.

8 MR MILNE: I see reference to broad amp(?) and -- with
9 respect, the issue that I am exploring here is not
10 the fact that there may be some explanation for
11 the source of the money, but rather why it appears to
12 come from a bank account that we know nothing of, given
13 we are told that we have been -- we have had disclosed
14 all of the bank accounts.

15 A. I have disclosed all the bank accounts and there's no
16 evidence that it came from any account that you have
17 the knowledge of.

18 Q. I have told you what it says, Mr Premier. I am not
19 going to go over it again.

20 A. But if it came from a different account, it should have
21 had the account number that you say you know nothing of.

22 SIR ROBIN AULD: It is not a question of Mr Milne not
23 knowing anything about it. You should know something
24 about it. These documents came provided, not through
25 any fault of Mr Fitzgerald, yesterday and today and

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1 that's how we find ourselves to be tripping over from
2 one account to another trying to find what should be
3 clearly identifiable and orderly prepared bank
4 statements produced in a timely way, and it has not
5 happened here.

6 A. Well I think appendix 5, number 78 seems to be very
7 clear.

8 SIR ROBIN AULD: Yes, where are we now?

9 MR MILNE: Let's move on with that same account. I can take
10 you to the pages should you wish. Let me summarise what

11 also happens on that bank account. Throughout 2006 and
12 2007 a series of lump sums of money, totalling about
13 half a million dollars, are transferred into that HSBC
14 account from Chalmers & Co in the Turks and Caicos
15 Islands. Were you aware of those payments?

16 A. What page are you on?

17 Q. I will start with page 240.1.

18 A. Yes.

19 Q. That is £124,985 transferred on 6th July 2006 to your
20 bank account?

21 A. Dollars.

22 Q. Dollars, I beg your pardon. 240.4, a further \$100,000
23 transferred to your bank account on 16th October.

24 Page 240.6, a further \$50,000 on 29th November 2006.

25 Page 240.6 again, on 30th November, that year, this is

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1 the following day from the last transfer, another
2 \$80,000 transferred to that account.

3 If we move forward nearly a year, 24th October 2007,
4 this is page 255, \$50,000. Page 257, 20th November
5 2007, another \$50,000. Page 285, 7th March 2008,
6 another \$50,000. What we have is a pattern over
7 a period of time, admittedly, of Chalmers Misick, your
8 brother, forwarding half a million dollars in lump sums
9 to your personal account in Beverly Hills. Am I to
10 understand you are going to say that is all money with
11 the drawdowns on loans?

12 A. You have to ask me about them individually.

13 Q. Where did this money come from?

14 A. That is a different question. This is a mixture of
15 monies that are either loans. As a matter of fact in
16 the appendix 5, which you have, clearly shows where
17 the money came from.

18 Q. It tells me things, it doesn't show where it came from
19 but it tells me things. I need you to tell me as well
20 though?

21 A. It tells you where it comes from.

22 Q. Why would Chalmers Misick be passing the money to you?

23 A. Well, appendix 5 tells you specifically where all of
24 those transactions come from; whether they were loans,
25 whether they were donations, whether they were loans or

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1 whatever. You have it in front of you.

2 Q. You see your brother --

3 A. Now, if you don't believe it, that is a different story.

4 But you have it in front of you.

5 Q. Your brother seems to be the money mover for you. He

6 seems to keep transferring money into your account. Why

7 would he be doing that?

8 A. Sir Robin, there are a number of -- as has been

9 submitted in my -- as I have submitted, in relation to

10 all of the monies that I have gotten, whether they were

11 loans, whether they were income, whether they were

12 commissions, some of these monies were handled by my

13 brother. For example, the sale of -- I have had a house

14 and land in North Caicos for many, many years, of which

15 I have sold part of it. A part of those funds -- my

16 brother was the lawyer and part of those funds went into

17 his account and he distributed some of those funds on my

18 instructions, as a lawyer. That is a mixture of where

19 those funds came from. I have declared all of them.

20 SIR ROBIN AULD: You mean in this schedule?

21 A. Yes.

22 SIR ROBIN AULD: Produced yesterday?

23 A. Yes. I regret that it came in as late as it has but

24 obviously I had to do some research and it is now fully

25 declared.

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1 SIR ROBIN AULD: Can you just give us a short thumbnail

2 sketch of what your brother Chalmers Misick does for

3 you?

4 A. He is a lawyer.

5 SIR ROBIN AULD: Not just as a lawyer, but as a manager of

6 your property and your affairs, and how is it that he is

7 paying from a number of different transactions such

8 large sums of money for you or to you?

9 A. He is a lawyer, he has handled a number of transactions

10 for me. In relation to the monies for the HSBC in

11 Beverly Hills, these were monies that were going to

12 support my ex-wife and her lifestyle.

13 SIR ROBIN AULD: I don't think that really is the point of

14 my question. This is not so much a question of what use

15 the money was being put to but in what way was your

16 brother acting as your banker, if you like, for these

17 purposes?

18 A. As I said, there were a number of transactions. For

19 example, if you would look at the transaction in

20 relation to -- I can take you to number 32, 2005,

21 December 22nd, where a cheque was deposited into
22 Belize Bank, proceeds of sale of a property in
23 North Caicos. He handled the transaction for me and
24 then he made a payment, like all lawyers do.
25 There have been times when, whether it is in

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1 relation to that, that is how money entrusts for me, in
2 the client's account based on some transactions that
3 I have already declared, and he pays directly.
4 SIR ROBIN AULD: But did he hold property of one sort or
5 another in your name or was he simply acting as
6 a conduit whenever he did a lawyer's job in allowing
7 transfer?
8 A. He acted as a lawyer.
9 SIR ROBIN AULD: Always? He didn't hold property in your
10 name or shares in your name or interests in your name?
11 A. Property in my name?
12 SIR ROBIN AULD: Yes.
13 A. Or property in his? I don't understand --
14 SIR ROBIN AULD: I don't know. I am simply trying to
15 understand why it was so much went through him, you see.
16 A. If you look at it, there was a substantial loan that
17 went through him. So he had the funds of the loan.
18 When you look at the transaction, there might have been
19 a number of monies that were sent to him but there were
20 one or two transactions.
21 MR MILNE: Might I seek clarification of one or two points,
22 sir. Since we are looking at your schedule 5, which we
23 now have before us, let's look at page 51. It is one of
24 the last pages of this. It starts at item 41. Let's go
25 down the page slightly to item 50. That is a deposit

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1 into the HSBC account of \$50,375. All you are able to
2 tell us is: deposit by Chalmers Misick and Co.
3 Item 52 is \$100,000. All you are able to tell us is
4 deposited by Chalmers Misick and Co. Further down
5 the page, at 71, \$200,000 put into your Belize Bank
6 account. All you are able to tell us in that case is
7 Belize Bank deposit, benefit of Chalmers and Co,
8 position unclear.
9 Mr Misick, do you not see the problem that
10 the Commission has? We know who is giving you

11 the money. We know who is passing you the money. We
12 want to know why he is doing it and what the source of
13 these considerable lump sums of money ultimately is.
14 A. Out of close to 100 transactions, you pick on one or two
15 and my lawyers, based on the information they have, has
16 prepared this to the best of their ability. There are
17 details, certainly in relation to the source of funds.
18 Q. The details don't tell us anything. The details don't
19 tell us the source of the funds. They just tell us who
20 handled them. The details only tell us which person
21 passed the money to you. It doesn't tell us where
22 the money came from or why you were entitled to it or
23 what its purpose was. Are we to take it you have no
24 explanation for that?
25 MR FITZGERALD: That really is unfair because my learned

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1 friend has had the statement and he knows that at 3.23
2 there is an answer to that question. I think, with
3 respect, my learned friend should indicate whether he
4 accepts the explanation at 3.23 or rejects it.
5 SIR ROBIN AULD: 3.23 of what?
6 MR FITZGERALD: Of the statement, where he explains what the
7 sources were of the funds in the Chalmer Misick account.
8 It is not right to say that he has given no
9 explanation.
10 SIR ROBIN AULD: This is yesterday's statement, is it?
11 MR FITZGERALD: Yes, it was one of the specific questions my
12 learned friend posed and at 3.23:
13 "I have been asked to identify in particular
14 the sources of funds transferred into his account by his
15 brother Chal Misick."
16 Then he deals with that. It is not true to say he
17 has not given an explanation. This is page 18.
18 MR MILNE: If we go to page 3.23, the explanation that is
19 given is:
20 "The funds transferred into my account by my brother
21 Chalm were from his client account."
22 Well, yes, I think that is clear.
23 "He held funds on my behalf, such as, for example,
24 the proceeds of the J&T Banka loan, \$6 million received
25 in May 2007."

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1 I am asking about 2006. So it is before that loan

2 goes through.

3 "He made regular payments into the joint HSBC
4 account held with my ex-wife Lisa-Raye in Beverley
5 Hills, including regular payments of \$100,000.
6 The sources of these funds included the proceeds of the
7 sale of a property in North Caicos."
8 Which is of course the 1.173 million which we have
9 already seen, which had gone into your account:
10 "... and the proceeds of the May 2007 J&T loan, some
11 of which were paid into the joint HSBC account."
12 Again, that post-dates the periods of the items that
13 I am asking about. With respect, these are not items
14 that are not explained by the --
15 A. Go on.
16 Q. The issues you have thrown out in that statement do not
17 explain in any detail at all what it is providing
18 50,000, 100,000 and indeed it is acknowledged as such.
19 No explanation can be provided for very large sums of
20 money on this. Is it simply a case that you go to your
21 brother when you need money and he provides it?
22 A. I stand by my statement at 3.23.
23 SIR ROBIN AULD: I think it is probably time for us all to
24 have a break now. I think Mr Milne wants to know where
25 the money is coming from and this doesn't quite tell us.

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1 I think that is his problem. Perhaps we can come back
2 to it after a short break. No more than 10 minutes,
3 please.
4 (3.15 pm)
5 (A short break)
6 (3.25 pm)
7 SIR ROBIN AULD: Yes, Mr Milne.
8 MR MILNE: Mr Premier, dealing with the same account that we
9 were touching upon before, that is your joint HSBC
10 account in Beverly Hills, on 24th December, that is
11 Christmas 2007, yet again \$50,000 was transferred into
12 that account from a company called Lover Fund Limited in
13 the Turks and Caicos Islands.
14 The Commission asked, what is this company, what
15 connection do you, as Premier, have to it and why was it
16 putting funds into your account?
17 We also asked why there had been no previous
18 declaration or mention of that company in any of the
19 previous documents. Your attorneys informed us, this is
20 on 15 October, on page 294 in the first bundle, that the

21 Lover Fund Limited was your wife's company. You were
22 not a signatory, you cannot obtain bank statements.
23 Were you aware that they had said that?
24 A. Certainly I am not a signatory. Not being a signatory
25 I could not obtain bank statements.

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1 SIR ROBIN AULD: I didn't hear your answer, I am sorry.
2 A. I said I stand by what my attorneys have said. I mean
3 there's -- I am not a signatory on the account.
4 MR MILNE: That wasn't actually what you were being asked at
5 the time though. It was not what your attorneys were
6 being asked; what was your connection between you and
7 this company Lover Fund and why was it putting money
8 into your bank account. Would you like to give us an
9 explanation?
10 A. Lover Fund Limited is a company owned by my ex-wife.
11 Q. Right. It was in fact a company that had been
12 established by your brother, Chal Misick, on behalf of
13 your wife, on 4 September 2007. You knew that though
14 I take it?
15 A. I can't recall all of the details but I knew, I can't
16 remember the details.
17 Q. How much do you remember? Do you remember it being set
18 up?
19 A. I had nothing to do with the set up.
20 Q. Did you ask for it to be set up?
21 A. Did I ask for it to be set up?
22 Q. Yes.
23 A. No.
24 Q. Did your wife ask you to get involved in setting it up?
25 A. No, I think she dealt directly with Chal.

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1 Q. Were you aware that she was dealing directly with Chal?
2 A. I can't recall.
3 Q. Why was she setting up the company, as far as you knew?
4 A. As far as I was told by her, Lover -- she calls her
5 daughter Lover, so Lover Fund was a company that was set
6 up to, as far as I know, to her to have money in --
7 MR MILNE: Mr Premier, forgive me, I don't wish to interrupt
8 your answer, sir. I understand that the recording has
9 failed and we are having problems with the technical
10 equipment.
11 SIR ROBIN AULD: Is this something that can be dealt with

12 quickly?

13 MR MILNE: It may take a couple of minutes.

14 (Pause in proceedings due to technical difficulties)

15 MR MILNE: Mr Premier, before we were interrupted with

16 the technical problem, you were explaining to us,

17 I think, why it was that the company Lover Fund Limited

18 had been set up.

19 A. I was explaining to you that the Lover Fund was not my

20 company. That it was my ex-wife's company and I was

21 explaining to you, based on my recollection, what she

22 told me.

23 Q. And what was that?

24 A. That it had been set up for her daughter. I know

25 that -- what I do know is that she had a written

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1 agreement with the Player's Club to assist them with

2 promotions in relation to a poker tournament and so on

3 and so forth and that she had told me that she had

4 intended to put the proceeds of funds that she made

5 there or wherever as a rainy day fund, whatever it was,

6 for her daughter. That is what I do know.

7 Q. So it was to be a trading company, yes?

8 A. I have told you what I know and I stand by that.

9 Q. Well, come a little further, Mr Premier. Let's just try

10 and clarify matters, shall we? I know you have told us

11 what you remember but you were living with this lady at

12 the time, she was your wife. No doubt you discussed it,

13 no doubt you discussed her ambitions and her hopes and

14 you probably told her your ambitions and your hopes?

15 A. No.

16 Q. It is your choice. She wanted to set up a company and

17 you tell us that it was called Lover Fund because she

18 used the expression "Lover" of your daughter, yes? So

19 what was it going to do to provide money for her

20 daughter?

21 A. Sir Robin, I told you as much as I know about Lover Fund

22 setting up and I stand by it.

23 Q. So you don't know what she was going to do?

24 SIR ROBIN AULD: I thought you said it was something about

25 poker tournaments or something like that?

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1 A. Yes.

2 SIR ROBIN AULD: Did I understand that correctly?
3 A. The statement that I had made, setting out what it was,
4 is what she told me, what I know and based on my
5 recollection --
6 SIR ROBIN AULD: Something to do with the poker business?
7 A. No, she had a contract with the Player's Club, to my
8 knowledge, to assist with the promotion for celebrity
9 poker tournaments and so on and so forth. That is what
10 I said.
11 SIR ROBIN AULD: So that is the nature of the trading
12 anyway?
13 A. That is what I was told.
14 MR MILNE: If that's the case then why was the fund making
15 payments into your bank account, or your joint bank
16 account.
17 A. It was her account.
18 Q. Your joint bank account with her?
19 A. Well --
20 Q. If the money was supposed to be for her daughter then
21 why was it making payments to the two of you?
22 A. It was not making payments to me. As I explained to you
23 earlier, the Beverly Hills account was set up solely to
24 take care of her expense in Los Angeles. I live in the
25 Turks and Caicos.

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1 Q. The company was set up, however, in the Turks and Caicos
2 Islands, Lover Fund Limited.
3 A. I have told you what I know of Lover Fund and I stand by
4 my statement.
5 Q. Having been set up in the Turks and Caicos Islands, did
6 you ever ask how much money this company was making?
7 A. I told you what I know of the Lover Fund and I stand by
8 my statement.
9 Q. Yes, we have heard that answer from you a couple of
10 times, Mr Premier, but with respect this is a different
11 question so perhaps you can give me an answer to it?
12 A. That is my answer.
13 Q. Did you ever discuss or did she ever tell you how much
14 money the company was making?
15 A. I told you what I said about Lover Fund and I stand by
16 my answer.
17 Q. So you are not prepared to answer that question?
18 A. I have answered it.
19 Q. So she didn't tell you what it was that she made?
20 A. I told you, Sir Robin, the extent of what I knew about
21 Lover Fund. I told you the relationship I knew in

22 relation to the contractual relationship she had with
23 the company at the time. I don't know what other plans
24 she might have had in relation to this; I really don't
25 know and so I have told you what I know.

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1 Q. The company was freshly established, newly established
2 on 4 September 2007 at the Turks and Caicos Company
3 Registry. Within a period of ten weeks, that is in fact
4 less than 10 weeks, by 15th November of that year, it
5 had in its bank account a quarter of a million dollars.

6 Now, that is a substantial sum of money by most
7 people's reckoning. Are you aware of what it was that
8 led to that quarter of a million dollars being deposited
9 in the Lover Fund account?

10 A. I was told by her that that is in relation to
11 the contractual arrangement she had with the gentleman
12 in relation to promoting a poker tournament and so
13 forth.

14 Q. So she told you that she had been paid by the Player's
15 Club for promoting a poker tournament, is that correct?

16 A. Yes, I knew of the -- I was told of the relationship.

17 Q. So you were told something more than simply --

18 A. No, I was not told more than -- it is the same thing
19 I have told you in my first statement in terms of trying
20 to explain what I knew about it.

21 Q. But you knew about the quarter of a million dollars?

22 A. I subsequently knew about it, yes.

23 Q. When did you subsequently know about it?

24 A. I can't recall.

25 Q. Right. So why were you putting money into your wife's

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1 HSBC account in Beverly Hills if this lady was making
2 substantial sums of money out of her own business?

3 A. Sorry?

4 Q. You were arranging for your brother to transfer money
5 into the joint account that you had, the HSBC in
6 Beverly Hills. You told us a few minutes ago that that
7 was because your wife essentially spent a lot of money.
8 She clearly made money as well. Why were you funding
9 it?

10 A. I am from the islands, we believe in supporting our
11 families.

12 Q. So you told the Commission that you could not get
13 the statements for this company but the company was only
14 based at your brother's address in Tropicana Plaza,
15 wasn't it? Yes?
16 A. I don't know. The bank statement is something
17 different. I don't know.
18 Q. Did you ask?
19 A. Did I ask what?
20 Q. Did you ask your brother: would I be entitled to see
21 the bank statements?
22 A. No.
23 Q. Did you ask your wife would she be prepared to disclose
24 them?
25 A. No. At the time that I was asked, we were long

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1 separated.
2 Q. No doubt speaking through attorneys though. The request
3 could be made through attorneys?
4 A. Could a request be made through attorneys? I guess it
5 could have been.
6 Q. One other issue I would like to ask you about please,
7 Mr Premier, in relation to your HSBC account in
8 Beverly Hills is this, the two payments totalling some
9 \$60,000 were paid into the HSBC account from a numbered
10 account. That numbered account was notified to your
11 attorneys and they were asked if you could clarify why
12 it should be the case that \$60,000 was coming into your
13 account from this particular one and for clarification
14 it ends 7528. I won't read out the whole number.
15 A. What is the page?
16 Q. It is on page 240.6. Do you have that page?
17 A. 246?
18 Q. 240.6. You see in the middle of the page on that bank
19 statement two deposits, one of \$35,000, one of \$25,000,
20 within three days of each other, totalling \$60,000, were
21 made into your account by telephone transfer and
22 the number is set out there, the number ending 7528,
23 which appears to be an accounting number. Does that
24 ring any bells?
25 A. No.

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1 Q. Page 243, further on, the same account on 21 March 2007.
2 November 2006 were the first two. Then in

3 21 March 2007, the same account puts another \$10,000
4 into your account or into this account.

5 In fairness, subsequent to that, payments were
6 actually made out of your account to that account.

7 A. I am sorry?

8 Q. There were subsequent payments out of your HSBC joint
9 account into the account number that ends 7528.

10 So money is coming in, again not insubstantial
11 amounts, between this account and yours. We asked
12 simply why? Whose is it? Are you able to provide us
13 with an explanation?

14 A. Are you saying you didn't get an explanation from my
15 attorneys?

16 Q. We never got an explanation. Did you make any efforts
17 to try to establish what that account was or what it was
18 about?

19 A. Considering that this is a joint account, I don't know
20 whether she on her own volition has transferred that
21 money from one of her accounts, whether it is her
22 personal account or a business account, to that account
23 and then transferred it back when the funds were there.

24 I don't know but that would be a possibility.
25 I believe that my recollection is that in a letter -- as

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1 a matter of fact I think there is a letter attached
2 where it says that that particular number is my
3 wife's -- ex-wife, that is --

4 MR FITZGERALD: Sir, it is at page 75 of the correspondence
5 bundle. The letter of 18th November 2008. Towards
6 the top of page 75. You will see it there. It is his
7 wife transferring to his wife.

8 MR MILNE: Forgive me, that does not actually mean what it
9 says though:

10 "This refers to our client's account with HSBC."

11 MR FITZGERALD: It is clearly a misprint for "our client's
12 wife account". You can see from what goes on there that
13 it is his wife's account.

14 SIR ROBIN AULD: So there is no access to the account?

15 MR FITZGERALD: Yes. In other words, like the Lover Fund.
16 We respectfully submit it is quite clear what is being
17 said there is this is a transfer from his wife to his
18 wife.

19 MR MILNE: If you go back, please, a couple of pages to
20 page 243. A slightly different topic we touched on
21 briefly before.

22 This account, again the HSBC account in
23 Beverly Hills, receives \$100,000 from a company called
24 My Way Productions 2 Limited?
25 A. Is that 240.3?

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1 Q. 243. That is 23rd March 2007. Two months later on
2 22nd May 2007, a further £100,000 from My Way
3 Productions 2 Limited is moved into the joint HSBC
4 account.
5 22nd May, it is page 246. In due course
6 the Commission wrote to your attorneys and queried why
7 the company, My Way Productions 2, would be transferring
8 \$200,000 into your joint accounts and on the face of it
9 there was no immediate connection and since there has
10 been absolutely no declaration from that company in any
11 form prior to that -- that letter was responded to on
12 15 October 2008 by your attorneys. We have that at
13 page 294 in our bundle. This is an email but it was
14 15 October, 2008.

15 The query was: what is My Way Productions 2, how is
16 it connected? The answer that the Commission was given
17 was this:

18 "My Way Productions 2 Limited, this is an account
19 based or held at the Belize Bank Limited by our client's
20 wife. The company is owned by our client's wife.
21 The account number [and it gives the numbers there].
22 Our client has requested copies of the statement related
23 to this account and we will provide them to you when
24 they are available."

25 On the face of that you are asking your wife for

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1 those statements but not for Lover Fund Limited. Is
2 there any particular reason why that would be the case?
3 Let's leave that Mr Misick --

4 A. Well, why?

5 Q. For the purposes that we are dealing with here --

6 SIR ROBIN AULD: Do you want to give an answer?

7 A. Clearly, there must be a -- the fact is that My Way
8 Productions 2 -- obviously, now that I am a signatory.

9 MR MILNE: It is not your wife's company, it is a joint
10 company isn't it?

11 A. Yes.

12 Q. It is a joint company that was never declared in any of

13 the forms that had been sent in up to that date by
14 yourself?
15 A. I regret that it was not declared at the time.
16 Q. Why wasn't it declared?
17 A. I was going by the best of my recollection --
18 Q. I beg your pardon?
19 A. I regret that it was not declared at the time. At the
20 time, it was an oversight at the time. I was ratified
21 since then.
22 SIR ROBIN AULD: But was it just an omission or was there
23 a reason? Was it an oversight or was there a reason for
24 not preparing it?
25 A. In a way it was an oversight I guess. Because at the

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1 time I was going through a divorce, I was not sure what
2 was the status of it, so at the time it was
3 an oversight.
4 MR MILNE: Mr Premier, obviously one sympathises with
5 anybody going through a divorce, it is a traumatic
6 period.
7 A. That's okay, I don't need your sympathy.
8 Q. Having said that, you were dealing with attorneys, you
9 were dealing with serious matters of a wholly different
10 nature in relation to the Commission of Inquiry. You
11 were no doubt meeting with your attorneys and giving
12 them instructions. They have managed, be that
13 inadvertently or otherwise, to give wholly misleading
14 information to the Commission about the nature of that
15 company. They have stated that you are not connected
16 with it but it is your wife's. How could they have got
17 that impression from you?
18 A. I don't know. I stand by what I said to you earlier.
19 I believe they did subsequently correct that.
20 Q. On page 321, further on, your attorneys again write to
21 the Commission. This letter, no doubt an attempt to
22 clarify what had been said before, was sent on
23 27 October. This time round they provided somewhat
24 different information. They said that it was a company
25 that was jointly owned between yourself and your wife.

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1 That is somewhat closer to the truth, isn't it? Is
2 that correct, that it was jointly owned by the two of

3 you?

4 A. That is correct.

5 Q. Did you correct your attorney's misinformation from

6 the previous letter? Did you become aware they had said

7 something that was incorrect to the Commission?

8 A. At that time what is written here is correct.

9 Q. Yes, I know it is correct, insofar as it has gone. But

10 did you become aware that your attorneys had put

11 misleading information in an earlier letter and did you

12 seek to clarify the matter for them so that they could

13 tell us what was right?

14 A. I can't recall the sequence of events.

15 Q. They clearly have changed their position. Now, putting

16 aside the possibility they went out and did research

17 into this company on their own, we must assume that they

18 did so on the basis of your instructions; that you told

19 them, hang on a second, I do own half of My Way

20 Productions 2 Limited, it is a joint company, it is not

21 simply my wife's. So you must have corrected them, yes?

22 A. Certainly the impression was that it wasn't joint. In

23 October it was ratified. As I said, I regret that

24 the position wasn't made clear earlier but it is what it

25 is.

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1 Q. So you attempt to put this right and, forgive me, we can

2 reasonably conclude that you have attempted to clarify

3 matters and therefore a new letter is written?

4 A. Sorry, I said I didn't -- I can't recall the sequence of

5 events. That's what my answer was.

6 Q. Can you think of any other reason why they would have

7 sought to correct this other than you telling them what

8 the new situation was?

9 A. I cannot recall the sequence of those events.

10 Q. Thank you.

11 MR FITZGERALD: Sir, for the sake of completeness there is

12 actually an earlier letter correcting it on 21st October

13 2008 at page 56 of the correspondence bundle.

14 SIR ROBIN AULD: Thank you.

15 MR MILNE: Let's stay, if we could for a moment, with My Way

16 Productions 2 Limited at page 321, because this is

17 the letter that was written by Misick & Stanbrook on

18 your behalf to the Commission to try to clarify

19 the exact and the truthful relationship between yourself

20 and this company.

21 MR FITZGERALD: Again, I wonder if my learned friend would

22 correct that. The letter that corrected it was written

23 on 21st October 2008, where it states at page 56 of the
24 correspondence bundle:
25 "The company is owned by our client's wife and our

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1 client in equal shares of one share each."
2 It was corrected before that letter on 21st October.
3 MR MILNE: I am happy to agree with that. So there is
4 a correction on the 21st and they went to the trouble of
5 writing again on the 27th to give more details. Did
6 they get these details from you, Mr Premier?
7 A. The letter of the 27th gives more details about a lot of
8 things.
9 Q. It did, but I am not asking about a lot of things. I am
10 asking about My Way Productions 2 Limited. Could we
11 please focus on that. Did you provide the details that
12 are in that letter?
13 A. I can't recall --
14 Q. Where would they have got them from if they didn't get
15 them from you, Mr Premier?
16 A. I can't recall whether they did or not.
17 Q. Do you think they would have just made them up?
18 MR FITZGERALD: My learned friend is not suggesting this is
19 incorrect information.
20 SIR ROBIN AULD: I think Mr Milne's concern is if Mr Misick
21 didn't provide them, he must at least know who did.
22 A. I can guess.
23 SIR ROBIN AULD: But why should you have to guess.
24 A. Because I don't know where they get it from. They are
25 my lawyers. So they have obviously done research and

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1 could have gotten it from the registered company.
2 I can't recall whether I said: yes, it is owned by me,
3 it is registration number da da da.
4 SIR ROBIN AULD: So what's your guess?
5 A. I cannot recall whether I gave the information or not.
6 MR MILNE: You see, Mr Premier, what is said is Mr Misick
7 owns My Way Productions 2 Limited jointly with his wife,
8 which we have already heard. One share each. Nice
9 simple method of dividing a company. It gives
10 a registration number and it cites that the business is
11 entertainment publishing. Shares held, presumably your
12 shares, one. Acquisition costs acquired on

13 incorporation. That is because it was set up by your
14 brother, Chal Misick, and the director, original
15 director, the company we may come back to in due course,
16 Windsor East Limited. You then find that
17 Misick & Stanbrook volunteer a series of assertions
18 about the company.

19 Valuation, none. Debt servicing, none.
20 Encumbrances none. Profits, none. Drawing, none.

21 Forgive me, but that, I would suggest, is
22 the profile of a shelf company that has done no
23 business, that is not active in any true trading
24 fashion, would you agree?

25 A. I don't know.

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1 Q. You are a lawyer, Mr Premier, you are an estate agent,
2 you deal with companies, you own companies, you set up
3 companies and you trade in companies. But you don't
4 know whether that represents a quiet, sleeping, nascent
5 company?

6 A. No.

7 Q. You don't. I would suggest that that is a clear
8 indication that this, My Way Productions 2 Limited,
9 effectively is not doing any business. It is not buying
10 or selling. It is not generating any profits. You are
11 not getting anything from it. Correct? Can you please
12 explain if that is the case, why My Way Productions 2
13 was in that case able to transfer \$200,000 into your
14 HSBC joint account?

15 A. Well, the information in relation to the 6 to 10 that is
16 there, I have no knowledge of where that came from. As
17 I said earlier, I have no knowledge of where any of that
18 came from.

19 Q. But if you knew that there was money going through that
20 account, since you had received money or you have
21 clearly received money from that company going into your
22 joint account in the past, you would know that that was
23 positively misleading. There is money, there is value
24 in this company even if it is only the bank account.
25 Did you never ask what is this company doing if it is

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1 completely quiet?

2 A. Well...

3 Q. It is not trading, it is not doing anything?

4 A. As a matter of fact, this is the first time that I am
5 seeing the description in relation to what is said here.
6 Q. You see, Mr Premier, with the greatest of respect, we,
7 as the Commission, have got a slight problem with this:
8 that we as the Commission are reliant, when you instruct
9 attorneys, we are reliant upon what the attorneys tell
10 us. For better or for worse, we assume that
11 the attorneys are telling us accurate information which
12 reflects the instructions of their client. You are
13 coming here and telling us that effectively there is
14 material being put forward here which is clearly wrong,
15 which is incomplete, which is misleading and is quite
16 frankly positively wrong in some cases?
17 A. That is not what I say.
18 Q. With respect, that is the sense of your evidence to us?
19 A. No. I said I didn't know or can't recall how
20 the information was given. That's what I said.
21 SIR ROBIN AULD: Did the company have any assets? Did it
22 have a net asset value to your knowledge?
23 A. Yes.
24 MR MILNE: What was that?
25 A. I don't know. I don't know what the net asset value is.

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1 I know that the company was a trading company.
2 SIR ROBIN AULD: Then why is there a valuation none in this
3 letter?
4 A. I have absolutely no idea.
5 MR MILNE: You see the document that you have provided to
6 us, we know that not just that 200,000 which came out of
7 My Way Productions 2 but quite a bit of other money went
8 through My Way Productions 2, and we are now being told
9 that some of that money was generated by your wife,
10 wasn't it?
11 A. Yes.
12 Q. And your wife was paid fees?
13 A. Yes.
14 Q. Your wife was paid \$60,000 on 3rd August 2006 and she
15 put it into My Way Productions 2. You were aware of
16 that, weren't you? If we look at your document it is
17 item 48. Do you have that? Page 51 of your bundle.
18 Your schedule 5.
19 A. Yes.
20 Q. Your wife put \$60,000 into that My Way Productions 2 on
21 3rd August 2006. She later put \$90,000 into that
22 account on 10th May 2007.

23 A. Yes.
24 Q. Where did that money come from in both of those cases?
25 A. In relation to that, my wife, ex-wife, had a -- like

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1 Tanya Streeter, like Trevor Ariza, like others who are
2 celebrities have an agreement with the tourist board for
3 certain representation and those fees were based on
4 the contract she had with the tourist board.
5 Q. Your wife was making money -- she made 60,000 and then
6 90,000 -- from contracts with the tourist board?
7 A. Yes.
8 Q. The tourist board is a government agency?
9 A. Yes.
10 Q. Who is the minister in charge of the tourist agency?
11 A. I was.
12 Q. You were. So your wife had a contract with your
13 government department which was paying her \$60,000 and
14 \$90,000 going into My Way Productions 2 Limited. So you
15 knew from that, if from nothing else, that this was
16 a trading company? Now let me come back to the original
17 question. How was it that your attorneys were able to
18 represent My Way Productions 2 Limited as being
19 a company that had no assets, no value, no debt, no
20 encumbrances, no profits and no drawings, because
21 the profits from that company were being paid into
22 accounts to which you had access?
23 MR FITZGERALD: I hesitate to interrupt but I don't see
24 anything about no assets.
25 SIR ROBIN AULD: Valuation none.

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1 MR FITZGERALD: I think that is because shares don't have
2 a value, whatever goes through the account.
3 SIR ROBIN AULD: They would reflect the net asset value of
4 some sort, if there were any.
5 MR FITZGERALD: I understand that they are quite separate
6 things. There is no statement there that there is no
7 money in an account.
8 MR MILNE: You also knew that your wife put in money from
9 Windsor Investment Group via your brother, Chal Misick.
10 Is that not a company that you have some involvement in
11 as well?
12 A. Yes.
13 Q. What was My Way Productions 2 Limited doing for

14 the Windsor Investment Group?
15 A. There were other monies that were entered into
16 the account that had -- that was not attributed to my
17 ex-wife.
18 Q. So you were putting money into it?
19 A. Yes.
20 Q. And she was putting money into it?
21 A. Yes.
22 Q. Why?
23 A. What do you mean, why?
24 Q. Why were you putting money into it?
25 A. I was putting -- I put money into it because you put

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1 money into accounts. That is what you do. And as you
2 can see, most of the monies that run into that account
3 eventually went to her or went to the joint account in
4 Los Angeles.
5 Q. Why not just give her a cheque? Why not just transfer
6 money from your account? Why is there a company called
7 My Way Productions 2 Limited simply so that your wife
8 can do some work for the tourist board?
9 A. I am sorry?
10 Q. Why do you need a company --
11 A. She formed the company. She has a company called My Way
12 Productions in the US where she does -- whether it is
13 her entertainment or acting, and so the company My Way
14 Productions 2 Limited was part and parcel, I guess, of
15 that.
16 Q. Why is it then, if this is simply an offshoot of
17 a company that she runs in the US, you are a partner in
18 it and you are putting money into it from completely
19 different sources?
20 A. Because ultimately the money that was put into it was
21 used to support her in the US.
22 Q. But why not just pay it to her?
23 A. She was in the States.
24 Q. You could send a cheque. Bank transfers can be done in
25 a matter of minutes. Why is it that there needed to be

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1 payments, not to Lisa-Raye McCoy or Lisa-Raye Misick,
2 but to My Way Productions 2 Limited? What was
3 the purpose of that?

4 A. I think we are going round in circles here.

5 Q. Let me suggest one to you and you can tell me if you
6 agree with this or not. Did you not want the public to
7 know that the Turks & Caicos government, and
8 particularly the tourist board for which you were
9 a minister, was making payments to your wife?

10 A. No, that was public knowledge.

11 Q. Right. You were happy for them to know that you were
12 employing your wife to do this sort of work?

13 A. Well, it was public knowledge that Lisa-Raye McCoy,
14 Trevor Ariza, Tanya Streeter and I can't remember
15 the name of the other lady, were so-called celebrities
16 who represent the face of the Turks & Caicos,
17 like Rhianna represents the face of Barbados and so on
18 and so forth. The Tanya Streeter one was done under
19 the previous administration. So this is not something
20 new. She did bring value and she did perform.

21 Q. Let's look again at your schedule 5. On 3rd November
22 2006, we are going back to the position that we had
23 discussed earlier on today about donations, about gifts
24 and about the failure to declare donations and gifts.
25 You got a donation, so you tell us, of \$100,000 from

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1 Caicos Construction Management and Development Limited.
2 What was that for?

3 A. It was a political donation for me.

4 Q. Political?

5 A. Donation to me.

6 Q. What do you understand a political donation then is to
7 be spent upon?

8 A. What I understand it to be spent upon?

9 Q. Yes. What is the purpose of a political donation?

10 A. The purpose of a political donation in
11 the Turks & Caicos might be different from the purpose
12 of a political donation in the UK, so you have to put it
13 in those two different perspectives. The purpose of
14 a political donation in the Turks & Caicos is to assist
15 the person receiving it with his or her political
16 ambitions but also in most cases when donations are
17 given to individuals, it is to use at your discretion,
18 because you use your personal money to advance your
19 political ambition, and so donations is sort of help to
20 supplement that.

21 MR MILNE: What is political about that, Mr Misick? What is
22 in the least bit political about that? Here is some
23 money to use for yourself. That is not a political

24 donation. It is a gift, possibly.
25 A. You are obviously not a Caribbean politician.

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1 Q. I am not a Caribbean politician. I think we will agree
2 on that. But I am still waiting to hear from
3 a Caribbean politician, with respect, sir, what it is
4 about \$100,000 from a construction company that has
5 a political angle to it when it is put into his wife's
6 company so she can go and spend it in the USA. That
7 appears to be what has happened here. Explain it to me
8 again, please.
9 A. I have explained it to you, to the best of my knowledge.
10 And I stand by my explanation.
11 Q. I see. So there is no distinction of any substance
12 between a personal gift and a political gift? It is for
13 your own use to use at your complete discretion. If you
14 want to spend it on promoting your party, fine. If you
15 want to spend it on buying a Bentley, fine. If you want
16 to spend it on cakes and beer, that is your choice. Is
17 that what it comes down to?
18 A. I have spent since the 1980s hundreds of thousands of my
19 own money on the PNP party, my party. I, with at least
20 one or two other ministers, are personally liable to the
21 tune of \$1.5 million for a loan in relation to my party.
22 So the matter of those funds are sometimes intertwined.
23 That is just the reality of politics. Now if you don't
24 accept my answer, I understand but that's my answer.
25 Q. Please could you define for me the difference in that

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1 case between a secret political donation made into
2 a private account for use in non-political purposes, for
3 non-political aims. What is the difference between that
4 and a bribe?
5 A. What?
6 Q. What is the difference between a political donation of
7 this sort and a bribe?
8 A. A bribe is illegal. Political contribution is not.
9 SIR ROBIN AULD: Mr Premier, forgive me because I think we
10 ought to get to the heart of this. Why did this company
11 pay this money to you? Why?
12 A. The company, as I explained, paid this money to me as
13 a political contribution to me for the political

14 donation/gift, whatever it was to me.
15 SIR ROBIN AULD: But why should they do that?
16 A. This was months before the February 2007 election.
17 Certainly in the Turks & Caicos a number of political
18 contributions are given sometimes to a party, political
19 contributions/gifts to parties and to individuals.
20 There is no campaign finance laws that regulate strictly
21 how that is spent. So when you get a campaign
22 contribution, just like how you spend your own money on
23 the campaign, sometimes you spend the contribution that
24 you get on yourself. It is all intertwined.
25 SIR ROBIN AULD: I am concerned with their motive as well as

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1 yours. What contractual relations did Caicos
2 Construction Management and Development Limited have at
3 the time of this payment or subsequently with any organ
4 of the TCI government?
5 A. None to my knowledge.
6 SIR ROBIN AULD: Never?
7 A. None to my knowledge.
8 SIR ROBIN AULD: They had not any contracts?
9 A. Not to my knowledge.
10 SIR ROBIN AULD: In existence or in prospect?
11 A. Not to my knowledge.
12 SIR ROBIN AULD: So they never got anything for their money?
13 A. It was a political contribution.
14 SIR ROBIN AULD: Yes, I see.
15 MR MILNE: Page 364, please, Mr Premier. It should be
16 the second bundle, I think.
17 SIR ROBIN AULD: Is that 2?
18 MR MILNE: Volume 2. We see there, page 364, a declaration
19 of trust: your brother T Chal Misick holds one ordinary
20 share in My Way Productions 2 Limited for you.
21 I mention it only in passing because that appears to
22 have been signed at 2nd or 8th January 2007.
23 Are you aware of this, though, and I am now using
24 your bundle of correspondence which you have. I am
25 looking at page 118 of that little bundle. Having

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1 informed the Commission of the, I would suggest,
2 sleeping nature of My Way Productions 2 Limited, and
3 having failed to declare it in any of your previous
4 declarations to the Register of Interests or indeed to

5 the Commission before that omission was made in October,
6 on 9th January, that is Friday of last week for
7 the first time, your attorneys contacted the Commission
8 and told the Commission this, that during the course of
9 reviewing the summons, that is the summons we served
10 upon you, dated 17th December 2008 and of various
11 disclosures made to the Commission:

12 "... our client has pointed out that My Way
13 [presumably My Way Productions 2 Limited] holds an
14 interest in the following entities: Z & M Media LLC, Hip
15 Hop Global Media LLC and TCU LLC."

16 It would appear that My Way Productions 2 Limited
17 has bought 25 per cent of a company called Z & M Media
18 Limited. Z & M was incorporated in March 2006. It was
19 the publisher of a magazine known as Hip Hop Weekly and
20 My Way Productions 2, that is the company you owned 50
21 per cent of, paid out \$833,000 for that 25 per cent
22 interest.

23 Am I right in thinking, though, that when you were
24 asked about companies, you forgot that you owned
25 a company that had a 25 per cent share in a hip hop

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1 magazine for which you paid nearly \$1 million?

2 A. Sorry, I don't have 18. (Pause)

3 MR FITZGERALD: The reference is at page 110 of the
4 correspondence bundle. As I understand it, my learned
5 friend is referring to --

6 MR MILNE: Page 118.

7 MR FITZGERALD: I have it at page 110. Is it the e-mail of
8 January 9th?

9 MR MILNE: January 9th.

10 MR FITZGERALD: Unless the numbering has gone wonky in -- it
11 is towards the end of the bundle, obviously.

12 MR MILNE: It has been copied twice because it was
13 forwarded, and we have -- both copies have been put in.
14 I am quoting from the later one --

15 MR FITZGERALD: It is page 110 or page 118.

16 MR MILNE: The point remains the same. 9th January, for
17 the first time, your attorneys seem to have been
18 informed that your company, My Way Productions 2, which
19 initially we were told you had no share in, then we were
20 told you had a half share but it was not doing anything.
21 Now we are told it owns \$833,000 worth of a hip hop
22 magazine. It also bought \$10,000 worth of another
23 company which is -- 833,000 for Z & M. Hip Hop Global

24 was acquired for \$10,000 and My Times 2 LLC owned by
25 yourself and your wife, which owns 25 per cent of class

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1 B interests in TCU, although it doesn't specify what
2 that was other than it cost \$362,500.

3 So, My Way Productions 2 Limited, described as
4 having effectively no debts, no encumbrances, not in any
5 great importance, owns more than \$1 million worth of
6 shares in other companies in the US which you would have
7 known about, because these appear to be relatively
8 recent transactions. Why is it that none of this was
9 declared to the Commission of Inquiry? Why was it that
10 we had to come and ask what is all this about?

11 Can you explain?

12 A. I don't think -- you certainly didn't ask what is all of
13 that about. This was information that certainly at the
14 time the disclosure progresses, at the time of
15 the first -- because I am not involved on a hands-on
16 basis or daily basis way.

17 MR MILNE: I am sorry, Mr Premier, I can't hear your
18 answers.

19 A. At the time, I did not recall, but I certainly had
20 disclosure to my attorneys way in advance of
21 January 9th. So it is not something that you -- you
22 said it was something you came and asked what this is
23 about. That is not -- I do not think that is the case.
24 Certainly I disclosed to my attorneys.

25 Q. What I am suggesting, Mr Premier, is this: we had to ask

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1 your attorneys what is My Way Productions 2 Limited
2 about and we were given, I would suggest, two separate
3 misleading answers in the course of the correspondence,
4 until finally this material has come through at the
5 eleventh hour, the last week literally before we come to
6 the Turks & Caicos to ask the questions in person.

7 A. Well, again I regret that some of this disclosure came
8 late, but nevertheless it is disclosed.

9 MR MILNE: Was it ever going to be disclosed to the Register
10 of Interests, since My Way Productions 2, although you
11 have owned a share since January 2007, doesn't crop up
12 in any of the Register of Interests placed before
13 the House of Assembly?

14 A. It might have been, I can't -- I am sure at the next

15 Register of Interest it might have been.

16 Q. It might have been, okay.

17 Let's deal with another one. U-Hotels Holding
18 Limited, it turns out in June of this year, we are told
19 on 9th January of this year, your company,
20 Grace Bay Plaza Limited, acquired 50 per cent of
21 an interest in a company called U-Hotels Holding Limited
22 for which it paid \$435,000.

23 That has not been declared in any of the documents
24 to the Commission before Friday of last week. Is there
25 a reason why that happened?

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1 A. That's not factually correct. U-Hotels Limited is
2 a company that owns a parcel of land behind the Grace
3 Bay Plaza, of which I -- and Grace Bay Plaza Limited
4 owns 50 per cent of U-Hotels Limited which bought
5 a parcel for 435,000. So 50 per cent of that would be
6 the amount that Grace Bay Plaza Limited would have paid
7 for it.

8 Q. So were you going to declare that?

9 A. To the registry?

10 Q. Well to anybody.

11 A. It is declared.

12 Q. Right. Given that this happened in June of last year,
13 well before the Commission even started work, why wasn't
14 it declared earlier? It would have been fresh in your
15 mind, the money would have gone out within a matter of
16 weeks prior to the request for information?

17 A. Well, it is again a private property that was bought.
18 I regret that it was not declared earlier. It is now
19 declared.

20 Q. Sir, I propose to move on to a whole new topic which
21 will probably take quite a while. I am content to make
22 a start if you wish or I can make a start afresh
23 tomorrow morning?

24 SIR ROBIN AULD: No, I think probably everybody has had
25 enough now this afternoon, Mr Milne. There is a matter

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1 that does concern a lot of people here though and that
2 is our programme. Perhaps we could bring the present
3 examination of the Premier to an end for today but it
4 looks to me as if you may not complete your examination

5 of him tomorrow, which is the present programme. Am
6 I right or wrong about that?

7 MR MILNE: I have taken the opportunity to discuss my
8 examination with my learned friend. It is clear from
9 our conversation that as and when I come to a close,
10 that my learned friend will also have a number of
11 questions he will want to put. I think realistically it
12 will not be possible for us to take any other witnesses
13 tomorrow save for the Premier.

14 Now that means that whilst we may be able to make
15 some arrangements for Friday, I am a little reluctant to
16 commit too far ahead at this stage. Certainly as far as
17 those other witnesses who were lined up, that is
18 a number of civil servants who are listed in
19 the programme, I don't know if it will be a relief or a
20 torment to them to know that they may have to wait
21 a further day.

22 MR FITZGERALD: Sir, I wonder if I can just ask for
23 clarification. Does that mean that my learned friend
24 Mr Milne will take the whole of tomorrow and any
25 re-examination -- further questioning by myself will

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1 take place on Thursday? I just invite my learned friend
2 for clarification.

3 MR MILNE: I think I will be at least a substantial part of
4 tomorrow, possibly all of tomorrow.

5 SIR ROBIN AULD: I would have expected that, I think, at the
6 rate we are going. Mr Fitzgerald, how long, if it is
7 possible for you to indicate now, do you think you might
8 want to be with your lay client?

9 MR FITZGERALD: Well, sir, I think I will need at least half
10 a day probably. Obviously I don't know what my learned
11 friend is going to ask him tomorrow. But it may be that
12 I will need half a day.

13 SIR ROBIN AULD: Then there's always the possibility that
14 other parties who are represented may want to ask
15 the Premier some questions, I don't know, and then
16 Mr Milne would have an opportunity to ask further
17 closing questions. So we are effectively thinking of
18 another full day, aren't we?

19 MR FITZGERALD: Yes, until close of play Thursday, I think
20 so.

21 SIR ROBIN AULD: How are you placed on Thursday, Mr Premier?

22 A. I am in your hands. I am available. This is important.

23 SIR ROBIN AULD: I am sorry for the inconvenience. It is
24 taking that much longer but these things happen.

25 Well, would it be right to leave it in this way:

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1 that we anticipate that the Premier will be in
2 the witness box tomorrow and the following day and that
3 subject to final decisions made this evening, it is
4 unlikely that we shall be expecting to call evidence
5 from the other witnesses who are listed to follow
6 tomorrow or possibly Mr Chal Misick on the Thursday,
7 although it may be that he could be here contingently
8 just in case we can fit him in, if that's convenient.
9 I don't know whether Mr Chal Misick is here but if he
10 is, that's how I think we might want to leave it. Thank
11 you very much. 10.30, tomorrow morning.

12 (4.30 pm)

13 (The court adjourned until 10.30 pm
14 on Wednesday, 14th January 2009)

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