

1 Friday, 16th January 2008

2 (10.30 am)

3 HONOURABLE PREMIER MICHAEL MISICK (continued)

4 SIR ROBIN AULD: Good morning, everybody. Yes,

5 Mr Fitzgerald.

6 MR FITZGERALD: Sir, there is one matter I should raise at

7 the outset, and that is I understand that the questions

8 that are of particular concern to the Commission have

9 been raised by my learned friend. He has indicated that

10 there is one exception which is in relation to the jet,

11 that he had intended to ask questions about that, but

12 didn't do so.

13 SIR ROBIN AULD: He may come back on certain matters. If

14 there's anything new that causes a difficulty for you,

15 you will have a opportunity.

16 MR FITZGERALD: I will obviously try to cover that. Apart

17 from that, can I take it that the other matters in

18 which -- in relation to which the statement deals with,

19 and he has been asked no questions, that means they are

20 not of continuing concern?

21 SIR ROBIN AULD: No, it doesn't. The statement was served

22 very late. Mr Milne had to prepare in great care for

23 the -- and he may or may not have picked up everything.

24 MR FITZGERALD: So I may have to cover those matters.

25 SIR ROBIN AULD: You may have to. They have to be put

1 alongside the vast amount of documentary material that
2 we have still coming in, so we can't conduct it in
3 the time, unfortunately, that we could at trial.
4 MR FITZGERALD: I am not trying to be adversarial, I am just
5 trying to understand what the scope is of what I still
6 need to deal with, but does that mean that of the issues
7 that have been highlighted, the nine issues that were
8 originally highlighted and we have sought to address in
9 the statement, it would be prudent to cover the main
10 ones?

11 SIR ROBIN AULD: I would take it that if Mr Premier has
12 anything to add to his written statement, then you might
13 like to ask him to do so, if you think it necessary, but
14 if he simply wants to stand by his statement, then there
15 is no need to go through it again to that extent.

16 MR FITZGERALD: It may be that we can shorten matters
17 a little bit in that way. If I can then refer him to
18 bits of the statement and see whether we need to expand.

19 SIR ROBIN AULD: Yes, of course.

20 Re-examination by MR FITZGERALD

21 MR FITZGERALD: Premier, can I first of all, before going to
22 your statement, just ask you about a suggestion that was
23 made in questioning by my learned friend, and
24 essentially the suggestion that he was making was that
25 you had some other undeclared bank accounts, apart from

1 those you have set out in appendix 1.

2 Now, perhaps, if I can just ask you to look at
3 appendix 1, which is at page 46. A. It is page 46 of
4 bundle A. So it is at the back of your statement.

5 Just looking at the list there of the banks, are
6 those the bank accounts that you have control of?

7 A. Yes.

8 Q. As to the suggestion that there is some other bank
9 account that you have not disclosed to the Commission
10 that you have control over, is that true or false?

11 A. It is false.

12 Q. Now, I want you to go on from there to look at
13 a schedule prepared by my learned friend for
14 the Commission at volume 3, page 1141. It is right at
15 the back of the black volume 3.

16 Just looking at that schedule there, it is right at
17 the very back, page 1141.

18 A. Yes. I have it.

19 SIR ROBIN AULD: Can we just identify what this is,
20 Mr Fitzgerald?

21 MR FITZGERALD: It is headed "Credits Applied to Centurion
22 Amex", and it is a schedule prepared by counsel for the
23 Commission.

24 Do you see there that there are credits during
25 the period from March 2006 to February 2007?

1 A. Yes.

2 Q. Totalling about \$1 million. Then there are further
3 credits from March 2008 to October 2008, totalling about
4 696,000. So one has about 700,000 there?

5 A. Yes.

6 Q. So the total of credits applied to the Centurion Amex is
7 about 1.7 million?

8 A. Yes, that is true.

9 Q. Just dealing with the Arling Anstalt loan, we know that
10 you originally borrowed 1 million and then were given
11 a facility to borrow a further 1 million. In fact, how
12 much did you draw down on the Arling Anstalt loan?

13 A. Approximately 1.7 million.

14 Q. So in terms of the drawings, they would match the sums
15 that we have there, 1.7 million?

16 A. Approximately, yes.

17 Q. To the suggestion that you were drawing down funds from
18 Arling Anstalt -- the Arling Anstalt loan and applying
19 them to some other purpose than meeting your Centurion
20 Amex payments, what would you say?

21 A. That is completely not the case.

22 SIR ROBIN AULD: What documentation do we have for the 1.7
23 figure of which the Premier spoke of?

24 MR FITZGERALD: We have the 2 million, but it has always
25 been his case that 1.7 was all that he had drawn down.

1 SIR ROBIN AULD: How do we identify in documentary form

2 the drawings of 1.7 from Arling Anstalt?

3 MR FITZGERALD: I think we can do that by way of the

4 drawings of which there is advice. The point I am

5 trying to establish at this moment is, were the drawings

6 from the Arling Anstalt loan applied to any other

7 purpose than paying off the Centurion Amex?

8 A. No.

9 Q. I want to ask you some questions about that Centurion

10 Amex generally. Then turn to the advice of drawings

11 that are at volume 2, page 396. Perhaps if we take up

12 volume 2, page 396, and then I ask you the general

13 questions first. Volume 2, page 396, we have the advice

14 of drawings. There is a series of drawings from there

15 onwards.

16 SIR ROBIN AULD: Thank you.

17 MR FITZGERALD: First of all, the Centurion card, I think

18 you got it around March 2006, is that right?

19 A. I think so, roughly. Yes.

20 Q. Which was the bank that issued you with a card?

21 A. J&T Banka.

22 Q. That is J&T Banka in --

23 A. In the Czech Republic.

24 Q. Were the bills directed to you at the J&T Banka?

25 A. Yes.

1 Q. Did you make your Centurion Amex payments on that card

2 to the J&T Banka?

3 A. Yes, I did.

4 Q. We have got a series of references in these drawings.

5 If we take the first advice of drawing, to an account.

6 So one sees advice of drawing at page 396. Reference is

7 made to the loan agreement of Arling Anstalt and

8 yourself. Amount of the loan: 77,000 to be drawn down.

9 Date of loan drawdown 29th August 2006 and then name of

10 the bank, J&T Banka, and then account 210587/5800.

11 Do you see that?

12 A. Yes.

13 Q. Now, what did you understand or what do you understand

14 that account to be? That 210587/5800?

15 A. First in relation to that, in relation to the bills that

16 comes to me from J&T Banka, I was always asked to send

17 the payment to this information. So my understanding

18 was that that is the account of the bank in which they

19 want me to send my credit card payment.

20 SIR ROBIN AULD: Is this document at which we are looking,

21 page 396, a copy of an advice that was sent to you at

22 the time for you to make payment?

23 A. No.

24 SIR ROBIN AULD: It has been provided by J&T Banka for

25 the purpose of this Inquiry, has it?

1 A. This is in relation to the drawdown from Arling that
2 provide me --
3 SIR ROBIN AULD: Provided by them for the purpose of this
4 Inquiry.
5 A. For the purpose of knowing how much I've drawn down.
6 SIR ROBIN AULD: I don't want to know what it is for.
7 I want to know what it is. Is it a contemporaneous
8 document sent to you at the time advising you to make
9 payment, or is it a copy of the document provided by
10 Arling Anstalt for this Inquiry?
11 A. My understanding is, because I had a running loan, it is
12 for me to know what has been drawn from the loan.
13 SIR ROBIN AULD: I will try again. Of what document is this
14 a copy, a document provided to you?
15 A. Yes.
16 SIR ROBIN AULD: When?
17 A. I can't remember exactly when.
18 SIR ROBIN AULD: Was it provided at the time in order that
19 you could make payment or was it provided for
20 the purpose of this Inquiry?
21 A. It was provided -- not for the purpose of me to make
22 payment because the bill for payment would come from
23 J&T Banka directly.
24 SIR ROBIN AULD: Mr Fitzgerald, can you -- help with this.
25 MR FITZGERALD: I think these advices of the drawings were

1 provided at his request by Arling Anstalt to indicate
2 what the various drawings were.
3 SIR ROBIN AULD: For the Inquiry?
4 MR FITZGERALD: Yes.
5 SIR ROBIN AULD: That is what I wondered. Thank you. So
6 all of these are advices provided on your instructions
7 for the purpose of the Inquiry?
8 A. I guess it is.
9 MR FITZGERALD: One sees -- just dealing with that account
10 number -- was that the account to which you were
11 instructed to direct the payments?
12 A. Yes.
13 Q. By the bank?
14 A. Yes.
15 Q. I think you have seen this morning a letter from
16 the bank addressed to my instructing attorney,
17 Akierra Missick. So do you have that? It is on your
18 desk.
19 It is signed by two of the directors of
20 the J&T Banka and if I can just read what it says:
21 "We would like to inform you that account number
22 210587/5800 is an internal account and is solely used to
23 meet the expenses incurred as a result of the use of
24 the Centurion card."
25 Is that your understanding of what that account is?

1 A. Yes.

2 Q. That is to say, just so that we get it clear, is that
3 an account from which you were able to draw money
4 yourself?

5 A. No.

6 Q. Apart from being directed to make payments into that
7 account, did you have any use of it yourself or any
8 control over it?

9 A. No.

10 Q. As to the fact that some of these payments that were --
11 the drawings that were directed to that account were
12 larger than the monthly demands being made by
13 American Express, Centurion, can you help us about that?
14 Do you see some of them for a quarter of a million and
15 my learned friend showed you that at that particular
16 month, the requirement may have only been for, let's
17 say, 50,000?

18 A. There would have been the bills for a period. So it
19 could have been a few months. I could have been behind
20 on my payment and it would have been more than one month
21 of payment. It would have been more than one month.

22 Q. As we go through page 396, if you turn over to 397,
23 again the account is 2010587/5800 and again at page 398,
24 the drawing on 20 July, to that same account.

25 Was it your understanding that this was the account

1 to which you were being instructed to make the payments?

2 A. Yes.

3 Q. And that then the J&T Banka, who had provided you with

4 a card, were settling the account with American Express?

5 A. Yes.

6 Q. Then, just one further matter --

7 SIR ROBIN AULD: Are you leaving these advices now,

8 Mr Fitzgerald?

9 MR FITZGERALD: There is one further matter that arises out

10 of them.

11 SIR ROBIN AULD: I don't want to interrupt your dealing with

12 them.

13 MR FITZGERALD: It is in volume 3 that I have another

14 question. Sir, do you want to ask a question?

15 SIR ROBIN AULD: I didn't want to interrupt your passage

16 with this particular matter. When you finish, I have

17 an enquiry to make about one document.

18 MR FITZGERALD: Yes, if I can just finish. Volume 3,

19 page 1037.

20 SIR ROBIN AULD: Which colour?

21 MR FITZGERALD: It is black.

22 Can you take volume 3?

23 A. Yes.

24 Q. Do you have page 1037?

25 A. Yes.

1 Q. Do you see there a request addressed:

2 "Dear Mr Misick, we are asking you for a settlement,
3 a debit of the charge card, American Express, for
4 the last period amounting to US\$42,728.57. Please
5 settle the debt till the end of this month at
6 the account number..."

7 One sees that account number again, which ends
8 587/5800. Do you see?

9 A. Yes.

10 Q. So there you were being told by the J&T Banka to settle
11 the American Express charge card debt and to direct your
12 payment to that account at the bank?

13 A. Yes.

14 Q. Is that the sort of demand that you were receiving from
15 the J&T Banka?

16 A. Yes.

17 Q. Make the payments and make them to this account at the
18 bank?

19 A. Yes, that is what it was.

20 Q. So do you fit in with it being an internal account that
21 the bank held to make payments for the American Express?

22 A. Yes, that was always my understanding.

23 MR FITZGERALD: Sir, I think there was some further matter?

24 SIR ROBIN AULD: Yes, it was an enquiry that cropped up
25 a little earlier. Could you look, Mr Premier, at

1 pages 400 and 401 in black 2, please.

2 I think the last, or getting on towards the end of
3 the last of these advices of drawings. 401 is an advice
4 of drawing of 30th September 2008 from the account to
5 which you have just been referring, 20010587/5800.

6 The next one which bears an even date,
7 30th September 2008, is an advice of drawing against
8 what seems to be a different account with
9 Arling Anstalt, 20134111/5800.

10 What account was that? Attracting an advice of
11 drawing on the same date for a different sum, and with
12 a different IBAN number as well.

13 A. I am not sure. I would have to check with the bank to
14 see what's that.

15 (10.45 am)

16 SIR ROBIN AULD: It looks, doesn't it, as if on this date,
17 30th September 2008, you drew two sums from accounts,
18 one in the sum of \$230,000-odd and the other in the sum
19 of \$300,000-odd, but from two different accounts with
20 the bank.

21 A. Yes.

22 SIR ROBIN AULD: Perhaps --

23 MR FITZGERALD: Did you have any other account?

24 A. No, I have no other account, and basically I -- in
25 relation to instructions from J&T Banka, I would send

1 the money wherever they asked me to send it to settle my
2 credit card.

3 SIR ROBIN AULD: I noted you said you will provide
4 the information and we shall look out for it, and if it
5 is not provided, we will write to you about it.

6 A. I am sure.

7 MR FITZGERALD: As far as you were concerned, were your
8 dealings with the J&T Banka solely concerned, until
9 the time of the loan, that is, with the servicing of
10 your Centurion card?

11 A. Yes.

12 Q. Of course there came a time when you then raised a loan
13 through them and that was paid straight into -- that was
14 paid over and you credited that to your brother's
15 account, is that right?

16 A. To his legal account, yes.

17 Q. That concludes what I wanted to ask you about this
18 question of whether there was any other account.

19 SIR ROBIN AULD: Thank you.

20 MR FITZGERALD: If I can move on now, Mr Premier, to your
21 statement and just go through certain key bits of your
22 statement that have arisen in the course of questioning.

23 Now, at part 1 of your statement, pages 1 to 2, you
24 deal with the question of governmental control over
25 budgets and you set out your response to the complaint

1 of overspending at 1.2.

2 That is to say that all the budgets, you relied on
3 your advice from your finance minister and the various
4 permanent secretaries and from the chief economist, is
5 that right?

6 A. Yes.

7 Q. You have already dealt, it should be 1.3, sir, at the
8 bottom of page 2. You have dealt with the question of
9 ministerial salaries and your own salary and
10 the comparison with the Governor's salary. So I am not
11 going to spend any more time on that.

12 A. But I think it is important to note that the -- in
13 relation to financial management from the public,
14 a public service standpoint, although as Premier I take
15 full responsibility for whatever happens, each ministry
16 has an accounting officer, a permanent secretary that is
17 responsible for the management of their various budgets.
18 And any overspending or in relation to that is something
19 that they are liable for, and Cabinet ultimately
20 collectively, the direct day-to-day management of the
21 country finances is obviously in the hands of the
22 permanent secretary for finance and the minister of
23 finance and ultimately Cabinet and through Parliament.

24 SIR ROBIN AULD: Each ministry has its own accounting
25 officer who is responsible to his minister, who is

1 responsible to the Cabinet.

2 A. To the Cabinet and ultimately to Parliament.

3 MR FITZGERALD: I want to move on to part 2, which is about

4 the ministerial use of public funds and in particular

5 tourism. And particular questions have been asked about

6 the tourism budget and one particular one was raised in

7 the course of questioning, that is to say the payment by

8 Kerwin Media to your wife for her work promoting

9 the islands.

10 Can I just ask you to go through the sequence of

11 events there. Is this right, I think it is common

12 ground that Kerwin Media were hired to promote

13 the islands as a tourist destination?

14 A. Kerwin Media was hired by the tourist board as

15 the country's advertising agency to assist in promoting

16 the island. That is correct.

17 Q. So that was a decision by the tourist board?

18 A. Yes.

19 Q. Obviously you were aware of that decision?

20 A. Absolutely.

21 Q. Did you take that decision personally?

22 A. No.

23 Q. The selection of Kerwin Media was for the promotion of

24 the islands generally and as a tourist destination in

25 particular, is that right?

1 A. Yes.

2 Q. We now know that Kerwin Media then engaged the services

3 of your wife to be the face of the Turks & Caicos

4 Islands on numerous advertisement posters?

5 A. Yes.

6 Q. All over the world?

7 A. Yes.

8 Q. Did you demand that or request that or say, make my wife

9 the face of tourism?

10 A. No.

11 Q. Did you take that decision or did Kerwin Media take that

12 decision?

13 A. To my knowledge, Kerwin Media took that decision.

14 Q. Your wife, just to set the context, your wife had acted

15 in a number of sitcoms in the United States, is that

16 right?

17 A. Yes.

18 Q. And films?

19 A. Yes.

20 Q. And she had a contract with Kerwin Media, is that right?

21 A. Yes.

22 Q. Did you negotiate the terms of that contract?

23 A. No.

24 Q. Or did she?

25 A. I don't know but certainly I didn't.

1 Q. The payments made by Kerwin Media to your wife for her
2 part in the advertising campaign, were they payments
3 that you demanded or required or in any way intervened?

4 A. No.

5 Q. We know that those payments were made and my learned
6 friend's criticism was, well, Kerwin Media would, in due
7 course, be charging for their whole campaign, the Turks
8 & Caicos islands.

9 In your view, was the idea of having a campaign with
10 sponsors such as Kerwin Media to advertise these islands
11 a good idea?

12 A. Well, the campaign itself was a very successful campaign
13 and as a result of that campaign we did increase our
14 tourism numbers significantly.

15 Q. As to the question of the tourism budget being
16 overspent, can you give an explanation of why there was
17 an overspend on the ministry of tourism's budget or
18 the board of tourism budget?

19 A. As I said yesterday, historically the tourism budget has
20 always been overspent. That is not an excuse for it to
21 continue for it to be overspent. The tourist board
22 itself is in charge of its budget. In tourism sometimes
23 there are unforeseen activities that comes up during
24 the course of the year that may not have been planned
25 for. So that is probably part of it but also sort of

1 financial management or control at the tourist board
2 itself has been an issue.

3 Q. Were there particular projects and events that took
4 place during this period?

5 A. Well, the number of events that has taken place, notably
6 the music festival and that is certainly one of the
7 events that seem to, in spite of what is budgeted for
8 it, consistently go over budget but again that is
9 managed by the tourist board and under -- I believe
10 there is a company that has a contract who produce
11 the music festival, but the festival itself is managed
12 by the tourist board and the tourist board officials.

13 SIR ROBIN AULD: Before you leave tourism, are you about to,
14 Mr Fitzgerald?

15 MR FITZGERALD: Yes, I was going to move on.

16 SIR ROBIN AULD: Just so that I can get the chronology
17 right. I have a recollection that there had been or was
18 another lady involved as the sort of face of the Turks &
19 Caicos in its tourism boosting, a woman called, I think,
20 Tanya Streeter, who is a deep sea diver champion.

21 A. Yes.

22 SIR ROBIN AULD: Did she continue in that work she did for
23 tourism in the Territory after your former wife was
24 engaged by Kerwin or did they overlap or did she give up
25 her work?

1 A. My former wife came on much later than Tanya Streeter,
2 but during the period of when my former wife was
3 involved as a face, there was another -- Trevor Ariza,
4 who is a famous NBA basketball player from the Turks &
5 Caicos, was also retained by the tourist board as the
6 face of the Turks & Caicos.

7 SIR ROBIN AULD: So Tanya Streeter was followed by
8 Trevor Ariza --

9 A. I don't know in terms of order but I know that --

10 SIR ROBIN AULD: It is just the chronology I am interested
11 in.

12 A. I am not sure exactly in terms of that.

13 SIR ROBIN AULD: But the two ladies weren't engaged at the
14 same time?

15 A. No.

16 MR FITZGERALD: Trevor Ariza and your wife were both used as
17 the face --

18 A. In terms of face, my former wife was the one who was on
19 a lot of the advertising. Trevor Ariza was -- I am not
20 sure whether he was used in any advertising. He was a
21 paid "celebrity" spokesperson. He would show up at
22 events and so on and so forth for Turks & Caicos.

23 Q. The other celebrities involved in advertising from time
24 to time, were they also paid for their services?

25 A. Yes.

1 Q. In that respect there was no difference between them and

2 your wife?

3 A. No.

4 Q. My learned friend has indicated that though he didn't

5 ask about it, there may be further questions in relation

6 to the jets. So can I just ask you about that?

7 SIR ROBIN AULD: Page number?

8 MR FITZGERALD: It is 2.4 at page 4.

9 SIR ROBIN AULD: Thank you.

10 MR FITZGERALD: You understand that there has been

11 allegations of excessive expenditure by the government

12 in allegedly acquiring two jets. You are aware of that?

13 A. I understand that that is the case.

14 Q. Did in fact the government own either of the two jets,

15 N165G and N25SV?

16 A. No, the government owns no jets.

17 Q. I am sorry, the second one should be N425SV.

18 The government didn't own either of those?

19 A. No.

20 Q. As to the first mention, that is to say jet number 165G,

21 was that purchased by the government or by

22 Indigo Transportation?

23 A. It was purchased by Indigo Transportation.

24 Q. How did the government have anything to do with it?

25 A. It was -- the government had a lease on the jet. Pretty

1 much like a Nabja(?) type arrangement.

2 Q. Did that lease cost substantial sums of money or monthly
3 payments, is that right?

4 A. Yes, it did.

5 SIR ROBIN AULD: What are we talking about? How much?

6 A. I can't remember exactly. It was a situation where you
7 pay -- I don't know if you are familiar with the Nabja
8 concept.

9 SIR ROBIN AULD: Yes, pay according to usage, large part.

10 A. Not according to usage, you pay according to the amount
11 of hours that you can use for a year. So on average it
12 probably costs over 100,000.

13 SIR ROBIN AULD: Over 100,000 a what?

14 A. A month.

15 MR FITZGERALD: Can I just ask you to comment on this, there
16 has been suggestion that in fact you acquired that jet
17 personally and some documentation has been provided in
18 core bundle 2, the black bundle.

19 A. What page?

20 Q. It is at pages 1045 to 1047.

21 Do you see there the Wealth Aviation, appendix 1,
22 1983, Gulf Stream 3?

23 In your thing it may have been moved into bundle 3.

24 It was originally in bundle 2. I think it has now been
25 moved in bundle 3.

1 SIR ROBIN AULD: I have it in 3.
2 (11.00 am)
3 A. What page?
4 MR FITZGERALD: It is 1045. You see the contract there. Is
5 that a contract which was -- it is an offer to purchase
6 and you see the purchaser there named as Michael Misick,
7 the Premier. That is an offer to purchase. Was that
8 offer to purchase followed through on?
9 A. No. I looked -- as I was looking at planes for
10 government use, I looked at it. That offer was never
11 followed through by me or the government.
12 SIR ROBIN AULD: Can we get a rough date for this, please?
13 MR FITZGERALD: We have a date on it. It is March 2007,
14 the offer to purchase. So that was never followed
15 through?
16 A. No.
17 SIR ROBIN AULD: But you were thinking of making an offer
18 for it, were you?
19 A. No I was just looking --
20 SIR ROBIN AULD: Just getting a quote?
21 A. Yes, I say just looking --
22 SIR ROBIN AULD: I see.
23 MR FITZGERALD: You have referred to the fact that
24 Indigo Transportation leased it out to the government on
25 a monthly basis, is that right?

1 A. Yes.

2 Q. Now, you may be asked why was it thought appropriate to

3 rent a jet for the use of the government, government

4 ministers. Can you just explain, what was the rationale

5 behind it, what was the thinking?

6 A. In hindsight it was obviously a bad decision. At the

7 time I thought it would provide a greater degree of

8 flexibility in relation to travel for ministers. For

9 example, if you have to go to a meeting in Barbados, and

10 I thought it would help to save money because when you

11 are taking a large delegation, you have to fly to Miami

12 probably overnight and then fly to Puerto Rico airport,

13 or if you are able to get a direct flight to Bridgetown.

14 Whereas with a ministerial plane, if you had a 3 o'clock

15 meeting in Barbados, you can in fact leave a few hours

16 before that meeting, attend the meeting and return. At

17 the time my thinking was that would create a greater

18 degree of flexibility. In hindsight, it is one of

19 those -- it is something that I regret that we entered

20 into. And as soon as -- yes.

21 Q. The other jet that there's a reference to --

22 SIR ROBIN AULD: Are you leaving this jet there?

23 MR FITZGERALD: I am.

24 SIR ROBIN AULD: I just want to understand the documentation

25 and the purpose for which it was actually used. What

1 purposes, speaking in general terms, was it used for?

2 A. What was it used for in general terms?

3 SIR ROBIN AULD: Yes. By you first anyway.

4 A. By me it was used most of the time when I was travelling

5 on official business.

6 SIR ROBIN AULD: You say most of the time. Do you mean by

7 that part of the time you used it for your own business?

8 A. If I did not -- there were times that my ex-wife --

9 because my time was blocked. So there were times that

10 my -- if my ex-wife had used it and I would pay for it

11 independently of the government.

12 SIR ROBIN AULD: Is that the only non-public purpose for

13 which it was used, for your ex-wife's travel or were

14 there other private reasons?

15 A. I don't know because the jet was not owned by me or by

16 the government.

17 SIR ROBIN AULD: I can't hear your answer.

18 A. I said I don't know if it was used for any other purpose

19 because the jet was not used by me but in terms of when

20 it was used by me, it was on official purpose, or if it

21 was used by me or by my wife in a personal capacity,

22 then I would pay separate for it.

23 SIR ROBIN AULD: So whenever you used it or your former wife

24 used it for private purposes, you paid for it, did you?

25 A. Yes.

1 SIR ROBIN AULD: Do we see, because I am not as familiar
2 with these documents always as I should be, at page 1054
3 a flight activity history? Does that relate to this
4 Gulf Stream or to another one? It looks to be the same
5 number.

6 A. Yes.

7 SIR ROBIN AULD: I don't know whether you have had a chance
8 to look at it yourself, Mr Premier. Does that and
9 the tracking flight history in the documents that
10 follow, do they accurately record at least the journeys
11 that were taken in this aircraft, either by you and/or
12 your late former wife or other ministers?

13 A. I can't -- this is a printout apparently of the
14 activities. I can't say that all of those were taken by
15 me or my former wife.

16 SIR ROBIN AULD: You can't vouch for all the entries. Thank
17 you.

18 MR FITZGERALD: That jet was used by the government. It was
19 also used by your wife and you for personal purposes and
20 then you paid for it yourself?

21 A. Yes.

22 Q. And it was also -- they were free to rent it out to
23 other people?

24 A. That is my understanding, yes.

25 Q. So any flight itinerary, it could be for governmental

1 purpose, it could be yourself and your wife for personal
2 purposes, or it could be someone completely different?
3 A. Yes.
4 Q. As to -- sir, can I move on --
5 SIR ROBIN AULD: Yes, do.
6 MR FITZGERALD: If I can move on to the other jet. That is
7 number 425SV. We have some documentation in relation to
8 that. It says volume 2 but it has now become volume 3
9 at page 1072. There is a reference to a trip there to
10 Portugal. Was that jet ever owned by the government?
11 A. No, this jet was never owned by the government.
12 Q. Was a jet chartered from time to time by the government?
13 A. It was a jet chartered from time to time.
14 SIR ROBIN AULD: Can we get a date for this too. This is
15 18th April 2007?
16 MR FITZGERALD: Yes.
17 SIR ROBIN AULD: This is just one particular journey,
18 though, isn't it?
19 A. Yes.
20 SIR ROBIN AULD: When was it first chartered by
21 the government for purposes? What is the starting date?
22 A. I can't recall when it was first chartered by
23 the government. What I do know is it was chartered by
24 the government on a number of occasions.
25 SIR ROBIN AULD: Looking at the flight history on

1 pages 1073, which I imagine relate to this aircraft,
2 the first journey shown, is it in June/July of -- yes,
3 it is in July of 2006. That is the first journey shown.
4 It may not be the first one made. Are all those
5 journeys that we can see in three-and-a-half pages, 1073
6 to 1076, journeys used by that Gulf Stream for
7 government purposes?

8 A. No. Again, this is a printout of a -- of the
9 activities. To my knowledge, this jet was probably
10 chartered, I don't know, three or four times by
11 the government.

12 SIR ROBIN AULD: Only three or four times?

13 A. Yes.

14 MR FITZGERALD: So this jet was chartered on a few
15 occasions.

16 A. On a few occasions.

17 Q. So not every use of it was by the government by any
18 means?

19 A. No.

20 Q. The owners of it were free to charter it out to other
21 people and for other people to use it?

22 A. Yes.

23 Q. There is this reference to the flight to Portugal at
24 page 1072. You are on that journey, as are a number of
25 other people including your wife. Can you help about

1 that one?

2 A. Well, that flight to Portugal was an official flight.

3 I was attending the World Tourism Conference in

4 Portugal. I believe I had other meetings in Europe with

5 the chairman of Solamelia(?) hotel group and other

6 official meetings.

7 SIR ROBIN AULD: What is the date of it, please?

8 MR FITZGERALD: One has -- it says 18th April 2007.

9 SIR ROBIN AULD: So that is just the month after you first

10 began to use Gulf Stream 1, I will call it, which was in

11 March 2007. Did you have the other Gulf Stream at the

12 same time or not then?

13 A. I am not sure, but I think there might have been -- my

14 recollection is there might have been a problem with

15 the other Gulf Stream.

16 So I used that one.

17 SIR ROBIN AULD: So you think but you can't be sure now.

18 Think you used this plane when the other one wasn't

19 available, is that it?

20 A. At this particular time, yes.

21 SIR ROBIN AULD: Thank you.

22 MR FITZGERALD: Drawing back from it, we have the use on

23 a lease basis of the first jet, an occasional use on

24 a charter basis of the second jet.

25 A. Yes.

1 Q. And neither of them were owned by the government?

2 A. Neither of them were owned by the government. As I said

3 in retrospect, I am sorry that we ended up entering into

4 this, and perhaps it would have been more prudent to

5 either get something smaller or fly commercial.

6 Q. What is the current practice now?

7 A. Well, the current practice now is to fly commercial. We

8 also have another plane that is actually owned by

9 the government, a smaller plane, a Kingyear(?), that is

10 a ministerial plane for regional travel. Regional and

11 inter-island travel.

12 Q. That would be between the islands of Turks & Caicos and

13 to other Caribbean islands?

14 A. Yes.

15 Q. Now, you were also asked about the use of what was

16 described as the official government card and my learned

17 friend asked you questions about that. The suggestion

18 was that you were using the official government card,

19 that is to say the Horizon card that was headed "Office

20 of Chief Minister" in the way the bills were addressed.

21 Was that card an official government card or was it

22 your card?

23 A. That card was and is and still is my personal card.

24 Q. Who made the payments on it?

25 A. I do.

1 Q. If we can look shortly -- you were taken to -- can
2 I take you to volume 3, page 874 which I think my
3 learned friend took you to yesterday. We see a number
4 of payments there and I think you were taken to some
5 payment that is related to your honeymoon, which, if one
6 goes back to page 868 and 869, you see there that in
7 April, around April 17th there were a number of expenses
8 incurred in Israel?

9 A. Yes.

10 Q. You have said that that was in the course of your
11 honeymoon?

12 A. Yes.

13 Q. Is there any question of this being money charged to the
14 government as opposed to a personal Horizon Mastercard
15 that you were using for personal expenses?

16 A. Absolutely no chance that I would bill any part of my
17 honeymoon to the government. It simply did not happen.
18 This is my personal card that I have always paid.

19 Q. If we go to page 874, we see a number of payments in
20 being made; payment in of 20,000 at the top of 23rd
21 June; payment in of 30,000 on 10th July; and a payment
22 of 5,000 on 17th July. Were those payments made by
23 yourself or by the government?

24 A. It was made by myself.

25 Q. So no question of using government funds to meet

1 the expenses of this card?

2 A. No. As I explained yesterday, the government operates

3 by subsistence. So I may use some of my subsistence

4 which is due me to pay my credit card but there is

5 absolutely no way my personal secretary would have paid

6 my personal credit card.

7 SIR ROBIN AULD: How did you get the subsistence, in cash?

8 A. The subsistence?

9 SIR ROBIN AULD: Yes.

10 A. No, subsistence is --

11 SIR ROBIN AULD: You have an allowance by way of

12 subsistence, I understand that. How physically --

13 A. It is paid by cheque.

14 (11.15 am)

15 MR FITZGERALD: So you would be free to pay your subsistence

16 cheque into that account to meet expenses.

17 A. Yes.

18 Q. But they would be for sums in the region of what, 5,000

19 at the most?

20 A. It depends on where I was travelling to and so on and so

21 forth, but the cheque would not be made out to the

22 credit card. It would be made out to me personally.

23 Q. If I can move on from there --

24 SIR ROBIN AULD: Are you leaving Horizon cards now?

25 MR FITZGERALD: No, I am going to go on to one other entry,

1 the Victory Store purchases.

2 If I can take you to page 1030 in the same volume 3.

3 Do you see a number of purchases, victorystore.com,

4 Davenport?

5 A. Yes.

6 Q. IA. Purchases made in America, I take it?

7 A. Yes.

8 Q. The suggestion has been made that you are using

9 an official card to pay for party expenses; is that true

10 or false?

11 A. Completely false. As I said earlier, this is my

12 personal card. I bought campaign paraphernalia on

13 behalf of the PNP as I have done throughout the years

14 I have supported my party.

15 Q. In fact, does that show you using your personal card and

16 footing the bill yourself for party expenses?

17 A. I have always used personal money and personal -- in

18 this case card, to support my PNP party.

19 Q. You already have been asked about the Youlanda Scott

20 bill and its payment at -- you have dealt with it at 2.9

21 and in answer to my learned friend's questions. Have

22 you got anything else that you wish to say in relation

23 to the payments made to Youlanda Scott?

24 A. No, I think that speaks for itself.

25 Q. I think 2.10, we needn't concern ourselves with, because

1 you have clarified the position that the other companies
2 referred to by Saunders & Co were shelf companies, is
3 that right?

4 A. Yes, to my knowledge.

5 Q. Now, you were asked questions yesterday about
6 the scholarships for study abroad which you dealt with
7 at 2.11. It is at page 2.11, page 7 of the statement at

8 A.

9 The figures that my learned friend relied on in
10 putting questions to you are in the core bundle, the red
11 bundle at volume 3, tab 5 at page 8.

12 The matter that we have put to you was, if you just
13 go to page 8 of the audit report there, a series of
14 letters instructing the ministry to issue scholarships
15 to large numbers of students, sometimes 12 students,
16 sometimes as many as 82 students just before the period
17 of the term would start, so say July and August. Do you
18 see those instructions?

19 A. Sorry?

20 Q. Can you see page 8 at C? If you look, for example, at
21 (ii) there, the Premier instructs the ministry to award
22 scholarships to three named students and then
23 instructions to award scholarships to 11, and going on
24 on one occasion to 82 named students?

25 A. Yes. I would like to take an opportunity to read off

1 the name of those students so the public can know that
2 they were not issued on any political basis, because you
3 would see that they were people from all background and
4 all political or religious affiliation.

5 SIR ROBIN AULD: Yes, you said this yesterday.

6 MR FITZGERALD: Some of those names are at page 29. Just
7 checking through those names, are they names of people
8 who are from both the PNP and the opposition party?

9 A. What page is it?

10 Q. It is page 29. I am not asking you to read them out.
11 Looking at them, are those names?

12 A. Can I?

13 SIR ROBIN AULD: Can we identify the schedule. This is
14 appendix D. Awards issued outside committee scrutiny.

15 A. Which page is it?

16 MR FITZGERALD: Page 29.

17 A. What bundle?

18 MR FITZGERALD: The same bundle. You were on page 8, and if
19 you go to the bottom, it has page 29. Do you see
20 appendix D there?

21 SIR ROBIN AULD: Let's just identify for the record, because
22 I am going to have to look at this probably a little
23 while later. Awards issued outside of committee
24 scrutiny for 2005/2006. That is what we are looking at.

25 MR FITZGERALD: Yes. We are looking at appendix D, with the

1 heading, "Awards Issued Outside of Committee Scrutiny
2 for 2005/2006".

3 A. R -- can I name the names?

4 SIR ROBIN AULD: Well --

5 A. Because the allegation --

6 SIR ROBIN AULD: Perhaps these could be ticked or something
7 at some stage. I don't think it is necessary to read
8 out the names.

9 MR FITZGERALD: Looking down that, are there names of people
10 who are obviously not PNP supporters being given special
11 favours there?

12 A. It is important for the public to know, because
13 the allegation is that these were purely political
14 names.

15 SIR ROBIN AULD: It is important for me to know. I have to
16 write the report. Now I am happy for you to indicate by
17 ticks if you like, in any old way, but we need not go
18 through these individual names.

19 MR FITZGERALD: Can you indicate, do you see there for
20 example at number 1, the name there, is that someone who
21 is not a PNP supporter?

22 A. To be honest, I don't think that person is, but to be
23 honest a lot of the names are names that I myself may
24 not even recognise, but it goes to the point that these
25 scholarships were issued, based on the fact that these

1 are Belongers, based on the fact of my government's
2 policy of empowering and educating Belongers rather than
3 for political means.

4 Q. Just one further matter. When you made those
5 instructions in your letters, was that off your own back
6 or was it on advice from the education ministry?

7 A. These were made on advice in consultation with
8 the education ministry but ultimately I take
9 responsibility for it.

10 Q. Just so that I can understand, there was a procedure of
11 a scholarships committee, is that right?

12 A. Yes.

13 Q. But that was an administrative procedure. It didn't
14 have any statutory foundation?

15 A. No, it is a purely administrative nature and purely
16 a policy, so in law there was not a legal requirement
17 for the scholarship to go through the scholarship
18 committee.

19 Q. Obviously if public funds were to be expended, even for
20 this laudable purpose, somebody had to take
21 responsibility for authorising that expenditure, is that
22 right?

23 A. Yes.

24 Q. That person was yourself?

25 A. Yes.

1 Q. Because some minister had to authorise the expenditure?

2 SIR ROBIN AULD: Did they always have to go to the Premier?

3 I thought some didn't. These were just ones that he

4 happened to deal with outside the normal system?

5 MR FITZGERALD: There had to be an authorisation from

6 the point of view of the budget terms. Someone had to

7 take responsibility for it.

8 SIR ROBIN AULD: What does that mean, in overall terms?

9 MR FITZGERALD: Yes. There wasn't a law which said you

10 can't give a scholarship unless it has gone through

11 the scholarship committee.

12 A. No.

13 Q. But obviously if money was going to be expended,

14 somebody who was a responsible minister had to take

15 responsibility for that expenditure?

16 A. Yes.

17 Q. And you did so on the advice of the education ministry,

18 is that right?

19 A. Yes.

20 Q. Was there any question in all this of you favouring

21 particular people, or were you just doing your duty to

22 promote education?

23 A. I was doing my duty to promote and empower Belongers.

24 Q. You were asked a number of questions, if I can move on,

25 sir, to part 3, about your income, expenditure and

1 assets and I am not going to go through everything
2 there, but is this right, that your attorneys have
3 written a series of letters seeking to clarify
4 the position over a long period of time to
5 the Commission?

6 A. Yes.

7 Q. Indeed, that continue to disclose matters that -- as
8 they are required?

9 A. Yes.

10 Q. Now, you have been asked questions about your bank
11 accounts and you deal with that at 3.2?

12 SIR ROBIN AULD: Page?

13 MR FITZGERALD: Page 10, sir. Just so we are clear,
14 the bank accounts that you have disclosed at
15 the appendix in volume 1 at A17, page A17, that is
16 the initial list that you gave, is that right?

17 A. What page?

18 MR FITZGERALD: Volume 1, A17. It is the black one. Is
19 this right --

20 SIR ROBIN AULD: You are in the black volume now, are you?

21 MR FITZGERALD: Yes. A17. Since then, you have further
22 disclosed the My Way Productions 2 Limited in your
23 appendix 1.

24 A. Yes.

25 Q. Indeed, it was disclosed by way of correspondence from

1 your attorneys?

2 A. Yes.

3 Q. The reason why you didn't at first mention My Way

4 Productions 2 Limited in that initial September letter

5 is what?

6 A. Well, at the time in September there was a lot of stuff

7 going on including hurricanes. I was also in the middle

8 of a divorce and so at the time I was not clear whether

9 I was still a signatory even on that account because

10 the company was originally established for my wife.

11 Q. For your wife?

12 A. Yes.

13 Q. So the account My Way Productions 2 Limited was

14 originally established for your wife?

15 A. Yes.

16 Q. I want to move on. You have dealt with all your sources

17 of funds. Your earned income, your investment income.

18 At page 11, in 3.5 onwards, just pausing at 3.8, you

19 have there made reference to political donations and

20 the fact that some were paid directly to yourself:

21 "... whilst on at least one occasion the PNP passed

22 on to me donations of a political nature."

23 Is that right?

24 A. Yes.

25 Q. Just so that we are clear about this, a political

1 donation -- seems to have been suggested that what you
2 were saying was that the political donations could be
3 for you to use on anything you wanted. Is that right?
4 Or were they for use?

5 A. It was for use in furtherance of our -- my or my party's
6 political goals/aims.

7 Q. When you were given a political donation, either through
8 the party or directly, would you have felt free to spend
9 it on a meal or something like that for yourself?

10 A. Well, we were on a campaign trail.

11 As I said to you, in furtherance of my party's
12 political aims, as I indicated there were lots of times
13 that over the years and still do that I spend a lot of
14 my own money on the party, and so sometimes there would
15 seem to be a sort of reimbursement of expenses.

16 Q. It could be a reimbursement of money that you had
17 already spent on party political purposes, such as
18 the Victory Store purchase?

19 A. Yes.

20 Q. It could be for campaign purposes --

21 SIR ROBIN AULD: Now Mr Fitzgerald, let him give
22 the evidence.

23 MR FITZGERALD: I am so sorry, yes.

24 What about assisting constituents, would that be
25 covered?

1 A. Yes, that's an important cultural phenomenon here in the
2 Caribbean.

3 SIR ROBIN AULD: What is?

4 A. Assisting constituents.

5 SIR ROBIN AULD: Do you mean all constituents of every
6 political hue or just those of your own party?

7 A. All constituents.

8 SIR ROBIN AULD: An important cultural phenomenon here to do
9 what, to financially assist?

10 A. To financially assist or assist generally, but
11 financially assist, whether it is wedding, funerals,
12 trip to Miami.

13 Q. Just looking at that, could a constituent go to their
14 representative and ask for help, for financial help?

15 A. Yes.

16 Q. In those circumstances, would the representative feel
17 free to give help?

18 A. Obligated.

19 Q. Can I move on from there. You have then dealt with
20 the fact that you personally guaranteed a loan to the
21 party together with others, and I think you dealt with
22 that in evidence yesterday.

23 You have dealt at 3.9 on page 12 with a number of
24 other sources of funds and one of those, about which you
25 have been asked questions, is Commission income. You

1 are aware of that?

2 A. Yes.

3 (11.30 am)

4 Q. Now, you were asked yesterday about the Commission

5 income, the 325,000 that is dealt with at the back of

6 this bundle, appendix 5 at item 41, on page 51.

7 So back of this bundle A. Your statement, that

8 there is an appendix. At page 51 of the appendix, you

9 see the commission.

10 A. Yes.

11 Q. Just so we get this sequence entirely clear, that

12 commission was paid to you by who?

13 A. Ashley Properties.

14 SIR ROBIN AULD: Who?

15 A. Ashley Properties.

16 MR FITZGERALD: So there is no misunderstanding, was it paid

17 to you by Mr Wehrli or not?

18 A. No.

19 Q. In fact, in terms of the purchase, was the purchase

20 Ashley Properties on the one hand and Mr Wehrli on

21 the other, is that right? The purchase in respect of

22 which the commission was paid?

23 A. Yes, Mr Wehrli was the purchaser and

24 Ashley Properties --

25 Q. The vendor was?

1 A. The seller was Ashley Properties.

2 Q. So the people who paid you the commission were

3 the sellers Ashley Properties?

4 A. Yes.

5 Q. And not Mr Wehrli?

6 A. Yes.

7 Q. So the suggestion has been made that there is some

8 connection with the fact that Mr Wehrli got a drawdown

9 on land later. I think in fact it was in February that

10 he got the drawdown that was referred to, but is there

11 any connection between the commission paid to you by

12 Ashley Properties and a decision by the government on

13 land drawdown in favour of Mr Wehrli who had not paid

14 you any commission?

15 A. No, the land drawdown, the supplementary agreement that

16 was referred to, which is in relation to land drawdown

17 as well as maybe -- would be in connection with a master

18 agreement that calls for a land drawdown of a certain

19 period. Whether Mr Wehrli had bought the property or

20 not, he, under the agreement, under the master agreement

21 would be entitled to the land drawdown. That happened

22 perhaps around the same time.

23 SIR ROBIN AULD: So he had that right in any event.

24 A. Yes.

25 SIR ROBIN AULD: I have forgotten, perhaps you can help me,

1 who was the controlling spirit behind Ashley? Who owned

2 Ashley?

3 A. Alden Smith.

4 SIR ROBIN AULD: Did you tell us, again I am afraid I have

5 forgotten, what the sale price was on which you were

6 paid, I think, a commission in the region of

7 \$300,000-odd?

8 A. Yes.

9 SIR ROBIN AULD: What was the sale price of the property

10 concerned?

11 A. I can't remember exactly but -- I can't remember

12 the exact amount but it would probably be in

13 the vicinity of 2.5 million or more.

14 SIR ROBIN AULD: So your \$300,000-odd would have represented

15 what percentage?

16 A. It would be between 10 and 15 per cent.

17 SIR ROBIN AULD: That would be about average, would it?

18 A. Average, yes.

19 SIR ROBIN AULD: Thank you.

20 MR FITZGERALD: I want to move on from there to the loans

21 and you deal with them at 3.10. I just want to ask you

22 these general questions about the loans. You have

23 listed the various loans and the purposes and the dates

24 at 3.10.

25 Were all those loans for genuine purposes?

1 A. Yes.

2 Q. Were they all secured on adequate collateral? I think

3 with the exception of the Secured Holdings, is that

4 right?

5 A. The Secured Holdings was -- which page are we on again?

6 Q. I am looking at page 13, 3.10, you see the list.

7 I think one of them was not secured but apart from that,

8 were they --

9 A. Yes, most were.

10 SIR ROBIN AULD: All genuine loans and all save one properly

11 secured.

12 MR FITZGERALD: Yes. Again, to the suggestion that some of

13 these loans are phoney loans or something of that sort,

14 are you in a position in fact to repay them?

15 A. Yes, as I indicated my assets is greater than my

16 liabilities, and so I am in a position to pay them.

17 Q. I just want to deal with one particular loan at this

18 stage, which is the loan from J&T Banka and we have that

19 at volume 1, of the black bundle at page 55. I am just

20 focusing at this stage on the genuineness of the

21 transaction. If we look at that loan agreement,

22 J&T Banka, in fact, that loan agreement is with -- do

23 you have that at page 55?

24 A. Yes, I do.

25 Q. That loan agreement, which is volume 1 of the black

1 bundle, page 55, is between J&T Banka and yourself and

2 Lisa-Raye McCoy, is that right?

3 A. Yes.

4 Q. What was the purpose of that loan?

5 A. The purpose of the loan was to buy a house for my wife

6 in Los Angeles.

7 Q. Did you in fact pay a deposit on that house?

8 A. Yes.

9 Q. And lose the deposit on that house?

10 A. Yes.

11 Q. I think -- sir, I am not sure that we handed in

12 the documentation in relation to that, but I think my

13 learned friend fairly accepted that there was a loss of

14 200,000?

15 SIR ROBIN AULD: I think the deposit was forfeit.

16 A. Yes.

17 MR FITZGERALD: We do have the information.

18 A. If I can add that the loan is signed by both myself and

19 my wife.

20 Q. So to the suggestion that this is some sort of secret

21 commission, what is your response, bearing in mind that

22 it is made to you and your wife?

23 A. Well, it is a genuine loan to buy a house for my wife in

24 Los Angeles, and I mean there is absolutely no way that

25 a regulated European bank, and the Czech Republic is

1 a member of the EU and the bank operates within the EU.

2 I don't see that a regulated EU bank would make phoney

3 loans. I just don't see that.

4 Q. Just one further matter in relation to that, sir.

5 I think you have a letter dated January 12th from

6 the J&T Banka in the Czech Republic. Do you have a copy

7 of that document? You have seen the letter, have you,

8 from J&T Banka?

9 A. Yes.

10 SIR ROBIN AULD: We have looked at one of those this

11 morning, is this another one?

12 MR FITZGERALD: Yes, this is another one sir.

13 SIR ROBIN AULD: I probably have it, but I am not conscious

14 of it.

15 MR FITZGERALD: We have copies for yourself and for

16 the Premier.

17 SIR ROBIN AULD: Now, this letter has a heading, "J&T Banka,

18 Czech Republic, Prague", et cetera. The other one is

19 simply headed "J&T" on a print on an email, but it is

20 the same bank and it is the same branch, is it?

21 Q. It is. The same signatories too. Can you just help us

22 on this. This is a response to the suggestion that this

23 loan was some sort of secret commission and in some way

24 underhand or improper and do you see the reply from

25 the members of the board of directors of the J&T Banka

1 in the Czech Republic?

2 A. Yes.

3 Q. I am not going to read it all because the learned

4 Commissioner can see it for himself but can I just take

5 you to the final -- paragraph 4. It states that:

6 "The J&T Banka does not have any information about
7 the business relationship between Mr Mario Hoffman and
8 the Premier of the Turks & Caicos. It is not entitled
9 to have, gain or keep any such information. The loan to
10 Mr Premier of the Turks & Caicos Islands was granted in
11 compliance with all internal rules of J&T Banka. There
12 were no unusual circumstances in connection with
13 the mentioned loan. The fact the loan was granted to
14 a so-called politically exposed person was handled in
15 compliance with the law of the European Union and
16 internal rules of the J&T Banka."

17 One sees above that at paragraph 3:

18 "We would like to declare that the said loan was
19 granted not to an individual but to Mr Michael Misick
20 and his wife Mrs Lisa-Raye McCoy as joint debtors.
21 The loan to both was granted based on their personal
22 financial standings in compliance with all internal
23 rules."

24 Just in the light of that, to the suggestion that
25 this was some sort of phoney loan by way of a secret

1 commission, what is your response?

2 A. Absolutely not.

3 Q. Did you in fact deal with, or who did you deal with at

4 J&T Banka in relation to the loan?

5 A. I dealt with a loan officer.

6 SIR ROBIN AULD: With whom?

7 A. A loan officer. I can't recall the exact name now.

8 MR FITZGERALD: Just to complete the documentation in

9 relation to that, is this right, that we have

10 a variation of the loan document that you have looked at

11 at volume 2, pages -- black 2 -- core 2 -- page 391,

12 I think originally you were obliged to repay by

13 April 2008. Do you see this document at page 391,

14 I think fairly early on in the bundle?

15 A. Yes.

16 Q. Do you see there the variation of the maturity date of

17 the obligation, if I can just take you to the bottom at

18 1.4:

19 "Creditor and the client hereby agree the client

20 shall repay the loan and the attribution connected

21 therewith to the creditor until April 29th 2009."

22 So it has been postponed until April?

23 A. Yes.

24 Q. As far as you are concerned, are you being held to that

25 obligation? You are being required to repay?

1 A. As far as I understand, I am required to pay on April
2 29th, yes.

3 Q. In relation to the question of well, how are you going
4 to pay that or what are you going to do about it, what
5 is your response?

6 A. Well, certainly I would seek to try to renegotiate
7 unless I am able to sell off any of my assets before
8 that. I am in the middle of divorce with financial
9 matters and all of these are issues that -- that has
10 been addressed. Certainly I will probably try and get
11 it postponed until all of my financial matters,
12 particularly in relation to my divorce, is dealt with as
13 well.

14 SIR ROBIN AULD: Mr Fitzgerald, are you leaving that there?

15 MR FITZGERALD: I am.

16 SIR ROBIN AULD: I think we probably ought to have a break.

17 Before we do, something prompted by looking at these two
18 letters we received today, copy letters sent to your
19 instructing solicitors by J&T Banka, they seem to have
20 been pretty helpful, willing to co-operate with you in
21 your preparation for the Inquiry J&T Banka, don't they,
22 Mr Misick?

23 A. I am sorry?

24 SIR ROBIN AULD: They seem to have been pretty co-operative

25 in providing you with information for the purposes of

1 this Inquiry. We have had two letters from them today.

2 This one sending out the position here and the other,

3 the shorter one, identifying the two credit card

4 accounts you had or one of them at any rate as

5 an internal account.

6 A. Yes.

7 SIR ROBIN AULD: Now, looking at the latter, which for

8 reference purposes is at pages 400-odd, black volume 2,

9 and the second of the numbered accounts which you can't

10 identify is at page 402, is there any reason why they

11 would not help you by providing you with copies of their

12 internal account, which was really your account of the

13 monies that you owed them?

14 A. Sorry, sir, say that again.

15 SIR ROBIN AULD: Is there any reason why they could not

16 provide you with copies of their statement of account

17 held at the time of the monies that you owed them and

18 paid them monthly as and when required?

19 A. I am not sure that that was requested.

20 SIR ROBIN AULD: Why not?

21 A. Maybe I didn't understand --

22 SIR ROBIN AULD: Why can't you ask J&T Banka to provide you

23 with copies of the statements of their internal or

24 whatever they call them accounts, which chronicle your

25 indebtedness to them and your payment off of the monies

1 you owe.

2 A. Why couldn't I ask them?

3 SIR ROBIN AULD: Yes.

4 A. I could ask them.

5 SIR ROBIN AULD: I am going to ask you to do so, please.

6 I am going to ask you to, through your attorneys, to
7 apply to J&T Banka to co-operate with you in this way by
8 providing you with copies of the two accounts identified
9 in black 2, 401 and 402 of your state of account with
10 them throughout the time that you had each account.

11 Thank you.

12 (11.45 am)

13 (A short break)

14 (11.55 am)

15 MR FITZGERALD: Mr Premier, we dealt with the loans and if I
16 can take you to page 14. You, from thereon, deal with
17 the various sources of funds in your accounts. It is
18 right, is it, that bank loans are the main source of the
19 funds?

20 A. Yes.

21 Q. Which you deal with in 3.14. The sale of land, which
22 you deal with at 3.15, is also a source of some of the
23 funds?

24 A. Yes.

25 Q. You dealt at 3.16 with the fact that there were some

1 monetary wedding gifts which are dealt with in the
2 schedule.

3 A. Yes.

4 Q. It may be said why didn't you declare those in your
5 Register of Interests, you accept that you didn't
6 declare them---

7 A. I accept that I didn't declare them. I accept that I
8 probably should have declared them. I also say it
9 wasn't customary for members to do so, although
10 required.

11 Q. 3.17 you have stated that there were the two payments
12 from the PNP, one for 18,000 and one for 100,000. You
13 have already dealt with that in answer to questions from
14 my learned friend.

15 A. Yes, I have.

16 Q. Going on to 3.18, you there state quite clearly that
17 there was one political donation for 100,000, paid by
18 the Caicos Construction management and that was on
19 3rd November 2006, I think. Then a £25,000 donation
20 from Luxus Aviation in January of 2007. In respect of
21 the Caicos Construction payment, you indicated that
22 the payment was made on 3rd November 2006. I think we
23 can confirm that from appendix 5.

24 So that is set out in the appendix as the date of
25 the payment in item 54, 3rd November 2006.

1 You will see it at page 51 if you want to check?

2 A. Thank you.

3 Q. Just dealing with that, you told Sir Robin earlier that

4 Caicos Construction had had a contract before 2006 with

5 the government?

6 A. Yes.

7 Q. Was that for the construction of a road?

8 A. I was informed by my minister that Caicos Construction

9 did have a contract with the government sometime in

10 2004, 2005.

11 SIR ROBIN AULD: I thought he said afterwards. He said

12 before, did he?

13 MR FITZGERALD: My instructions have been absolutely clear

14 on that, that it was before.

15 That was the period when that was --

16 A. My recollection was 2004, I was informed, 2004, between

17 2004, any part of 2004 and 2005.

18 Q. So the construction was completed in 2005 of the road,

19 is that right?

20 A. Yes.

21 Q. So by November 2006, the road had long since been

22 constructed, is that right?

23 A. Yes.

24 Q. It was nearly a year after the completion of that

25 contract that this --

1 A. Yes.

2 Q. Just this, was that donation in any sense made on

3 the basis of if we give you this, you must give us

4 another contract or something like that?

5 A. Absolutely not.

6 (12 noon)

7 Q. You have dealt with your credit cards and in particular

8 your Horizon Mastercard bill to the office of the

9 Chief Minister, and you have dealt with that at 3.19.

10 Is this right, that you have also disclosed the credit

11 cards of Mildred Rivas and Lisa-Raye McCoy on which you

12 have made payments?

13 A. Yes, I now disclose it. At the time based on the

14 requests of my personal credit cards, it was not

15 disclosed because the credit cards are in their names,

16 but they have now been disclosed.

17 Q. You were asked a specific question about why you

18 received an income from Prestigious Properties by

19 the Commission at paragraph 3A. You deal with that at

20 page 17 at 3.20. What is the position about working for

21 Prestigious Properties, is that against the law or wrong

22 in any way?

23 A. The position is there is nothing to bar any minister or

24 Member of Parliament for working -- no law bars or any

25 minister of Parliament -- sorry, minister or Member of

1 Parliament for working outside of their public duties.

2 I have been a -- I have worked with

3 Prestigious Properties since 1983 and I have been

4 a director/shareholder of Prestigious Properties for

5 quite some time.

6 Q. You have dealt already in answer to questions with

7 the nature of your involvement with Saunders & Co as

8 a consultant. You deal with that at 3.21. Is there

9 anything you wish to add to your evidence about

10 Saunders & Co?

11 A. No, I stand by my earlier testimony.

12 Q. You have dealt with the question of the sources of other

13 funds, that is to say those which there was no

14 explanation for on the schedule prepared by

15 the Commission and is this right, that appendix 5 is

16 an attempt to deal with, from your recollection and from

17 the bank records, everything that is known about those

18 payments?

19 A. Yes.

20 Q. In that context, you have disclosed wedding gifts. You

21 have disclosed payments from Caicos Construction, for

22 example, and from commissions, everything?

23 A. Yes.

24 Q. Now --

25 SIR ROBIN AULD: Help me as a general question. I should

1 know the bundles better, but presumably to compile such
2 a schedule you had to have recourse to whatever
3 documentations you could find. You didn't remember all
4 the different items without some record somewhere. Is
5 that right? There is no trick in the question.

6 A. I am not suggesting --

7 SIR ROBIN AULD: When you compiled the appendix with the
8 assistance --

9 A. Appendix 5.

10 SIR ROBIN AULD: -- of your solicitors, there were documents
11 to refer to. Are they all in the bundle?

12 MR FITZGERALD: Everything that is available is in bundle C.

13 SIR ROBIN AULD: Which is bundle C? Your third bundle.

14 MR FITZGERALD: The third one. Sir, I hope it is not
15 inappropriate if I help you with the mechanics.

16 Sometimes the bank statements themselves provide
17 information and then my learned friend has put it in his
18 schedule. So we had a starter with that. Sometimes,
19 for example, the Belize Bank were able to provide a --
20 what they called particulars of payments and you have
21 that at pages 4 to 5 of bundle C. Sometimes one has to
22 go to the cheques themselves or the deposit slips
23 themselves, and we have provided from Belize Bank
24 the deposit slips.

25 SIR ROBIN AULD: All that has been available to you or

1 recoverable by you is in bundle B, is it?

2 Q. Bundle C. At other times we have relied on memory of

3 either the payors saying I remember what that was about,

4 or Mr Chal Misick saying I can remember?

5 SIR ROBIN AULD: Thank you.

6 MR FITZGERALD: Obviously there have been occasions when

7 the Premier himself has remembered something about

8 a particular payment triggered by seeing

9 the particulars.

10 SIR ROBIN AULD: When you say Mr Misick, you were referring

11 to the Premier, were you?

12 MR FITZGERALD: The Premier. Mr Chal Misick has also

13 provided some documents.

14 SIR ROBIN AULD: The memories of the Premier, Mr Chal Misick

15 and the payors. Thank you.

16 MR FITZGERALD: So that is how that has been reconstructed.

17 Turning to paragraph 3(d). You have been asked for

18 the sources of the funds transferred into your account

19 by your brother T Chal Misick. You deal with that at

20 the bottom of page 18 at page 3.23. But can I just

21 understand, and can you assist the Commissioner, as to

22 what was the position in relation to your brother

23 Chal Misick? How did he come to be holding funds on

24 your behalf?

25 A. Purely as an attorney of law.

1 Q. Did he have a client account?

2 A. Yes.

3 Q. And receive payments?

4 A. Yes.

5 Q. And hold them on your behalf?

6 A. Yes.

7 Q. For example, we know that the proceeds of the J&T Banka
8 loan were held by him, is that right?

9 A. Yes.

10 Q. What was the history of how that got into his -- to be
11 held in his client account? The proceeds of the
12 J&T Banka loan originally for the purchase of the house
13 in Los Angeles?

14 A. The history of that is they had asked J&T Banka to send
15 a loan to my lawyer at the time, which is him. The
16 house itself was a construction built house and that was
17 happening. After we received -- after the loan was
18 received, I think months after, my wife at the time
19 decided that she no longer liked the house and didn't
20 want to proceed with the purchase of the house. That is
21 when we cancelled the contract.

22 Q. Then you gave him various instructions as to where
23 the funds were to be applied?

24 A. Well, the monies were ultimately spent on on both of us.

25 SIR ROBIN AULD: All this will be recorded in his client

1 account held in your name?

2 A. Should be.

3 MR FITZGERALD: In respect of that, your relationship,

4 although he is your brother, was that of client to

5 lawyer, is that right?

6 A. Yes.

7 Q. So that deals with the questions asked about his role in

8 holding funds for you. At 3.24 onwards, you are asked

9 a number of questions about the Amex Centurion card.

10 I think we have dealt with the reasons for

11 non-disclosure in relation to that and you have dealt --

12 SIR ROBIN AULD: Have we got any more news on the

13 outstanding statements? I have forgotten how many there

14 are. There are about 60-odd, are there not? No more

15 news on that?

16 MR FITZGERALD: No. Sir, you will see that at the end of

17 3.26, the Premier makes clear that he has requested them

18 to provide his missing statements.

19 A. I will check again.

20 SIR ROBIN AULD: I imagine your attorney will do -- be

21 helping you on the way with that.

22 MR FITZGERALD: There has been a dual attack. A request

23 from both the Premier himself and my instructing

24 attorney.

25 SIR ROBIN AULD: That is the way to do it.

1 MR FITZGERALD: Then at paragraph 3(g) you were asked about
2 why the contents of the statements faxed on
3 20th November were not passed on. I know you have
4 already dealt with this, but can you just indicate, when
5 was it that you first gave it to your attorneys. We
6 know there was a period between November when it arrived
7 and the fax, whether you were there or not, and December
8 when it was not disclosed to the Commission.

9 A. Yes.

10 Q. But how did it come about that they came to your
11 attorneys for disclosure?

12 A. Well, I certainly gave it to -- as I indicated
13 yesterday, I was travelling and so I guess the matter
14 came in in my absence. I believe sometime when I got
15 back, it might have been sometime in December, I can't
16 recall exact dates. I would have given it to my
17 attorneys.

18 SIR ROBIN AULD: In?

19 MR FITZGERALD: Sometime in December when he got back, he
20 said.

21 SIR ROBIN AULD: I think you know, Mr Premier, that,
22 whatever Mr Milne's interest in those timings are, mine
23 are much earlier, failure to disclose long before then
24 until they became public knowledge in another way. You
25 have been asked about that and you will be asked more if

1 necessary:

2 MR FITZGERALD: 3.28, there has been questions asked about

3 the Horizon Mastercards belonging to Lisa-Raye McCoy and

4 Mildred Rivas. They have been disclosed to the

5 Commission?

6 A. Yes.

7 Q. On those, what was your role in respect of -- they were

8 their own cards. Did you make payments on those cards?

9 A. I made periodic payments on both cards.

10 Q. In respect of Mildred Rivas, what was your role?

11 A. In respect to Mildred Rivas I made payments in relation

12 to child support.

13 Q. Because she is the mother of two --

14 A. She is the mother of two of my kids.

15 Q. You were asked some questions about the source of

16 payments for various properties acquired. 3.29, you

17 deal with when you first acquired the golf course

18 condominium, and it may be that there is no dispute

19 about that. Can I go on to 3.30 at page 22. You were

20 asked regarding your house in Providenciales who paid

21 for the land. You deal with that. Just dealing with

22 the overall deal in respect of the land and

23 the construction, who was -- how did it operate? How

24 did it work?

25 A. The land was purchased from Leeward Limited, and it was

1 sort of a roll-over purchase build in relation to
2 the house.

3 SIR ROBIN AULD: I didn't catch the last sentence.

4 A. The land itself was --

5 SIR ROBIN AULD: I got that one but the next.

6 A. In relation to -- it was to be a sort of a land purchase
7 construction turnkey type arrangement.

8 SIR ROBIN AULD: I thought you used the word "roll-over".

9 That's why. Maybe you didn't, but it was --

10 MR FITZGERALD: Roll-up, maybe.

11 A. Roll up.

12 MR FITZGERALD: In other words --

13 A. Buy the land, build a house, you owe me one; roll-over,
14 roll-up, I don't know.

15 Q. The financing for that was arranged through
16 Secured Holdings for 1 million and Coral Square for
17 5 million, is that right?

18 A. Yes.

19 Q. Again, were they perfectly genuine loans?

20 A. Yes. Perfectly genuine and both loans are secured by
21 way of mortgage on the property.

22 Q. The property being worth -- you say you would not sell
23 it for less than 10 or 12 million, is that right?

24 A. Yes.

25 Q. Now, the question has been asked, how can you borrow all

1 this money and yet make no apparent repayments. It may
2 be you have dealt with that question already in answers
3 you have given to my learned friend, but is there
4 anything you would like to say further in answer to that
5 question?

6 A. In my answer earlier, I said I made some payments to
7 some of the loans. In any event my assets are greater
8 than the liabilities. Also, as a person who has been in
9 real estate, it is not the first time that I have built
10 properties and then sell it to pay off a loan and then
11 build something else. So that is not inconsistent with
12 what you do in real estate.

13 Q. To the suggestion that there is any element of secret
14 commissions in affording you these loans, what is your
15 response?

16 A. All these are loans that I am liable for, all of these
17 are loans that I intend to pay, all of these are loans
18 that if I don't pay, I am sure that the persons who have
19 security on them will call in their security.

20 (12.15 pm)

21 Q. In addition, is it right that you have disclosed
22 the documentation in relation to these loans to
23 the Commission?

24 A. Yes, I have.

25 Q. So that it can see for itself that they are the subject

1 of formal legal documentation.

2 A. Yes, I have.

3 SIR ROBIN AULD: Have you had any correspondence with your

4 various creditors about their repayment and when it is

5 likely to be in interest coverage and so on?

6 A. No, I have not had any correspondence in terms of

7 writing. Certainly in relation to at least one of them,

8 they have been asking about payment.

9 SIR ROBIN AULD: Is it your evidence that you have no

10 written correspondence from any of your creditors in

11 relation to that, what is it, \$20 million odd, as to

12 when and how they are going to be repaid?

13 A. Okay, sorry. I can't recall. I believe that my -- that

14 I might have had -- that my lawyers might have received

15 a correspondent in relation to Secured Holdings.

16 I can't recall any -- I know that I have had discussions

17 with Belize Bank in relation to my -- late on some of

18 the payments and -- but certainly -- so that is my

19 answer.

20 MR FITZGERALD: Coral Square, anything in relation to that?

21 SIR ROBIN AULD: What are you saying about Coral Square?

22 MR FITZGERALD: I am saying, has there been anything in

23 relation to Coral Square?

24 A. I don't think I have had any correspondence lately from

25 Coral Square in relation to that, no.

1 SIR ROBIN AULD: When you say lately, how lately?
2 A. Within the last few weeks or months --
3 SIR ROBIN AULD: You have had correspondence from
4 Coral Square about when and how you are going to repay
5 them, have you?
6 A. Whether I have had -- again, my recollection on that is
7 not clear so I would not want to answer --
8 SIR ROBIN AULD: I think we ought to be as clear as we can
9 be about this. This is a \$20 million-odd total
10 indebtedness in respect of which you said you are pretty
11 confident that they are not going to press you for
12 urgent or forced sales to repay them. If there is any
13 correspondence from them which indicates that that is
14 the case, that would clearly help your case. If there
15 is any correspondence from them which indicates to the
16 contrary, it would damage your case.
17 A. Yes.
18 SIR ROBIN AULD: If there is any correspondence period
19 between any of the creditors and you about non-payment
20 or ability to repay, it is clearly relevant to
21 the Inquiry.
22 A. What I can say, I can undertake to search to see whether
23 there has been any. As I say, I know that certainly in
24 relation to Coral Square, they certainly sent me sort of
25 a statement showing that the interest is accruing.

1 SIR ROBIN AULD: Can we add to the list then, Mr Premier,
2 that you will produce to the Inquiry all correspondence
3 from any substantial creditors making up the sum of
4 20 million with reference to how and when you will repay
5 the debts and how you will service the interest?

6 A. Okay.

7 SIR ROBIN AULD: Thank you.

8 MR FITZGERALD: You deal with that at 3.31 to 3.35. You
9 accept at 3.35 that you are open to criticism for your
10 failure to make repayments on some of the loans or many
11 of the loans. Is that right?

12 A. Well, I accept that I could be open to criticism for not
13 making any payments on some of the loans. Although, as
14 I indicated, it is my intention to do so and even if
15 I have to sell off assets to -- in order to accomplish
16 that.

17 Q. But in terms of any corruption or dishonesty, what is
18 your response to that?

19 A. There is nothing corrupt or dishonest in acquiring
20 a loan to build a house or to invest in business or
21 whatever. Or to acquiring a loan period.

22 Q. You have been asked a number of questions about
23 development projects. The Salt Cay development project,
24 the Joe Grant's Cay and the Dellis Cay. You deal with
25 them broadly at part 4.

1 Just first of all, do you have any personal
2 involvement in any of the development projects,
3 Salt Cay, Dellis Cay, Joe Grant's Cay?

4 A. No.

5 Q. But as minister for development, and minister for
6 tourism, do you have involvement in some of the
7 decisions that have been taken in relation to those
8 developments?

9 A. As minister for development and minister of tourism,
10 I routinely -- well, one of my responsibilities is to
11 promote inward development and tourism. TC Invest is
12 the agency that is responsible for inward investment.
13 It falls -- although it is a statutory body, it falls
14 within the ministry of development. They are the ones
15 charged with the responsibility of preparing development
16 papers for Cabinet or doing due diligence and so on and
17 so forth. Any decision in relation to whether
18 a development will go forward or not is ultimately that
19 of Cabinet collectively.

20 Q. In that context, as minister for development, is it
21 likely that you will meet developers and get to know
22 them?

23 A. Yes.

24 Q. Is it the case that you have met some of these
25 developers and got to know them and got to know them

1 well?

2 A. Yes.

3 Q. Can I deal firstly then with Salt Cay, which you were
4 asked a number of questions about yesterday. Can I just
5 summarise the broad allegations so that you can respond
6 to it in your own words. The broad allegation is that
7 you unduly favoured Mario Hoffman in promoting
8 the Salt Cay development and allowing it to go through
9 unduly fast, and that at a later stage he re-paid your
10 help about a year later or seven months later by helping
11 you to obtain a loan from J&T Banka. That's
12 the innuendo behind all the questions that have been put
13 to you. Is that a fair allegation or an unfair one?

14 A. That is an unfair allegation. As I explained yesterday,
15 Salt Cay, the beginning of the Salt Cay, of Mr Hoffman's
16 involvement with Salt Cay and Salt Cay project was --
17 pre-dates my becoming Premier or Chief Minister as I was
18 at the time, and my involvement and my government's
19 involvement was purely to -- from an investment
20 standpoint, facilitate the expansion of the project in
21 which he -- numerous proposals that he made to
22 government. That is the extent of it.

23 Q. I want to just deal with each in turn. I want to deal
24 firstly with the development itself, then your
25 relationship with Mario Hoffman and then with your

1 relationship with J&T Banka. So each of those three in
2 turn. Firstly, if we can start with the Salt Cay
3 development. You deal at the top of page 27, and you
4 have dealt in evidence, with the fact that it was
5 a longstanding development plan, although the golf
6 course was added on at a later stage. Is that right?

7 A. Yes.

8 Q. And the long history dates back, does it, to around
9 2000?

10 A. Yes.

11 Q. So we deal with that at 4.4 and then the minister also
12 deals with it at 4.6, the history of the Salt Cay
13 development.

14 Against that background, had there been approval of
15 a development plan excluding the golf club for some
16 time; there was a plan that there was going to be
17 a development there on Salt Cay for some time?

18 A. I believe there was a -- I don't think there has ever
19 been any planning approval per se. I believe that there
20 were conceptual approval of a development to involve
21 high end resort, villas and as time goes on, I guess
22 Mr Hoffman expand his idea of the development.

23 SIR ROBIN AULD: We have seen documentation showing that it
24 evolved, didn't it, through various stages over a period
25 of years.

1 A. Yes.

2 MR FITZGERALD: It started in 2001. Is this right, he then

3 bought out the original developers?

4 A. Yes.

5 Q. He was not even the first person to decide to develop

6 Salt Cay, but he bought out the developers.

7 A. Yes.

8 Q. You deal with this at 4.6. The initial land purchase

9 was made as early as 2001 under the former

10 administration and the development plans have a long

11 history. Is that right?

12 A. Yes.

13 Q. Then against that background, the particular matter that

14 is the subject of the enquiry is the plan in the summer

15 of 2006 that this development would include a golf

16 course and that there would be a lease of property to

17 extend it to include a golf course?

18 A. Yes.

19 Q. I just want to deal with that. Just generally speaking,

20 the idea of having a golf course as part of the

21 development, does that seem a normal and good idea?

22 SIR ROBIN AULD: He explained this very well yesterday,

23 the complementary nature of that to other aspects of the

24 development and I think -- I don't think that can be

25 disputed as a matter of good commercial sense.

1 MR FITZGERALD: Thank you very much.

2 Against that background, we know that there was
3 a letter written to you which we have in volume 7,
4 part 3, at tab 1.

5 SIR ROBIN AULD: Red 7?

6 MR FITZGERALD: Yes. A letter sent to you by Mr Hoffman, my
7 learned friend took you to it. Asking for acquiring
8 a long-term lease of Crown land.

9 A. Yes.

10 Q. That was sent on August 1st. Then there is the Cabinet
11 approval in principle for that addition of a golf course
12 at the meeting on August 2nd. Is that right? Which we
13 see at page 2.

14 A. Yes.

15 Q. It was an agreement in principle and is this right, that
16 if we read on, we go to page 11. The agreement was not
17 finalised until November 29th at page 11?

18 A. Yes.

19 Q. In the intervening period, who would have been
20 negotiating with Mr Hoffman about the development plan?

21 A. It would have been between TC Invest and
22 the Attorney General Chambers.

23 Q. So the suggestion that it is just you and Mr Hoffman, is
24 that correct or are others involved?

25 A. Others involved.

1 Q. The development plan was agreed upon and then one sees
2 that it is all confirmed some months later on
3 November 29th?

4 A. Yes.

5 Q. After a process, was that process abnormal or normal?

6 A. It would be a normal process.

7 SIR ROBIN AULD: Can I ask just a question for explanation
8 in relation to page 11. This is a memorandum to
9 Mr Gloyd Lewis from the clerk of the Cabinet informing
10 him and the attorney for the finalisation of the
11 agreement as Mr Fitzgerald has called it at the Cabinet
12 meeting at that time.

13 There is no reference to a paper number put before
14 Cabinet. We have these minutes somewhere and we can
15 check it, but do you remember if a paper was prepared
16 for the Cabinet for the purpose of this final decision?

17 A. Yes, a paper would have been prepared with
18 the development agreement attached.

19 SIR ROBIN AULD: Normally one sees a paper number in
20 the Cabinet minute and there is not a reference to it
21 here, but there would be a paper?

22 A. Yes.

23 MR FITZGERALD: The agreement to have a peppercorn rent,
24 again, was that your decision or was that agreement
25 reached during the negotiation process?

1 (12.30 pm)

2 A. It was certainly a Cabinet decision and it was
3 a decision based on what has been the practice in this
4 jurisdiction.

5 Q. So Cabinet had approved it in principle. The details of
6 the agreement had then been worked out with
7 the Attorney General's office and the TCI Invest, is
8 that right?

9 A. Yes.

10 Q. Then it came back and was approved?

11 A. Yes.

12 Q. But already the notion of a lease had been approved in
13 principle?

14 A. Yes.

15 Q. So that is the history of that. Looking back on that,
16 is there anything there in which you feel the public
17 here got a bad deal in any way from this development
18 plan?

19 A. No, I think the Salt Cay project will be an exciting
20 project for Salt Cay and for the Turks & Caicos.

21 SIR ROBIN AULD: You described this yesterday as in your
22 opinion now a dead letter.

23 A. A dead what?

24 SIR ROBIN AULD: A dead letter, you said yesterday was your
25 opinion, although you were not able to explain it. How

1 can it be a good deal if it is a dead letter?

2 A. Dead letter? I don't think I said dead letter.

3 SIR ROBIN AULD: You said it is dead. We will settle for

4 the word dead, and then you said that was your opinion

5 and when asked why, you could not explain it.

6 A. When I said dead, I told you that it was a sort of

7 an outburst at the time. But certainly based on

8 the economic climate that exists, throughout the world,

9 the number of projects that is experiencing financial

10 difficulties and so that would be the background to me

11 saying that.

12 SIR ROBIN AULD: Financial difficulties, but the country got

13 a good deal?

14 A. I am sorry?

15 SIR ROBIN AULD: You say there are financial difficulties

16 affecting everybody now, but notwithstanding that you

17 think --

18 A. Notwithstanding that, if the project, whether it is this

19 project or Ritz Carlton at West Caicos, is to proceed

20 once the world is in a better position, it will be

21 a good deal.

22 SIR ROBIN AULD: I understand.

23 MR FITZGERALD: Looking at it through the eyes of 2006, with

24 the development being approved, did it seem a good deal

25 and something that would be in the interests of these

1 islands?

2 A. Yes.

3 Q. So that is the development plan itself and the way in

4 which it was agreed?

5 A. Yes. As pointed out yesterday, there were -- even in

6 Mr Hoffman's letter, there were things that we were able

7 to extract from the developer that -- in terms of

8 infrastructure. I think under the agreement he was

9 supposed to spend up to \$15 million on infrastructure

10 works in Salt Cay, which would be public, the airport

11 roads and so on.

12 Q. In terms of what he was required to do, there were

13 written into the agreement positive benefits in terms of

14 investing in infrastructure. I think there was also

15 contribution to the scholarship.

16 A. Yes.

17 Q. Going on from there, just to deal with the question of

18 Mr Hoffman himself. You have known him for some years,

19 is that right?

20 A. Yes. But if I could add something before we go on from

21 there. In relation to I think something that was raised

22 yesterday by planning permission, planning board

23 meeting.

24 Q. Sir, I think there was a reference to a planning board

25 last Saturday.

1 SIR ROBIN AULD: Yes.

2 A. At the time I was not aware that there was a planning
3 board meeting. I have since been enquiring and became
4 aware that there was one and it is my understanding that
5 the planning board meeting was -- had discussed
6 a government -- there was a government application for
7 a government dock in Salt Cay.

8 SIR ROBIN AULD: Since discovered --

9 A. That a planning board did meet to discuss an application
10 by --

11 SIR ROBIN AULD: It was a meeting to discuss
12 the government's own application for planning?

13 A. For a dock in Salt Cay.

14 SIR ROBIN AULD: We used to have in the UK a parallel system
15 for government planning applications. Is this
16 the normal planning process, or is this a special
17 government process for obtaining planning consent? They
18 go through the same hoops but they don't call it
19 the same thing.

20 A. I think now the government goes through the same thing
21 because prior -- as a matter of fact, because of the
22 sensitivity of Salt Cay, to give you an example, we built
23 a government dock in North Caicos. That dock, I now
24 know, never got to planning, never got planning approval
25 and so -- but it is a government dock. So historically

1 government -- if government want to build,
2 the government build. In regulation to the Salt Cay,
3 because of the sensitivity of it, I believe it went --
4 it wanted to go through all of the correct procedure.
5 MR FITZGERALD: The meeting on Saturday was about
6 the government getting permission to build.
7 A. The government getting permission to build.
8 MR FITZGERALD: Is that because of environmental concerns or
9 what? They just need permission?
10 A. Yes, even government need permission to build. But, to
11 my knowledge, the suggestion that Mr Hoffman flew in to
12 a planning meeting, to my knowledge Mr Hoffman was not
13 here on Saturday and is not here.
14 SIR ROBIN AULD: Have you spoken to Mr Hoffman about this?
15 A. No. I was informed by the minister of planning of this.
16 SIR ROBIN AULD: The minister of planning told me; thank
17 you.
18 MR FITZGERALD: Now, the second question that I want to deal
19 with was Mr Hoffman himself. You have accepted that you
20 knew him and indeed you have known him for some time.
21 He has been on the islands since 1997, is that right?
22 A. Yes.
23 Q. And had a property on the island since 1997?
24 A. Yes.
25 Q. In terms of the suggestion that you were showing him

1 some special favour, what's your response to that?

2 A. I mean, the development agreements are pretty much a
3 standard template that sometimes are adjusted based on
4 negotiations. It has always been my government's
5 policy, in relation to islands outside of
6 Providenciales, to be more lenient throughout. We had a
7 policy of trying to attract what we call anchor
8 investment in each island, to give islanders from North
9 Caicos, Middle Caicos and the other islands, Salt Cay,
10 Grand Turk, an opportunity to provide employment and
11 opportunities for those islands, to prevent everyone
12 having to move from their home island to Providenciales.

13 We felt that that would not only give them the
14 opportunity to keep families together, so they can stay
15 home, but also take some of the social strain off of
16 Providenciales.

17 If you see, even in relation to the stamp duties,
18 there are two structures with Providenciales being
19 higher and the other islands being last.

20 Q. So is the answer there was no special treatment?

21 A. No.

22 Q. Going on from there, we know that Mr Hoffman was granted
23 Belonger status in November 2006 and was there anything
24 unusual about this man, who had a house here from 1997
25 and was investing here, getting Belonger status?

1 A. No, I mean he had lived here or been associated with
2 here for close to ten years. There are others,
3 unfortunately, under my administration and the previous
4 administration, that got Belonger status with less time.
5 So there was nothing unusual about Mr Hoffman's Belonger
6 status and based on his investments and his economic
7 contribution to the islands, real and potential, he
8 would have qualified.

9 Q. Is there a category of justification for granting
10 economic status of social and economic contributions?

11 A. My recollection is that the law probably says, persons
12 who have made either economic or social contribution to
13 the islands and we have given many persons from Haiti
14 for example. You can look at a newspaper. They may not
15 have made they type of economic contribution that
16 Mr Hoffman and others have made but they have made a
17 social contribution by helping us to build our country
18 and they have been here for long periods of time.

19 SIR ROBIN AULD: Can you help me about the date when he was
20 granted Belongership in November 2006? The final
21 agreement by cabinet for the development proposal was
22 29 November 2006. When was the Belongership granted?

23 MR FITZGERALD: I think it was 17 November.

24 SIR ROBIN AULD: At a cabinet meeting?

25 MR FITZGERALD: We have some documentation in relation to

1 that in volume 2.

2 SIR ROBIN AULD: The Belongership granted 17 November,
3 final agreement 26 November?

4 MR FITZGERALD: Yes. I am coming onto Belonger status in a
5 little bit more detail. It is dated. It is at page
6 1093. It is the Certificate of the grant of Belonger
7 Status. So the grant of Belonger status to him and
8 other developers, is that in accordance with Government
9 policy or something else?

10 A. It's in accordance with what has been Government policy
11 and practice, as I said, by both parties.

12 SIR ROBIN AULD: Does he have to be proposed by a particular
13 minister for Belongership?

14 A. No. Belonger status under the law is only -- you can't
15 even apply for Belonger status. People write in
16 expressing an interest in Belonger status. The only
17 category under which you apply is under marriage and you
18 would have had to have been living as man and wife for a
19 certain period --

20 SIR ROBIN AULD: You don't need a particular sponsor for
21 each application?

22 A. No.

23 MR FITZGERALD: Sir, Mario Hoffman does deal with his
24 Belonger status in his statement to the Commission and
25 indicates why, in his view, it is fully justified.

1 SIR ROBIN AULD: That's the letter?

2 MR FITZGERALD: Yes. The third issue in relation to this

3 that I want to come onto is that, it is right that

4 subsequently, that is to say these events take place

5 between August and November 2006, and subsequently in

6 May 2007 you and your wife together obtained a loan from

7 J&T Banka. That's right? It's in May 2007?

8 A. Yes.

9 Q. I just want to deal with that. The suggestion has been

10 that that loan from J&T Banka, some seven months later,

11 is in some way connected to the grant of development

12 permission in August 2006 or to the grant of Belonger

13 status. Is there any such connection?

14 (12.42 pm)

15 A. There is absolutely no connection between that and the

16 grant of a loan to buy a house in LA.

17 Q. Now, you deal with your relationship with J&T Banka at

18 4.7 on page 29. It is right that Mr Hoffman had

19 originally sometime before introduced you to that bank,

20 is that right?

21 A. Yes.

22 Q. In 2006 I think it was.

23 A. 2005.

24 Q. Did you meet the chairman of J&T Banka, Mr Tkac?

25 A. Yes.

1 Q. Was he someone who himself, the chairman of the bank,
2 had involvement in these islands?

3 A. Yes. The chairman of the bank had subsequently visited
4 the islands and he was interested in real estate. Also
5 I believe he had an interest -- the bank had an interest
6 in financing the Salt Cay project.

7 SIR ROBIN AULD: I was not paying attention for a second
8 there. Did you give a name for the chairman?

9 A. Yes.

10 SIR ROBIN AULD: Of J&T Banka.

11 A. It's at page 29. Tkac.

12 SIR ROBIN AULD: Thank you.

13 MR FITZGERALD: Going on from there to the position in
14 relation to Mr Tkac, he visited the islands, is that
15 right?

16 A. Yes.

17 Q. Had he indicated an interest in his bank doing business
18 here?

19 A. Yes. In here and actually in the Caribbean, he was very
20 interested in the region.

21 Q. Is this right, that his bank had acquired the Barbadian
22 bank, Intergrises(?)?

23 A. Yes. My understanding was that his bank had -- not
24 acquired, a Barbadian bank called Bay Shore. I think
25 the name changed to --

1 Q. Intergrises. So there was a bank in Barbados called
2 Bay Shore which he acquired and re-named?
3 A. Yes.
4 (12.45 pm)
5 Q. Was he interested in doing business, banking business
6 here in the Turks & Caicos?
7 A. Yes, and he was also interested in doing business here,
8 opening a bank here, and it is my understanding that he
9 applied for a banking licence here.
10 SIR ROBIN AULD: To whom would he apply?
11 A. To the financial service commission.
12 MR FITZGERALD: Do you know what happened in relation --
13 A. It is also my understanding that he has been issued with
14 a bank licence, by the financial service commission.
15 SIR ROBIN AULD: You have got some dates for that?
16 A. No.
17 SIR ROBIN AULD: Roughly?
18 A. I would not. I have nothing.
19 SIR ROBIN AULD: Yesterday or a year ago or two years ago?
20 A. I have absolutely nothing to do with the financial
21 service commission.
22 MR FITZGERALD: But now that --
23 A. I don't know what --
24 Q. At some stage --
25 A. I believe the bank was issued a licence sometime last

1 year.

2 SIR ROBIN AULD: Thank you very much.

3 Q. It has been suggested to me that might have been last

4 summer. Does that sound about right?

5 A. I don't know. All I know is we issued the bank licence.

6 Q. We know that in 2006 J&T Banka had provided you with

7 the Centurion card. I think it was in March 2006?

8 A. Yes.

9 Q. Which we have discussed the statements about, in

10 relation to. But in terms of the loan, were your

11 dealings with the bank J&T Banka or with Mr Hoffman?

12 A. J&T Banka.

13 Q. You already had a relationship with the director of that

14 bank and knew him from having met him on a number of

15 occasions, is that right?

16 A. Yes.

17 Q. When that loan was granted by the bank, to you and your

18 wife together, what was the understanding on which it

19 was given?

20 A. It was given on the understanding, as a matter of fact

21 in the agreement it states that the purpose was to buy

22 a house in Los Angeles.

23 Q. And your plan -- initial plan for being able to re-pay

24 the 6 million would have been what?

25 A. My plan was to buy the house in Los Angeles. Once

1 I bought the house, particularly back when the market
2 was better, I would have re-financed the house in the
3 States with a US bank and then repay the J&T Banka.
4 What that means is get a more traditional 25/30 year
5 home mortgage.

6 Q. The final matter is it is suggested there is something
7 sinister or untoward about the fact that this loan was
8 secured on the golf course shares owned by your brother
9 Chal and Mr Hoffman. Your brother Chal's shares in
10 the Salt Cay golf club. You deal with this at 479.

11 A. Yes.

12 Q. What is your understanding of how that came to be this
13 collateral for the loan?

14 A. First my understanding was that -- is that when I had
15 offered a number of possible collateral for the loan and
16 because -- I guess the bank was familiar with
17 the project and in fact familiar, they were more,
18 I guess comfortable with the security from the golf
19 course.

20 SIR ROBIN AULD: How did this come about really, is I think
21 the thrust of Mr Fitzgerald's question? How did it come
22 into the picture that Chal's 50 per cent interest could
23 be used as a security for your loan? And did you put it
24 forward or did they say who could provide security for
25 you or what?

1 A. No, well, as I said I had offered a number of security,
2 and then they asked if there is anything else and so --
3 and then they obviously knew of Mr Hoffman's involvement
4 with Salt Cay and so on and so forth. So I believe said
5 that perhaps I know that my brother had, at that time
6 I knew that he had an interest in the golf course and
7 that I would ask him if he would not mind me using that
8 and they seemed comfortable with that.

9 MR FITZGERALD: Did Mr Tkac himself and the J&T Banka have
10 any banking role in relation to the Salt Cay?

11 A. Yes. I believe that the bank itself either had financed
12 or intended to finance the bulk of the development.

13 SIR ROBIN AULD: Just pause there, please. They intended to
14 finance the bulk of the development. From whom did you
15 learn that and when?

16 A. I think I learned that -- I learned it along the way.
17 Actually I learned it from one of the -- the beginning
18 when I met Mr Tkac, he was introduced to me by
19 Mr Hoffman as a banker and as the bank that would be
20 financing this project.

21 SIR ROBIN AULD: I see.

22 MR FITZGERALD: So not only did they know about it, but they
23 were the bankers financing the Salt Cay?

24 A. Yes.

25 Q. So the suggestion that this loan was some sort of

1 pay-off organised by Mr Hoffman, rather than a genuine

2 loan with J&T Banka, what do you say to that?

3 A. It is completely unfair and untrue.

4 Q. I want to move on then to the next development project,

5 which we can take a little bit more shortly.

6 Joe Grant's Cay. You have already been asked questions

7 by my learned friend about the agreement in principle

8 that was later rescinded to grant development permission

9 to Arturo Malave, a Venezuelan citizen and a friend of

10 yours?

11 A. Yes.

12 Q. You have been asked questions about that. Just to give

13 the background. Had Mr Malave been around for some time

14 in his involvement with the Turks & Caicos?

15 A. Yes, Mr Malave has been around for a considerable amount

16 of time in his involvement with Turks & Caicos.

17 Q. And you knew him?

18 A. I know him, yes.

19 Q. We know, and we know this from volume 6 at page 88, that

20 there was a Cabinet approval of a development plan by

21 him in principle in October on -- on October 18, I think

22 it is 2006, is that right?

23 A. Yes.

24 Q. At the time that that was agreed in principle, that

25 Mr Malave, this businessman who had been known in the

1 Turks & Caicos for some time, was proposing this
2 development, was there any reason to suspect that he was
3 untrustworthy in any way?

4 A. No. Mr Malave was, as I said yesterday, introduced to
5 me by, originally by Carnival Corporation, which is
6 an American public company. He had many dealings with
7 Carnival in the States as well as in Venezuela. So
8 I have known him from as far as back as the 1990s.
9 I had no reason to believe that he was someone that was
10 undesirable.

11 Q. I think you said yesterday that even after reading
12 the report prepared by Mr Lessermun, the point you would
13 stress is that Mr Lessermun himself says nothing has
14 been proved against him?

15 A. Yes. The report itself state that to use his own word,
16 he said that Mr Malave had a chequered past but -- that
17 he was never charged or convicted of any crime anywhere
18 in the world.

19 Q. There is a misprint in our statement at page 32. It
20 says:

21 "I note the investigation report of Bob
22 Lessermun..."

23 It should be volume 7, tab 2 rather than volume 2
24 there.

25 You were taken through that -- to that?

1 A. Yes.

2 Q. But you summarise what you understand to be its

3 findings, that there may be some causes for suspicion,

4 but there's nothing been proved in any way?

5 A. Yes. He has never been charged or convicted in any

6 court anywhere in the world.

7 Q. I believe he is someone who does business here in

8 America, and in Europe?

9 A. And in Europe yes.

10 Q. I think he has --

11 A. I think he is a Danish/Venezuelan citizen.

12 Q. In any event, the approval in principle was rescinded.

13 Was that because of concerns about financial resources?

14 A. Yes.

15 Q. The new developers, you have indicated to my learned

16 friend, are Dr Cem Kinay and Don Gardiner?

17 A. Yes.

18 Q. Sir, one matter. We do have the declaration of trust in

19 relation to Oceanic Developments. There was some

20 speculation as to which of the many Gardiners

21 Don Gardiner was, but just to make it clear that it is

22 Don Gardiner rather than any other Gardiner, can I make

23 available --

24 SIR ROBIN AULD: What's the effect of the declaration of

25 trust in favour of Oceanic?

1 MR FITZGERALD: It is just to indicate that it is with
2 Don Gardiner, the shares.
3 SIR ROBIN AULD: What is with him?
4 MR FITZGERALD: Can I give you that.
5 SIR ROBIN AULD: Thank you very much. (Handed)
6 The name of Don Gardiner, no relation.
7 MR FITZGERALD: Yes, it is just to indicate the name.
8 SIR ROBIN AULD: Can I just look at it, please. (Pause).
9 It is their company's declaration in favour of
10 Don Gardiner. Thank you.
11 MR FITZGERALD: Now, if we can finally move on, I hope
12 shortly to Dellis Cay. It is right that Dellis Cay is
13 being developed by Dr Cem Kinay, a Turkish national, is
14 that right?
15 A. Yes.
16 Q. He is someone who you know and are friendly with, is
17 that right?
18 A. Yes, Dr Kinay is to my knowledge based on
19 the background, an outstanding developer. He is someone
20 that has -- he is a medical doctor but at the peak of
21 his tourism career had developed one of the largest tour
22 companies in Austria and with hotels in Turkey and
23 elsewhere and had several years ago started a company
24 called the O Properties, with his intention of
25 developing a collection of the best of the best hotels

1 around the world, starting with the Mandarin Oriental
2 project on Dellis Cay, which is and was a private island
3 that he purchased.

4 SIR ROBIN AULD: Are you leaving Gardiner for a minute?

5 MR FITZGERALD: I was. I was going to deal --

6 SIR ROBIN AULD: You were or you weren't.

7 MR FITZGERALD: Yes I did.

8 SIR ROBIN AULD: I just want to ask a question which is
9 puzzling me. It is about somebody called Farrington or
10 Ferrington Gardiner? Is there a Farrington Gardiner or
11 Ferrington Gardiner involved in Dellis Cay?

12 A. No, I think there is a Ferrington Gardiner who works.

13 SIR ROBIN AULD: Is he any relative of yours?

14 A. No, I am a Misick. He is an employee to my knowledge of
15 Dellis Cay.

16 SIR ROBIN AULD: What does he do there?

17 A. I don't know, but I know he is an employee of
18 Dellis Cay.

19 MR FITZGERALD: Sir, I am now on the Dellis Cay development.
20 Mr O'Dea is going to hand up to you a copy.

21 SIR ROBIN AULD: Are you racing to finish before the short
22 adjournment?

23 MR FITZGERALD: Perhaps I could just end on this high point.

24 SIR ROBIN AULD: You hope it is a high point.

25 MR FITZGERALD: As high as it gets.

1 It is a letter from Michelle Neutlings is
2 the president of the development --
3 A. Vice President.
4 (1.00 pm)
5 Q. Vice President, indicating the scope of the development
6 on Dellis Cay. The quality of the development,
7 the history of the company and the contribution to
8 the community made by the O Properties collection.
9 SIR ROBIN AULD: It is written to Mr Shaun Malcolm.
10 MR FITZGERALD: Yes I think there had been a derogatory
11 article about the development in the newspaper. He is
12 writing back, saying that this is totally unfair and
13 this is our track record. This is what we have done for
14 this country and this is what we hope to do in the
15 future and indicating that the criticism of
16 the development is unfounded.
17 SIR ROBIN AULD: It is dated 11th January.
18 MR FITZGERALD: Just if I can put this to you, Premier. In
19 your view, is this a development that has a sound
20 background and a positive contribution to make to these
21 islands?
22 A. Yes, in my view the development of Dellis Cay, and based
23 on the plans that I am aware, that not only that they
24 have for Dellis Cay and that are taking place as we
25 speak, is probably going to be one of the finest resort

1 development in the world. It is exactly the type of
2 development that the Turks & Caicos has sought to
3 attract to establish ourselves as the premier upmarket
4 destination in the world.

5 As I said earlier, to be able to get a Mandarin
6 Oriental, which is one of the top hotel resorts in
7 the world, to Turks & Caicos, is -- and the first one in
8 the Caribbean, is a major accomplishment for these
9 islands.

10 MR FITZGERALD: So that is the quality and the merits of the
11 application. It is right that there was an approval
12 plan for the development at Dellis Cay and is this
13 right, it was not your sole responsibility but --

14 A. Approval plan. I believe the master plan or approval
15 plan of Dellis Cay would have been done by the planning
16 board.

17 Q. Was the case for special concessions presented to
18 the Cabinet in fact by the Deputy Premier, it being his
19 constituency?

20 A. In the case of Dellis Cay, Dellis Cay is not his
21 constituency. I believe the case of special concession
22 was probably presented to the -- by the Deputy Premier
23 in relation to Dellis Cay but I don't know what the
24 concession is that you are referring to. He is
25 the minister of finance.

1 MR FITZGERALD: As to your own -- you yourself I think made
2 a decision to allow an appeal against the planning
3 board's adverse decisions. That was just on certain
4 points --

5 SIR ROBIN AULD: I think we ought to come back to this after
6 the adjournment. You are obviously going to be a little
7 bit longer on this, are you not?

8 MR FITZGERALD: Yes, sir, just a few minutes.

9 SIR ROBIN AULD: You may have other matters you can think
10 about over the adjournment.

11 Ladies and gentlemen, we will come back, I think not
12 before 2.30 today. I have another matter to deal with
13 now and we are running a little late so not before 2.30.

14 (1.03 pm)

15 (The short adjournment)

16 (2.30 pm)

17 SIR ROBIN AULD: Yes, Mr Fitzgerald.

18 MR FITZGERALD: Mr Premier, we were dealing with Dellis Cay,
19 which you have dealt with at pages 32 and 33, and you
20 had dealt with the merits of the decision to grant
21 development permission, certain relaxations of
22 concessions to Dr Kinay.

23 You yourself took a decision to allow Dr Kinay's
24 appeal against the planning board's adverse decision on
25 certain points. Is that right?

1 A. Yes.

2 Q. If you want to see it, it is at volume 7, red 7, tab 1,
3 page 108. Just to make clear, that is a decision on
4 certain -- to overturn their decision on certain points,
5 is that right?

6 A. It is a decision to overturn the board's decision on
7 certain points and it is a -- as the then minister of
8 planning, I sat in a quasi-judicial capacity and it is
9 a decision only I could have taken.

10 SIR ROBIN AULD: It was a conditional approval and I think
11 you varied some of the conditions, didn't you?

12 A. Yes, I believe that is the case.

13 MR FITZGERALD: So not a question of the plan being refused
14 by the planning board and approved by you, but it was
15 a relaxation of certain of the conditions.

16 A. Yes, to be able to expedite the development.

17 Q. You said just now to expedite the development.

18 Generally speaking, can there be a problem if
19 development plans are held up by conditions being
20 attached?

21 A. It is always a concern that a developer may either lose
22 interest or get another opportunity elsewhere. So it is
23 always, if it is possible, they try to expedite
24 developments.

25 Q. In fact, the decision you took was in the exercise of

1 the statutory function that you have, as you pointed
2 out, and only you as minister of development has that --

3 A. Planning, yes.

4 Q. So that concludes the issue of Dellis Cay. You have
5 also dealt with various other developments on which my
6 learned friend --

7 SIR ROBIN AULD: Mr Fitzgerald, I am sorry to interrupt you
8 so early. I think we have a slight problem with our
9 recording system of our court reporters. Can we adjourn
10 for five minutes to sort it out.

11 (2.32 pm)

12 (A short break)

13 (2.37 pm)

14 SIR ROBIN AULD: Mr Fitzgerald, I think I wrongly
15 characterised the Premier's decision as a variation of
16 planning conditions. It was not quite that, I see,
17 having looked at the document. The planning board had
18 refused permission to develop and the reasons for its
19 refusal were twofold. (1), it was subject to a -- there
20 was a development which was subject to a detailed
21 environmental impact assessment, which had not been
22 done, and it also required approval of the person who
23 would have to do such an assessment if it had been done.
24 The effect of the Premier's decision in his
25 quasi-appellate judicial capacity seems to me to have

1 been that he set aside the refusal, but nevertheless in
2 granting permission, required it to be subject to
3 an environmental impact assessment. I didn't quite put
4 it right in formal terms, but the effect is much
5 the same.

6 Q. It remains subject to an EIA being carried out?

7 A. Yes.

8 Q. Can I then move on. You stand by the -- what you have
9 said about the other developments on which you have not
10 been questioned.

11 A. Yes.

12 Q. But turning to part 5, the granting of immigration and
13 Belonger status. You have been asked about the granting
14 of Belonger status to a number of individuals. We have
15 dealt with Mario Hoffman already, and in your view, was
16 the grant of Belonger status to Mario Hoffman justified
17 on the merits?

18 A. Yes.

19 Q. In accordance with government policy?

20 A. Yes.

21 Q. You were asked by the Commission to deal also with
22 the question of the grant of Belonger status to your
23 wife, Lisa-Raye McCoy. What was the basis on which she
24 was granted Belonger status?

25 A. Both she -- well, she was granted Belonger status on

1 the basis -- by Cabinet -- on the basis of the social
2 contribution that she had made and was making to Turks &
3 Caicos at the time, being the face of the advertising of
4 the Turks & Caicos.

5 Q. She had been the -- I think you already said --
6 the promoter of the Turks & Caicos in the advertising
7 campaign.

8 I take it you stand by what you said in relation to
9 David Smith at 5.4?

10 A. Yes.

11 Q. In relation to Dr Cem Kinay at 5.5, you indicate that it
12 was because of his substantial investment in projects
13 beneficial to the country?

14 A. Yes.

15 Q. Is there anything you would like to add in relation to
16 Dr Cem Kinay as to whether he is someone who qualifies?

17 A. I think undoubtedly he qualifies and the contribution
18 that he has made and continues to makes to the Turks &
19 Caicos is substantial in nature, and in line with past
20 and present government policy, he would have qualified.

21 Q. Had there been any particular contributions that he has
22 made?

23 A. Yes. I mean he is -- in reference to -- in addition to
24 the contribution he has made in the Mandarin Oriental,
25 the development of Dellis Cay, Dr Kinay personally is

1 committed to building a high school in North Caicos for
2 the people of North Caicos to the tune of \$6 million.

3 Furthermore -- yes.

4 Q. Just finally, the government policy in relation to
5 developers and the grant of Belonger status to them,
6 what is the overall justification for granting Belonger
7 status to developers?

8 A. The granting of Belonger status to developers such as
9 Dr Kinay has been done by both parties in the past, and
10 those grants have not been the subject of any adverse
11 comments, and it has been the policy and practice where
12 the person is making significant contributions, whether
13 of an economic or social nature, to grant Belonger
14 status.

15 SIR ROBIN AULD: Beneficial development?

16 A. Yes.

17 MR FITZGERALD: That qualifies then under that particular
18 justification for the grant of Belonger status, social
19 or economic contribution?

20 A. Yes.

21 Q. Questions were posed about the acquisition of Crown
22 land, and can I just deal with one issue that my learned
23 friend questioned you about at 6.4. You have dealt with
24 the issue of the acquisition of freehold parcels at
25 60000/36 at Northwest Point, Providenciales?

1 A. Yes.

2 Q. We have in volume 5, at tab 26, a letter in relation to
3 that, if you wish to find that. Can I just introduce,
4 the allegation that was made was that you got some sort
5 of a bargain sale of 18 acres of beachfront Crown land,
6 and this was the allegation reported to the Foreign
7 Affairs Committee. Can I just ask you whether it is
8 true that you got some sort of bargain price or whether
9 you paid the normal price for a Belonger?

10 A. The first truth is that it is not beachfront land but
11 rather waterfront, eye on shore as we call it in
12 the island. The second point is that as a Belonger, in
13 spite of being Premier, I am entitled to the grant of
14 Crown land like any other Belonger.

15 The third point is that the grant was given in line
16 with the Crown land policy, a valuation was done of the
17 open market value by the government valuation officer
18 and all of the transaction was done in line with
19 government policies and practice. So I was not given
20 any advantage in relation to the land.

21 Q. Just specifically, the first ten acres in accordance
22 with policy was granted at 75 per cent of the open
23 market value as to any other Belonger, is that right?

24 A. Yes, that is the present policy.

25 Q. The remaining 8.28 acres, you paid the full market value

1 for?

2 A. Yes, in line with the policy.

3 Q. Just going on from there, the purchase was by MIG,

4 a property company in which you have a 50 per cent

5 interest, is that right?

6 A. Yes.

7 (2.45 pm)

8 Q. The two longstanding friends you refer to, is that

9 Inazio and Caetan --

10 A. I can't pronounce it either. Caltigirone.

11 Q. They have a company called Sabre Holdings?

12 A. That is my understanding, yes.

13 Q. You have dealt with the fact that it is not at any

14 special reduced price but at the normal price that

15 should be paid?

16 A. Yes.

17 Q. In relation to the other developments that you have

18 acquired and the other properties you have acquired from

19 private owners, do you stand by the evidence set out at

20 pages 40 and 41?

21 A. Yes.

22 Q. I want to move on to the seventh issue, that is to say

23 government contracts. My learned friend hasn't asked

24 you any specific questions in relation to that, but do

25 you stand by your evidence as set out at part 7,

1 pages 42 to 43?

2 A. Yes.

3 Q. Turning on from there to part 8, the eighth issue that

4 you have been asked to address. The adoption of the

5 Southern Health Network as the providers of medical

6 services, is that adoption something that you personally

7 had -- were involved in other than as one of the

8 Cabinet?

9 A. No, I had absolutely no involvement in it, other than as

10 a matter of Cabinet. Cabinet had made a decision --

11 Cabinet made two decisions. The first decision was

12 to -- when the proposal came from the ministry of

13 health, was to ask the then minister of health to,

14 I think, negotiate with SHN and then Cabinet ultimately

15 made a decision to approve SHN as the health provider,

16 replacing Canadian Medical Health Network. But I had no

17 other direct involvement, only as sitting in Cabinet.

18 Q. The justification that was put forward for the transfer

19 in Cabinet, what was the basis on which it was said that

20 this would be a good idea to switch?

21 A. The justification that was put forward by the ministry,

22 that there would be net savings to the government of

23 about 15 to 20 per cent.

24 Q. Do you have any personal links with Southern Health

25 Network?

1 A. No.

2 Q. So, as far as you are concerned, was that a decision
3 insofar as you played any part of it, taken by yourself
4 on the merits rather than for any personal reasons at
5 all?

6 A. Yes.

7 Q. Finally, I want to come on to the ninth issue which you
8 have been asked to address, which relates to
9 the tendering process and in relation to that, we know
10 that Johnston International got the contract for
11 the construction of the hospital in late 2007 and early
12 2008. Is this right that the government had its own
13 advisory team on that?

14 A. Yes. The hospital -- the whole hospital contract was
15 one that was managed by, I think, outside consultants,
16 including Eversheds from London.

17 Q. Eversheds the lawyers --

18 A. The law firm from London. There were persons involved,
19 even, I think, the permanent secretary or maybe
20 the health ministry in London were involved.

21 SIR ROBIN AULD: When you say the hospital, do you mean
22 the two hospitals?

23 A. Yes.

24 SIR ROBIN AULD: The two new hospitals.

25 A. Yes. As a matter of fact, if we can go back, there was

1 a whole tendering process as to choosing a hospital
2 provider, of which Interhealth Canada was the -- was
3 chosen as a hospital provider. In relation to the
4 contract itself to build the hospital, that was purely
5 by Interhealth Canada. It is them who made
6 the decision.

7 SIR ROBIN AULD: I didn't follow what you have just said.

8 Tender process for the hospital providers, but as for
9 the building of the hospitals, what did you say?

10 A. As for the contract to build the hospital, that had no
11 dealings with government. It was a completely separate
12 matter for Interhealth Canada.

13 MR FITZGERALD: So Interhealth Canada, having been chosen as
14 the health provider, took the decision as to who was to
15 construct the hospital on their own assessment of who
16 would be the best --

17 A. Yes.

18 Q. So is there any question of you having sought to
19 influence that decision for personal reasons or personal
20 benefit?

21 A. Absolutely not. I had very little dealings with
22 Interhealth Canada other than in Cabinet.

23 Q. Finally just this: do you adopt this statement and
24 the contents of it as your evidence in totality before
25 the Commission?

1 A. Yes, I do.

2 MR FITZGERALD: Sir, those are the only matters I wish to
3 raise with the Premier.

4 SIR ROBIN AULD: Thank you, Mr Fitzgerald.

5 MR FITZGERALD: We have the declaration of trust that
6 I referred to. If I could just hand those up.

7 SIR ROBIN AULD: This is the declaration of trust of
8 Oceanic Development Limited, acknowledging that it holds
9 a single share in trusts for Don Gardiner.

10 A. I guess.

11 SIR ROBIN AULD: That is for the record.

12 MR FITZGERALD: Thank you, sir.

13 Further cross-examination by MR MILNE

14 MR MILNE: May it please you, sir.

15 Mr Premier, we have covered many topics and I am
16 going to touch, I hope shortly, on a number of those
17 that you have returned to in the last few hours.

18 You remember that during the course of your evidence
19 before this Tribunal you said that there had -- there
20 was no ministerial code of conduct, that one had not
21 been introduced. Do you remember that?

22 A. Yes.

23 Q. And that it would be unfair and unreasonable to say that
24 you had brought one into force because that would be
25 a misrepresentation of the true position, is that

1 correct?

2 A. I said that one was not brought into force because

3 according to the decision, it was supposed to be tidied

4 up by the Cabinet Secretary and signed by me, and then

5 distributed as well as published in the Gazette,

6 I believe.

7 Q. So it had not been introduced and passed, had it?

8 A. I am sorry.

9 Q. It had not been introduced and passed, this ministerial

10 code of conduct?

11 A. Introduced where?

12 Q. Been introduced to the Cabinet, I presume that is

13 the only place where it would apply. It had not been

14 brought in, it was not effective?

15 A. It was not brought into force to my knowledge.

16 Q. I have in front of me the speech that you gave when

17 the Commission of Inquiry was first announced. Do you

18 remember making that speech?

19 A. I made a lot of speeches.

20 Q. Yes, you do make a lot of speeches, sir. This one was

21 a particularly interesting one because this was

22 14th July 2008 and you said it was with great

23 disappointment but not surprise that you learned of the

24 appointment of the Commission of Inquiry and you were

25 critical of a number of parties. Do you remember that?

1 It was issued on the government information service,
2 the GIS.

3 A. Yes.

4 Q. Because when you made that speech, quite early on in it
5 you pointed out all the advantages which you said that
6 your government had brought to the Turks & Caicos
7 Islands and you said:

8 "We have introduced and passed anti-corruption laws,
9 such as the integrity in public office ordinance,
10 a proceeds of crime ordinance and a ministerial code of
11 conduct."

12 You are telling the people of the Turks & Caicos
13 that you had introduced and passed a ministerial code of
14 conduct?

15 A. Yes.

16 Q. You didn't mention: but it is still stuck in my
17 secretarial intray waiting to be typed and waiting for
18 me to distribute it. You didn't make that clear in the
19 speech, did you, sir?

20 A. The speech speaks for itself.

21 Q. Yes, it does. The speech represents that you have
22 introduced a ministerial code of conduct which should be
23 a matter of reassurance to the people of the Turks &
24 Caicos?

25 A. Well, the speech also represents that the integrity in

1 public office legislation was passed, but it didn't say

2 it was in force, which as of to date is not enforced

3 either.

4 Q. What you said to the people in that speech really had

5 a great big caveat which you weren't prepared to mention

6 to them?

7 A. I am sorry?

8 Q. It had a caveat attached to it?

9 A. No, it is factually right.

10 Q. I suggest a ministerial code of conduct that a year on

11 still hasn't been signed, still hasn't been distributed

12 is a meaningless document?

13 A. I am prepared to sign it once it is brought in

14 a position to be signed. I have not refused to sign it.

15 SIR ROBIN AULD: I think we have been round this one. We

16 can compare what he said in that statement with what he

17 said in evidence yesterday. It may match and it may

18 not.

19 MR MILNE: A number of short matters we would like to just

20 clarify. Am I to understand when you talk about

21 the tourist board budget that effectively, if there is

22 an overspend on the budget, it is the fault of the

23 board, not your fault?

24 A. If the tourist board overspends?

25 Q. Yes.

1 A. I don't manage the tourist board budget. As a matter of
2 fact I don't manage any budgets. The tourist board
3 manages its own budget. My permanent secretary manages
4 the budget of the ministry. I am not an accounting
5 officer.

6 Q. If there is an overspend, it is down to them?

7 A. That is my understanding of the law.

8 Q. That is what you are saying -- that is your evidence to
9 us?

10 A. Yes, unless they are instructed otherwise.

11 Q. Another point that was raised with you was that of the
12 scholarships. You said that you took responsibility to
13 authorise a number of scholarships?

14 A. Yes.

15 Q. Don't you have an education minister in the Cabinet?

16 A. Yes.

17 Q. Why isn't the education minister authorising
18 the scholarships?

19 A. She didn't. She brought it to me.

20 Q. Why would she need to bring it to you?

21 A. You will have an opportunity to ask her that when she
22 appears.

23 Q. Why didn't you devolve down to her and say: I am a busy
24 man, I am the Premier of this country, you are my
25 education minister, you authorise them?

1 A. She did authorise some scholarships herself.

2 Q. Then why did people come to you to get your
3 authorisation?

4 A. Sometimes that happens when you are the leader.

5 Q. Sometimes it happens, why?

6 A. She brought the -- in pre-Cabinet, the matter of the
7 scholarship was discussed. She brought -- the ministry
8 prepared the letter for me to sign and I signed it and
9 I gave 140 people -- in fact the government has given
10 thousands of scholarships, and in this particular case,
11 not 140 interventions, but 140 people or 130 people did
12 get a scholarship under my signature. The question of
13 the scholarship going to a committee is purely that of
14 a policy. There is no law that requires that and so
15 that decision was made. Those people were not selected
16 on political basis. Most if not all of those people
17 attend universities. A lot of them had returned back
18 home to take their rightful place in our society.
19 I believe it was a good thing that they were able to go
20 off and study.

21 Q. Mr Premier, the question was a simple one. Why did they
22 come to you and not the education minister? If she had
23 the authority to sign them and you say that she did on
24 occasion, why would anybody need to come to you, why did
25 you need to be involved in this at all?

1 A. Well, I am the Premier, she brought -- as I -- I can go
2 over the same answer again. We discussed the matter in
3 Cabinet. In pre-Cabinet. The ministry prepared
4 a letter for my signature and I signed it.

5 Q. Which ministry?

6 A. The ministry of education.

7 Q. Right, so the ministry of education, when you say the
8 ministry of education, you mean the civil servants
9 within the ministry of education? Yes? The civil
10 servant staff within the ministry of education would
11 have prepared the document?

12 A. I think there is someone who is responsible for
13 the administration of scholarship.

14 Q. No doubt there is. To whom does that civil servant
15 report?

16 A. To the PS.

17 Q. Right.

18 A. If it is not the PS.

19 Q. The line management takes that civil servant via the PS
20 to the minister.

21 A. Yes, and the minister brought the letter as I explained
22 in pre-Cabinet where all the ministers are, and I signed
23 the letter.

24 Q. Right. So the minister didn't feel that she could sign
25 these off. She needed to come and trouble you with it.

1 Is that what you are saying?

2 MR FITZGERALD: Sir, I do hesitate, but my learned friend

3 really has put this question four times now.

4 SIR ROBIN AULD: I think he has put the question: why need

5 Premier be involved at all, and he has not had an answer

6 to that question, however many times he has asked it.

7 A. Because the minister involved me. The minister involved

8 me, she brought the letter, we discussed the issue of

9 scholarships, we discussed -- my recollection that maybe

10 the board for whatever reason couldn't get together.

11 She brought the letter for me to sign as Premier because

12 I believe that obviously there need to be some

13 authorisation for the scholarship and I signed it.

14 SIR ROBIN AULD: They had a machinery which was bypassed on

15 a number of occasions for good or bad reasons, but it

16 was bypassed, wasn't it?

17 A. Yes.

18 (3.00 pm)

19 MR MILNE: Let's move on to a different topic. The bank

20 accounts that you were asked about on a number of

21 occasions. You said to your own counsel during

22 the course of this morning, when asked about My Way

23 Productions 2 Limited, you were not sure when you first

24 disclosed your bank accounts to your attorneys if you

25 were still a signatory on that account as the account

1 was established for your wife. That was your evidence.

2 A. Yes.

3 Q. You, however, together with your wife, had used that

4 account to invest hundreds of thousands of dollars, as

5 we have been told?

6 A. Yes, sir.

7 Q. You thought that may have just slipped away from you?

8 A. No, I said at the time, because we were going through

9 a divorce. She was on my accounts and I had taken her

10 off my accounts and so at the time I assumed that she

11 had taken me off her account.

12 Q. She could not take your shareholdings away, could she,

13 because you owned 50 per cent of that company?

14 A. I guess she could not, but that's my recollection at the

15 time.

16 Q. As far as declarations are concerned, and that is bank

17 accounts, but as far as declarations are concerned,

18 political contributions -- correct me if I am wrong but

19 as far as the Register of Interests are concerned, you

20 have never, ever declared any political contribution?

21 Correct me if I am wrong about that.

22 A. My explanation for that --

23 SIR ROBIN AULD: Just confirm it or not and then explain it.

24 Is he right or is he wrong?

25 A. Confirm it and then explain it, or explain it and then

1 confirm it?

2 SIR ROBIN AULD: No, you explain it afterwards. That is

3 the next question. Just say whether he is right in

4 the proposition he puts.

5 A. Yes, he is right. I never declared any political

6 contribution or gift and neither had anyone else.

7 MR MILNE: So does that make it all right?

8 A. I didn't say that.

9 Q. I am asking you, does that make it all right?

10 A. I regret that I didn't do it.

11 Q. You owned at one stage a house in Miami. Did you ever

12 declare that?

13 A. A condo. Yes.

14 Q. You did declare it?

15 A. No, I never declared it.

16 Q. You have to declare a house but you don't have to

17 declare a condo. That is not a distinction you are

18 seeking to draw, is it?

19 A. No, I was clarifying that I never owned a house in

20 Miami. I owned a condo or a town house with my

21 ex-girlfriend.

22 Q. Did you declare it?

23 A. No.

24 Q. In your appendix 5 you make reference to an item, again,

25 we have gone through some of these, but just one I think

1 we should clarify. 29th January 2007. It is on page 51
2 of appendix 5.

3 Perhaps you could clarify this for us.

4 SIR ROBIN AULD: Item number?

5 MR MILNE: Item number 62, sir. Appendix 5, your bundle A.

6 Do you have that?

7 A. Yes.

8 Q. At that item it is described as Villa Maria Helena,

9 deposit for private land purchased, 94,000, nearly

10 \$95,000 has been paid into your account?

11 A. Yes.

12 Q. What was the Villa Maria Helena?

13 A. This is in relation to the matter that I declared

14 earlier. This was monies that was sent to me by

15 a friend of mine in which land that she bought behind

16 the Grace Bay Plaza, which is owned by her and later

17 the land that we bought together, that is in the name of

18 U-Hotels Limited that had been declared.

19 Q. Sorry, you said a very good friend of yours?

20 A. I am sorry? I said a friend of mine.

21 Q. A friend of yours. What was the name of the friend,

22 please?

23 A. Janette Verella.

24 Q. Janette Verella and you bought land. Do we have

25 the plot number for that land?

1 A. It is the land that I declared in U-Hotels. But this
2 is -- I had nothing to do with that land. She bought it
3 on her own, land that is behind the plaza that I own and
4 then the intention was that we would have combined
5 the land that she bought with the land that I own
6 together and form a company to build a resort.

7 Q. So why is there \$95,000 going into your account? I am
8 sorry, I don't follow. She bought land?

9 A. Yes.

10 Q. You had land. You were going to combine. Good. Why is
11 there \$95,000 going into your --

12 A. The money that went into the account was a deposit on
13 the land that she was going to buy, which was ultimately
14 handled by her, eventually handled by her lawyers
15 Miller Simons, but the money was a deposit on the land.

16 Q. Right.

17 A. Is that hard to follow?

18 Q. No. So why is it in your account?

19 A. Because she sent it to me.

20 Q. Why?

21 A. Because I am her friend and we were doing business and
22 she bought the land. It was a deposit on a piece of
23 land.

24 Q. Were you selling her the land or was she buying it from
25 another party?

1 A. She was buying it from another party.

2 Q. So why would she send the deposit to you? Why not send
3 it to her lawyers?

4 A. She sent it to me, I explained to you, she sent it to me
5 to make the deposit. I believe the sale was being
6 handled -- well, she sent it to me to make the deposit
7 on the land. It was a 10 per cent deposit on the land
8 which eventually her lawyer took over and was closed.

9 SIR ROBIN AULD: Did she buy this land?

10 A. Yes.

11 SIR ROBIN AULD: And the money must have gone out of your
12 account somewhere along the line fairly quickly?

13 The deposit was paid.

14 A. Yes, the deposit was eventually paid. Somehow we
15 balance it, yes.

16 SIR ROBIN AULD: Was this a joint purchase?

17 A. No.

18 SIR ROBIN AULD: It was her --

19 A. She purchased the land. The joint purchase that
20 I referred to is --

21 MR FITZGERALD: There is a reference at page 114 to
22 U-Hotels -- of the correspondence bundle B.

23 SIR ROBIN AULD: Thank you.

24 MR FITZGERALD: The disclosure there about
25 U-Hotels Holdings.

1 SIR ROBIN AULD: She used the money to pay the deposits,
2 that is the point of it.

3 MR MILNE: The money goes into your account. It is
4 the account 29th January 2007. This is \$94,995.
5 Presumably she paid you that amount because she expected
6 that that amount would be necessary for paying
7 the deposit, is that correct?

8 A. Actually the deposit was short. It should have been
9 95,000 because my recollection was the purchase of the
10 land was 950,000 and the 95,000 would reflect 10
11 per cent.

12 Q. Okay. So there should at some point in your account be
13 95,000 going out.

14 A. Well, there should at some point. I should be able to
15 show either from -- I guess from one of these accounts
16 here, the money going out or how it was balanced.

17 Q. It goes into -- the account that it actually goes into
18 when it is paid across is
19 the First Caribbean International Bank payments, and it
20 goes in there, and if it assists anybody, it is page 231
21 of the first bundle, volume 1 and a sum goes in.

22 The same day by coincidence that Luxus Aviation donate
23 \$25,000. If we then go through from there, well, I will
24 confess, Mr Premier, I am looking for it going out and
25 it doesn't.

1 A. It may not go out -- it may not have gone out the way
2 you are looking for it to go out, but what I can
3 undertake for the Commission is to show where that money
4 was paid as a deposit. I mean and it is
5 a straightforward -- it was a straightforward
6 transaction.

7 Q. How long did you keep it?

8 A. I don't know.

9 Q. Weeks, two days? Five years?

10 A. Five years?

11 Q. Have you kept it ever since, sir, or have you simply
12 spent it?

13 A. Don't be ridiculous.

14 Q. Mr Premier, there is no record of that sum going out in
15 that sum?

16 A. Yes, well -- I accept that. I accept that there is no
17 record of this sum going out in -- on this page but this
18 page is more concerned with incoming.

19 Q. This page you pointed to is the money coming in. These
20 pages are the bank account statements which you
21 disclosed to us which showed periods of months following
22 that and at no point does that sum leave. So how did
23 you pay it, to whom did you pay it and when did you pay
24 it out? That is what we are asking.

25 MR FITZGERALD: Sir, can I raise one matter. There may be

1 some more further FCIB statements that we just got here
2 which we were going to disclose. It may be that they
3 are in there.

4 SIR ROBIN AULD: It may be in the further disclosure you are
5 about to make.

6 MR FITZGERALD: These are not --

7 A. It may be -- I might have paid it out of my Belize
8 account. So the fact is I am sure with time I can show
9 the Commission the way it went out and show the extent
10 of the land.

11 MR MILNE: To whom was it paid?

12 A. I can't recall who it was paid to, but my recollection
13 is that it would have been paid, I believe
14 Prestigious Properties might have been handling
15 the transaction. So ultimately it was probably paid to
16 them for on payment to the sellers' attorneys.

17 In relation to that, I could undertake to get all of
18 the information that I have anyway in relation to that
19 transaction.

20 Q. Sir, we await that with interest.

21 A. I am sure you do.

22 Q. If you point it out where it left the account, to whom
23 it went, then obviously that would be an explanation we
24 would be very interested to hear.

25 Let's move on. A different topic. You have

1 discussed with us the question of the loans that you
2 have. Your evidence, if I follow this correctly, was
3 one of your creditors had been asking you about
4 repayments. You said:

5 "My lawyers may have received correspondence on
6 Secured Holdings."

7 Can you tell me, please, when they received that
8 correspondence? When were you told -- let me re-phrase
9 the question? When were you told that they had received
10 correspondence?

11 A. I am not saying I was told. I said my lawyers may have
12 received -- I believe that -- and again I have been very
13 busy with this, but I believe sometime recently, it may
14 have been in the last couple of weeks, I have seen
15 a copy of an email in relation to that sent to my lawyer
16 and copied to me.

17 Q. And saying what, that they --

18 A. I didn't -- I still haven't read it completely. I know
19 that it had something to do with repayment of the loan.

20 SIR ROBIN AULD: In the last few weeks, some such
21 correspondence?

22 A. Yes.

23 SIR ROBIN AULD: When you say your lawyers, do you mean
24 those who are acting for you in this Inquiry?

25 A. No, the lawyer in relation to the Belview Holdings.

1 SIR ROBIN AULD: Who was that?
2 A. Saunders & Co.
3 MR MILNE: Saunders & Co have received correspondence from
4 whom?
5 A. Again, my belief and recollection is that Saunders & Co
6 has received correspondence from Misick & Stanbrook in
7 relation to the loan of Secured Holdings.
8 Q. Put bluntly, they would like their money back?
9 A. Yes, would you like for me to check my Blackberry to
10 see?
11 Q. The correspondence that we have seen in relation to this
12 suggests that there was an extension of the loan, which
13 was due to be paid by a certain time. It was extended
14 initially by three months with a possibility of a slight
15 further extension but that only took it as far as
16 the early part of 2007. We have been informed by Misick
17 and Stanbrook that in fact there has been no further
18 correspondence. Obviously there may have been something
19 more recently. Over the last 18 months or more there
20 had been no correspondence?
21 A. I said I believe in the last few weeks I have seen
22 the correspondence in relation to that.
23 (3.15 pm)
24 Q. Another question you may be able to help us with in
25 relation to developments. Arturo Malave, you told us

1 that he was not to your knowledge somebody who was in
2 any way suspect.

3 A. I am not the police. I don't go around looking for
4 suspects.

5 MR FITZGERALD: He said charged or convicted. He said not
6 charged or convicted, although he had a chequered past.

7 MR MILNE: Did you know he had a chequered past?

8 A. Did I know he had a chequered past? I said to you that
9 he was introduced to me by the Carnival -- sorry.

10 Q. You told us Carnival Corporation, sir?

11 A. You can answer or you can let me answer.

12 Q. Carry on. The question was not who you were introduced
13 to him by. You have told us you knew him for a number
14 of years.

15 A. I am trying to explain to you that if
16 Carnival Corporation, which is a public company in
17 the US that has stringent requirement in who they deal
18 with, introduced me to someone, then I assume just like
19 how the Financial Services Commission approve something
20 for someone, I assume that they do due diligence.

21 Q. Is it not the case that he was at one stage on a stop
22 list?

23 A. Absolutely not. Not here in the Turks & Caicos.

24 Q. Because it has been widely reported that he was on
25 a stop list and that your government took him off that

1 stop list.

2 A. You listen to too much PDM gossip.

3 Q. Sir, this didn't come from the PDM.

4 A. The stop list is a matter of record and I am sure you

5 have access to all of the records in the Governor's

6 office and you can get it. So you can see if he was

7 ever on the stop list.

8 Q. You told us about Mr Cem Kinay, that he had made

9 substantial contribution to the islands. And that he

10 became a Belonger. I am not suggesting that Mr Kinay

11 has a chequered past. He clearly has a substantial

12 business history behind him. When did Mr Cem Kinay

13 first come to the islands and propose development on

14 Dellis Cay?

15 A. What do you mean?

16 MR FITZGERALD: That is two questions. When did he first

17 come to the islands and when --

18 SIR ROBIN AULD: I assume from the question that Mr Milne

19 understood they were coincidental or contemporaneous,

20 but maybe not.

21 MR FITZGERALD: Perhaps --

22 SIR ROBIN AULD: I think he is going to make it clear.

23 MR MILNE: I will break it down. When did you first meet

24 Cem Kinay?

25 A. I can't recall exactly.

- 1 Q. Do you know when he first came to the islands?
- 2 A. I am not an immigration officer.
- 3 Q. That is not what I said, sir.
- 4 A. No, I don't know.
- 5 Q. You don't know?
- 6 A. No.
- 7 Q. When did you first find out that he wished to develop
- 8 Dellis Cay?
- 9 A. I received a letter from -- I can't remember the time.
- 10 Q. Right. Can you remember the year?
- 11 A. Not without checking.
- 12 Q. Can you remember when Dellis Cay started its
- 13 development, when was work begun?
- 14 A. Roughly, I can't recall. I received a letter from his
- 15 lawyer -- from a lawyer saying that he had a client who
- 16 was interested in doing a development and buying
- 17 an island and so on and so forth as normally is
- 18 the case.
- 19 Q. Dellis Cay is not yet complete, is it?
- 20 A. No.
- 21 Q. Dellis Cay has some way to go. How long before you
- 22 think it will be complete, a year, two years?
- 23 A. I don't know.
- 24 Q. Do you not take any interest in the developments?
- 25 A. How do I know how long -- how do I know how long it is

1 going to be before it is complete? I don't know that.

2 Q. Mr Premier, you spent a lot of time in the last three
3 days telling us how it is your job to promote
4 developments, how people are encouraged to come to the
5 islands. You personally are a friend of Mr Cem Kinay,
6 you meet with him, you have lunch with him, I suggest,
7 from time to time, you no doubt discuss his development.

8 You must know something about Dellis Cay, surely?

9 A. I didn't say I don't know anything about Dellis Cay.

10 I know quite a bit about Dellis Cay.

11 Q. How far advanced is it, is it halfway through?

12 A. I don't think it is halfway through.

13 Q. Okay. In November 2007, which is a year, 15 months ago

14 now, Mr Kinay got Belonger status. Dellis Cay is

15 nowhere near complete. Why did he get it so quickly?

16 A. Why did he get it so quickly?

17 Q. And so early, yes?

18 A. By the time he -- obviously -- anyway. By the time he

19 would have begun construction of Dellis Cay, my

20 understanding, certainly from -- is that he paid in

21 excess of \$20 million for the island. He had already

22 had made a commitment in terms of the master planning of

23 it and so on and so forth. He had already made

24 substantial contribution and was making substantial

25 contribution to the islands.

1 Q. By that, do you mean he had spent a lot of money?

2 A. You can take it for how you find that. He had already

3 made economic contribution to the islands.

4 Q. So he had spent a lot of money. It comes to the same

5 thing, doesn't it?

6 Had he made any contribution apart from that? Is

7 that all it takes? That is what I am getting at, sir.

8 If somebody comes and spends a lot of money, they get

9 Belongership?

10 A. The same reason how Stan Hartling, whose hotel we are

11 in, made contribution to the islands, the same way how

12 he got this land that is worth millions of dollars for

13 300,000 from the PDM of which information was sent to

14 you and you are not investigating that, because you are

15 not interested in that.

16 Q. You don't know what we are investigating with respect,

17 sir. We are investigating many things.

18 SIR ROBIN AULD: I wonder is this on occasion the position:

19 if you make a good contribution economically and

20 possibly socially, you spend a lot of money, in time you

21 might be recognised with Belongership but I suppose you

22 might come in and say: I mean to make a great

23 contribution, and in earnest of my intention, you set

24 about doing various things and it is clear that you mean

25 business. I mean, is that what you are saying? If you

1 come in showing you mean business and look like doing

2 it, you might get Belongership before you have built --

3 A. Yes, and especially if -- with a background like

4 Dr Kinay who has made such a significant contribution in

5 Europe and in fact he was recipient of one of the

6 highest civilian awards in Austria.

7 SIR ROBIN AULD: Was it evident at the time when he was made

8 a Belonger that he meant business?

9 A. Yes.

10 SIR ROBIN AULD: Simply his reputation going before him, was

11 it.

12 A. He had already made a substantial investment by buying

13 the island and all of the ground work that it took,

14 preparation work.

15 MR MILNE: Let's deal with a different Belonger status.

16 I think you told us, maybe I misheard this, to get

17 Belonger status one doesn't make an application. Was

18 that your evidence?

19 A. I said except my knowledge or my understanding is that

20 except for the -- except in the case of marriage, one

21 doesn't necessarily make application for Belonger status

22 because Belonger status is not a right, it is

23 discretionary by the government of today or the Cabinet

24 of today.

25 Q. People do make applications for it, don't they?

1 A. People do write in expressing an interest, nevertheless.

2 Q. They write in on an official form?

3 A. I am sorry?

4 Q. They write in on an official form asking for Belonger

5 status?

6 A. My understanding is that the only official form dealing

7 with Belonger status is in relation to marriage.

8 Otherwise they would write in on a letter expressing

9 an interest.

10 Q. Could you please take volume 3 of your volumes.

11 The black ones. Do you have that volume?

12 A. Go ahead. Which page?

13 Q. 1099. The one that is headed up "Part D forms,

14 Application Form for Belonger Status, Turks & Caicos

15 Islands". The heading underneath is rather strange. It

16 says "Application for a [certificate]", I think there is

17 a misspelling, "of Belonger status". Probably

18 a certificate of Belonger status is what it is meant to

19 say. That is in the name of Mr Mario Hoffman. So

20 Mr Hoffman did fill out a form, didn't he, applying for

21 Belonger status?

22 A. Yes.

23 Q. He was not marrying anybody.

24 MR FITZGERALD: Sir, with great respect the witness had just

25 said that the ground on which you do make a formal

1 application is on economic or social benefit. So it is
2 entirely consistent and doesn't really deserve this kind
3 of derision.

4 MR MILNE: Evidence, as I understand it, sir, is you are
5 saying you don't need to fill in a form unless you are
6 getting married.

7 A. No, I said that was my --

8 SIR ROBIN AULD: I thought you said merit.

9 A. It is not a requirement. It is not a requirement to
10 fill out a form, that has been my understanding, because
11 certainly most of the Belonger status other than
12 marriage that has been considered by Cabinet was by way
13 of letter. Again, there are people like Ken McCloud who
14 was given Belonger status by the PDM who does not even
15 own a house here.

16 SIR ROBIN AULD: This document does not have a date.
17 The date is not filled in but it was submitted when? Do
18 we know? We know that he got his Belongership a few
19 days before he got final approval of the development
20 contract, don't we, in November 2006.

21 A. In relation to Mr Hoffman?

22 SIR ROBIN AULD: It was a few days before he got the Cabinet
23 approval for development. That was the end of
24 November 2006. So this must be pre the end of
25 November 2006, presumably shortly before. Is that

1 right?

2 A. Sorry, you have lost me there.

3 SIR ROBIN AULD: We heard, I think, today that he became

4 a Belonger a few days before, I think it was 16th or

5 17th November 2006, before 29th November 2006, when

6 Cabinet gave the pretty well final approval to the

7 development proposal for Salt Cay. Although this

8 document is not dated, and that is all I am interested

9 in at the moment, can we take it that it was made out

10 and submitted very shortly before then? November 2006.

11 A. Well, I can't answer that.

12 SIR ROBIN AULD: You don't know? That is all right.

13 A. Sometimes Belonger status has been applied for

14 years/months, you know.

15 MR FITZGERALD: Sir, it is not clear but in Mr Hoffman's

16 statement at paragraph (d) he talks about --

17 SIR ROBIN AULD: When you say statement, do you mean

18 the letter?

19 MR FITZGERALD: Yes, the letter.

20 SIR ROBIN AULD: Can you give us the date of the letter,

21 please.

22 MR FITZGERALD: The letter of January 12th 2009 from Mario

23 Hoffman. In his "in additions" at 3(d) he talks about:

24 "I have received my Belongership in 2007 in

25 connection with my previous activities and investments

1 on TCI. First, I have discussed it with TCI authorities
2 since 2005."

3 Obviously, it is not very accurate or detailed.

4 I do not think it is necessarily just before.

5 SIR ROBIN AULD: There is nothing heavy about this. I am
6 always keen when I can to identify the date of the
7 document so that we know where it comes in the story.

8 MR MILNE: Indeed, over the page on page 1100 you were his
9 sponsor, together with your colleague, the Honourable
10 McAllister Hanchell and a gentleman called Ben Walkin.
11 So you were actually the supporting members for three
12 references, I should say. You were a referee for him,
13 you provided a reference.

14 A. Just one moment before you get to that, is that
15 January 29th 2006 on the fax head, are you sure it was
16 faxed?

17 MR FITZGERALD: Yes, it is.

18 MR MILNE: Yes.

19 SIR ROBIN AULD: So this shows that his --

20 A. So this shows that his application was made January 29th
21 2006.

22 (3.30 pm)

23 MR MILNE: It may well be the case. That is when
24 the application was made.

25 A. 1099. On page 1099.

1 SIR ROBIN AULD: Yes, I have it.

2 MR MILNE: We have seen it.

3 A. So in fact the application was not made two days
4 before --

5 SIR ROBIN AULD: No, but it was not dealt with until shortly
6 before.

7 A. Yes.

8 SIR ROBIN AULD: Thank you.

9 A. What is your question?

10 MR MILNE: I have no question from that, sir. I just wanted
11 you to confirm you were the sponsor -- the referee,
12 I beg your pardon.

13 MR FITZGERALD: It is give the name of three references who
14 are not related to you and who have known you for at
15 least three years, and he gives three names. Again,
16 that is not the sponsor. It is just three people who
17 have known him.

18 A. Sir, what happens in practice, whether it is PRC, many
19 times it happens, people fill out applications, they
20 give -- they put your name down as reference without
21 even your knowledge. There have been times when
22 permanent resident certificates has come to Cabinet with
23 the Governor named on as a reference because of,
24 I guess, his movement in the expatriate community. So
25 the fact is that if someone puts my name down as

1 a reference, that is a completely different matter as
2 a sponsor. I can't be a sponsor and in fact not even
3 a reference in relation to PRC or Belonger status
4 because as a member of Cabinet, ultimately I form part
5 of the consensus in making that -- arriving at that
6 decision.

7 SIR ROBIN AULD: I don't suppose it matters what a supporter
8 is called in the context that we are looking at this.

9 Have you any memory at all now as to whether you wished
10 him well on his way and on his application to become
11 a Belonger, said I will act as a referee, support you
12 and put in a good word for you.

13 A. Put in a good word to who?

14 SIR ROBIN AULD: I don't know.

15 A. No.

16 SIR ROBIN AULD: So if your name is there, you can't
17 remember why it is there as a referee.

18 A. He probably put it down as a referee. I am saying that
19 is not unusual. That happens all the time that people
20 put your name down, certainly here.

21 MR MILNE: Could you turn to red, core volume 6, page 85.

22 Do you have that?

23 A. Yes.

24 Q. This was a Cabinet minute from September, I believe
25 29th September 2006. Subject, bestowal of Belonger

1 status, Mr Mario Hoffman:
2 "The Premier circulated correspondence received from
3 Mr Mario Hoffman regarding him becoming a Belonger of
4 the Turks & Caicos Islands. The Premier advised that
5 Mr Hoffman has resided in the islands for a number of
6 years and has made many valuable contributions to
7 the development of the islands and as such would like to
8 offer him Belonger status. The Cabinet agreed."

9 So when you said that you didn't speak on his
10 behalf, were you forgetting that you had actually
11 introduced the subject at the Cabinet?

12 A. That is not what the question that was asked by the --

13 SIR ROBIN AULD: I will try to make it as general as
14 possible to try to get rid of any unnecessary exchanges
15 on this. My enquiry was did you support him or wish him
16 well on his way, and you have now had this put to you.

17 A. I thought you meant outside of the Cabinet.

18 SIR ROBIN AULD: Well, anywhere at all.

19 A. Well, as the Premier sometimes, if you go through, there
20 have been many times, because the Belonger status is
21 bestowed on you, sometimes people write directly to me
22 asking for bestowal of Belonger status.

23 In this case this probably would have happened and
24 that is why I circulated -- it says correspondent rather
25 than an application. So obviously as Premier I have to

1 introduce the subject. So I would have introduced
2 the subject and then there would be discussions on
3 the subject and then Cabinet would approve it or not
4 approve it.

5 SIR ROBIN AULD: It looks as though it was coming into your
6 sights at any rate a couple of months before Cabinet
7 approved the Salt Cay development and its development in
8 November 2006.

9 A. Yes, and in Cabinet, I supported him getting Belonger
10 status because of the contribution in line with
11 government policy of what he has done and had planned to
12 do on the islands and the fact that he has been here for
13 ten years.

14 SIR ROBIN AULD: Had you forgotten a few minutes ago that
15 you had done this?

16 A. I thought you meant outside. You asked me whether
17 I speak on his behalf or write anything on his behalf.
18 In Cabinet of course. I thought you meant that in
19 reference to being a referee. That was my
20 understanding.

21 MR MILNE: Let's move to a different topic if we might. You
22 purchased 18 acres, you tell us, of waterfront land in
23 line with Crown land policy.

24 The word that I recorded you as using when you were
25 answering questions from your counsel was:

1 "I paid full amount for the later acres."
2 And you had a discount for the earlier acres.
3 I want to be clear on this. The property was put in
4 the name of MIG Investments. You have a company called
5 Arch Property Limited which owns half of
6 MIG Investments, is that correct?
7 A. Yes, I think so.
8 Q. The other half is Sabre Holdings Limited, which is owned
9 by the sons of Francesco Caltagirone?
10 A. That is my information, yes.
11 Q. Who paid the money to buy this \$1.9 million purchase?
12 A. I answered that question before.
13 Q. Yes. As I understand it the answer that you gave us
14 before was that they paid the money, you didn't. Is
15 that correct?
16 A. Well, that would be --
17 Q. Is that correct?
18 A. That would be the short answer, but I thought I went on
19 more to explain it. But that would be the short answer.
20 Q. When you said: earlier on today I paid the full amount;
21 you in fact didn't pay anything.
22 A. When my counsel asked me -- when I say I pay the full
23 amount, what I meant was he asked within the context of
24 was there a deal, was this land, whether me or my
25 partners, did we benefit or did we do -- did we get

1 a benefit that an ordinary person would not have gotten.

2 That is what I am saying, I paid the full amount.

3 I meant that the full amount was paid so there was

4 not -- and the full amount was paid in line with

5 the Crown land policy.

6 Q. Because they would not have got any discount if they

7 bought it on their own, would they?

8 A. I mean --

9 Q. It is a yes/no question.

10 A. The fact is the land is -- was my land. I bought them

11 virtually, sold 50 per cent of it to them for them to

12 pay what was owed to the government.

13 Q. You sold 50 per cent of it to them? I am sorry, when

14 did you sell it to them?

15 A. How do you think they owned 50 per cent of the company?

16 Q. So they paid you for this?

17 A. No, they paid the government.

18 Q. Right. So you use your Belonger status to get

19 the option on 80 acres on Crown land, they put up

20 the money, you get 50 per cent of the value? Is that

21 how it works?

22 A. I use my Belonger status. I don't have Belonger status.

23 I am a Turks & Caicos Islander. As a Turks & Caicos

24 Islander, I am entitled to Crown land. I had an offer

25 of Crown land and it was done quite some time, of which

1 I intended to build a resort. Like every other Belonger
2 who get Crown land, I either seek funding or seek joint
3 ventures. I brought in a joint venture partner and it
4 is the intention of us jointly to develop this property.

5 Q. This particular Crown land had been -- it was in the
6 Northwest Point area?

7 A. I must add that in addition to that, there is a whole
8 subdivision of over 200 plots of land that was issued to
9 other Belongers. So it is not as if I as the Premier
10 went and carved out 10 or 18 acres and it was issued
11 only to me. As a matter of fact on the issuance,
12 10 acres was issued to over 200 Belongers, including
13 Carlos Simons QC who is here.

14 So who is not a PNP.

15 Q. This was land that had previously been part of the
16 national park system, wasn't it?

17 SIR ROBIN AULD: Now, please keep it quiet.

18 MR MILNE: This was land that had been part of the national
19 parks.

20 A. No, not to my knowledge. I think, in relation to
21 the national parks, there is -- you have a national park
22 and my knowledge is that a lot of the park is from
23 the shore going out towards the sea.

24 SIR ROBIN AULD: I may have been mistaken, wasn't there some
25 release of part of the land from national park status so

1 that it could be devoted to residential purposes?

2 A. Absolutely not. The Cabinet -- the only way you can

3 change the release of national park status, the only

4 body in this country who can do it is Parliament.

5 SIR ROBIN AULD: The answer is no and I have obviously

6 mistaken it for another area.

7 A. Yes, thank you.

8 SIR ROBIN AULD: This is all at Northwest Point, were you

9 going to put, Mr Milne?

10 MR MILNE: It is sir, yes. On 21st March 2006, there was

11 a debate in council where the Chief Minister --

12 SIR ROBIN AULD: What are you referring to?

13 MR MILNE: -- concerning Northwest Point, Providenciales.

14 It is not in that bundle --

15 A. I am sorry?

16 MR MILNE: It is not in that bundle, but having been raised,

17 I am seeking to refresh your memory that in March of

18 2006 -- we will get you an copy of this if need be.

19 A. I would like to see a copy of it.

20 SIR ROBIN AULD: Let him put the question. Let's see where

21 we are going. We may not be going anywhere.

22 MR MILNE: There was a debate in Cabinet about the issue of

23 releasing a parcel of land from the Northwest Point area

24 which had hitherto been national park. The Governor

25 expressed his concern about that but in any event

1 the Cabinet went ahead and decided that that land should
2 be released. In fairness there was then debate about
3 who it should be allocated to, and you left the room as
4 indeed did another member of the Cabinet so that
5 allocation could be decided without you being there.

6 Because you had a application in for it.

7 A. For national park?

8 Q. Yes, Northwest Point. Your evidence as I understand it,
9 the 18 acres you have, is not and was never part of
10 national parks?

11 A. I don't have a the national park map with me. My
12 evidence is that the only body that can release land out
13 of the park is the Parliament.

14 SIR ROBIN AULD: I think you had better have a look at this
15 document, Premier. You said no to my question and you
16 had a document put to you which suggests that you may
17 have been mistaken about that or otherwise. We will
18 take a short adjournment now, a copy of the document
19 will be made and you can consider both answers.

20 A. Okay.

21 (3.42 pm)

22 (A short break)

23 (3.49 pm)

24 SIR ROBIN AULD: Mr Premier, I was just going to ask you if
25 you have had a chance to read the paper yet.

1 A. I still haven't seen it.

2 MR MILNE: It is still being photocopied, sir.

3 SIR ROBIN AULD: Can you move on to another matter and we
4 will come back to this?

5 MR MILNE: I will do, sir.

6 SIR ROBIN AULD: I think the Premier needs an opportunity to
7 see it before he is asked any more questions about it.

8 If it is convenient, Mr Milne, perhaps you can move to
9 your next topic and we will come back to it.

10 MR MILNE: I will do that, sir. I am going to ask that
11 a letter be handed to yourself and to the Premier and to
12 his counsel. Mr Premier, you have in front of you
13 a letter obtained at the request of the Commission. It
14 is a resignation letter. It is dated four days ago on
15 12th January. Yesterday I asked you about the planning
16 board. I asked you:
17 "Question: When did the planning board last meet?"
18 "Answer: I don't know. I am not the minister of
19 planning.
20 "Question: Had you not heard? It met very
21 recently. Do you not know when?"
22 "Answer: I can't remember."
23 I suggested that it had met the previous Saturday.
24 I may have been out by a day. In fact I apologise, it
25 was the Friday. And I suggested that it met at the

1 request of Mr Mario Hoffman. There was then discussion
2 as to the fact that he was not a member of that board.
3 The letter you have in front of you, the Commission
4 sought, is this: Mr Earl Handfield, chairman of the
5 physical planning board for five times during the last
6 several years through his lawyers wrote to His
7 Excellency the Governor and tendered his resignation.
8 The letter at the third paragraph says:
9 "Our instructions are that the Premier and
10 the minister for natural resources required a meeting of
11 the board, the physical planning board, to be held on
12 Friday, 9th January 2009 to reconsider and reverse
13 the board's decision taken at its last meeting held in
14 December 2008, refusing the application for
15 the construction of a dock on the island of Salt Cay.
16 "Our client has been reliably informed that members
17 of the board did meet, although he was unable to say
18 with certainty what decision was purportedly taken,
19 albeit in view of the circumstances, it is not
20 unreasonable to presume that the members would have
21 decided according to the wishes expressed to them by
22 the Premier and the minister for natural resources."
23 Did you and your minister for natural resources
24 require a meeting of the physical planning board to take
25 place on 9th January?

1 A. The minister of planning and I, along with the --
2 a number of planning members, board members, as well as
3 the director of the DECR and the director of planning
4 had a meeting in which we discussed the government dock
5 in Salt Cay. I, at that meeting expressed -- there has
6 been a lot of politics been played with the building of
7 government dock or projects generally. I expressed at
8 that meeting that the government dock in Salt Cay is
9 something we promised for people in Salt Cay for a very,
10 very long time and that I understood that at a planning
11 meeting that the board had turned down the application
12 to build a government dock in Salt Cay until -- turned
13 down an application to build a government dock in
14 Salt Cay.

15 I said to the director of planning and the director
16 of DECR, apparently there was some conflict in relation
17 to some environmental issues where the director of
18 planning thought that the dock should go to the north
19 and that the -- sorry, on the north side. The director
20 of planning ordered that the dock could go on the south
21 side. The director of the DECR was satisfied with it
22 going where it was applied for to go and that -- so
23 there was some technical issues involving both
24 the director of DECR and the director of planning.

25 I advised them that this is a government project and

1 that I certainly couldn't instruct anyone to have
2 a planning board meeting and it is important for
3 the dock to get started because of the -- dock has to
4 get started unfortunately during a certain period of
5 time because you are not familiar with Salt Cay or
6 Grand Turk, but during the winter months the seas are so
7 rough that no construction can take place. So if a --
8 if it is not approved within a certain period of time
9 then it there would be even further delay. I suggested
10 to them that they should get together, settle their --
11 whatever the technical difficulties are, have the board
12 reconsider the decision and then -- because of the
13 importance of the dock to the government. I never
14 instruct them to have a board meeting tomorrow or
15 anything like that, and in fact the -- in relation to
16 the Chairman, I believe that the minister --

17 MR MILNE: Which minister is that, sir?

18 A. Of planning, of natural resources. I think he tried to
19 get hold of the chairman. Under the ordinance, the
20 ordinance set out who could call a board meeting. So
21 suddenly there was a meeting, an attempt to try to
22 expedite the construction of government dock in
23 Salt Cay. The meeting that I held with the minister of
24 planning and some of his officials.

25 Q. If you turn over the page, please, to the second page.

1 This is halfway down:
2 "The meeting of Friday, according to information
3 given to our client, was hurriedly brought together by
4 the Premier and minister for natural resources
5 personally telephoning members of the board from
6 the office of the department of planning,
7 Providenciales. The meeting was chaired by the vice
8 chairman. Neither the minister nor the Premier spoke
9 with the chairman [that is Mr Hanfield] concerning this
10 meeting but one of the members did contact our client
11 [that is Mr Hanfield] to say that they were waiting for
12 him to start the meeting and another to enquire as to
13 whether he would attend. When they were told the
14 Chairman would not attend, they decided against
15 attending as well."

16 The question goes on to raise the issue as to
17 whether it was lawful and concludes that it was not.

18 This letter appears to say that you personally
19 played a role in pulling together a meeting, together
20 with your minister of natural resources, that you rang
21 members of the board to get them to meet at short
22 notice. Is that untrue sir?

23 A. I never personally rang any board member. I asked
24 the minister of planning to convene a meeting with -- in
25 fact I asked him I think a day or two after I heard --

1 to convene a meeting with the chairman of the board,
2 the director of the board, the director of DECR and some
3 members to discuss the dock. The Salt Cay dock. I was
4 informed by -- they met me at my office. I was informed
5 by, I think either the director or the minister, that
6 the chairman was unable to attend because he was --
7 either he was travelling or he had other business and as
8 I explained to you, it was discussed, I suggested to him
9 the importance of this government dock for the people of
10 Salt Cay and I suggested that they call a board meeting
11 to discuss it.

12 Q. The rules are that the Governor, this is stated on
13 the first page, may direct the secretary and a meeting
14 shall be convened and the secretary will within 14 days
15 convene a meeting accordingly. So the Governor
16 has the power to convene a meeting?

17 A. For your information, that means the Governor in
18 Cabinet.

19 Q. Yes. It doesn't mean the Premier in Cabinet though,
20 does it, or even the Premier out of Cabinet?

21 A. I never direct them to have a board meeting.

22 Q. The final paragraph is:

23 "Mr Hanfield as a matter of conscience is no longer
24 able to serve in the capacity of chairman of the
25 physical planning board under conditions where ministers

1 are pressurising members to hold meetings in
2 contravention of the very legislation under which
3 the board and the minister's decisions must be taken."

4 A. I am sorry, say that again.

5 SIR ROBIN AULD: It is the last paragraph, read it,

6 Mr Premier.

7 (4.00 pm)

8 A. A minister can request -- request, cannot instruct -- of
9 the chairman and members to have a meeting.

10 The decision that they make at that meeting is up to
11 them. I believe ultimately in relation to this very
12 information, ultimately the decision as to -- because
13 this port is being built in the heritage zone,
14 ultimately even the planning board could not have made
15 a decision. They make a recommendation to the Governor
16 and to the Governor and Cabinet for discussions, and
17 the Governor and Cabinet can accept that advice or not
18 accept that advice. If Cabinet advises the Governor to
19 accept the advice, if the Governor in his wisdom or lack
20 of decide not to accept that advice, then he can refer
21 the matter to the Secretary of State.

22 So it is nothing unusual for a minister to ask for
23 a -- for planning to convene a meeting. As a matter of
24 fact, not only do -- there have been many occasions
25 where developers have requests of the board to make --

1 to have a special meeting to consider a development
2 proposal and they have -- they pay the -- the practice
3 is they pay the costs of that meeting.
4 SIR ROBIN AULD: Let's keep to what happened here.
5 Have you seen the minutes of the meeting?
6 A. No.
7 SIR ROBIN AULD: Have you seen the minutes of the planning
8 board's meeting?
9 A. No, I have not.
10 SIR ROBIN AULD: Who is the developer who has the contract
11 for development of the dock at Salt Cay?
12 A. Who is the developer?
13 SIR ROBIN AULD: Yes.
14 A. Who have the contract?
15 SIR ROBIN AULD: Yes.
16 A. Under the development agreement with Salt Cay,
17 the Salt Cay development, in relation to part of the
18 sale of land that they got, I think -- part of the land
19 was sold for \$6 million. The government was billing
20 the dock and so what the government -- in the agreement,
21 they paid the government \$3 million and then they were
22 to use the other \$3 million to build the government
23 dock.
24 SIR ROBIN AULD: Who is they?
25 A. The Salt Cay development.

1 SIR ROBIN AULD: That is Mr Hoffman, isn't it?

2 A. Yes. But it is a government dock. So instead of

3 government taking the money and build the dock, it is

4 government money that they -- according to the

5 agreement.

6 MR MILNE: So it would be completely wrong to see this as

7 an example of you bullying board members into taking

8 a decision that suited your friend Mr Hoffman; that

9 would be a complete misrepresentation of it?

10 A. I didn't bully anyone.

11 Q. I am going to move on, Mr Premier. Time is pressing.

12 SIR ROBIN AULD: I don't know whether we have the other

13 document about Northwest Point now, Mr Milne. Do you

14 want to deal with that now or later? I think it is

15 important that you deal with it today.

16 MR MILNE: We have copies, sir.

17 This was Cabinet minutes, an action minute from

18 the executive council, strictly speaking since it was

19 still the executive council in March 2006. The subject

20 was Northwest Point, Providenciales. Various

21 development initiatives and Crown land allocation.

22 The Chief Minister introduced the paper. The elements

23 of it were to be taken up separately:

24 "In respect of parcel 1, the Governor expressed

25 concern over the removal of any land from the national

1 park system and advised that DECR and as appropriate
2 the public should be fully consulted."

3 It goes on to deal with parcel 4. Discussion goes
4 on about Crown land policy. I am not going to read
5 through all of it. It is an extensive and lengthy one.
6 Suffice to say that there came a point where you and one
7 of your colleagues withdrew from the meeting because it
8 was clear that you had an interest in land that was to
9 be allocated under this. My question very simply has
10 been, was the land you received therefore Crown land
11 coming from originally a national park?

12 A. Let me read the document. My understanding is that
13 the land that I got was not in the national park.

14 A couple of things. The first thing is that there is
15 nothing against getting land in the national park. All
16 of Chalk Sand, all of the residential area in Chalk Sand
17 is national park. You can get land on the park but you
18 have to build in accordance with the rules of the park.

19 Number 1. Number 2, this minute does not relate to --
20 the reason why I ended up at the Chief Minister at the
21 time, declared personal interests and left the room is
22 because this dealt with the allocation of other lands.

23 If you read the minute properly, it says:

24 "As it relates to global properties, it approved in
25 principle the removal of parcels of land from

1 the national park system and the sale of freehold
2 interest in the parcel and the adjoining property as
3 identified in the attached."

4 It says:

5 "(1) evaluation by the valuation officer. Study by
6 the DECR to identify the portion of the existing
7 Northwest Point ... reserve which is of lesser
8 ecological importance and to establish the criteria and
9 conditions under which an eco-marina could be developed
10 on that portion."

11 So the portion that these were the national park is
12 a completely different developer, an expatriate
13 developer who wanted to develop a marina at the tip of
14 Northwest Point in the pond area. What was suggested
15 here was that in principle, subject to these conditions,
16 that the pond area could be taken out of the national
17 park, after a number of requirements.

18 My recollection is that it was advertised, there
19 were a number of things that had happened, but
20 ultimately as I said earlier, the taking out of the
21 national park of any property has to be done by
22 Parliament and in relation to this, the pond area,
23 I think it was never taken out of the park. I believe
24 one of the reasons is that marina, eco-marina is one of
25 the activities that is permissible in the park. So

1 there was no need necessarily to take it out of the park
2 in any case. But the short answer is that that has no
3 bearing or nothing to do with the piece of land that
4 I was allocated.

5 Q. Let's put that aside. I would like to move on to
6 a different topic. There are a number of questions that
7 you have been asked which give rise to further queries
8 from the Commission.

9 If you could take volume 3, please, of your black
10 bundles.

11 A. What number? What page?

12 Q. It is page 1141. This is the summary of the
13 American Express Centurion card and the bills that were
14 paid. You pointed out to us, or your counsel has
15 pointed out that in total you borrowed a sum of about
16 1.7 million from Arling Anstalt, the Liechtenstein
17 finance organisation, correct?

18 A. Yes.

19 Q. It has rightly been pointed out that the bills that we
20 have, those that have been provided so far, total
21 roughly 1.7 million?

22 A. Yes.

23 Q. I think your counsel sought to draw an equivalence
24 between those two figures?

25 A. Yes.

1 Q. Of course, that doesn't make any sense if one looks at
2 the actual bills. The bills that we have run from March
3 of 2006. The Arling Anstalt loan was only taken out in
4 August of 2006. Would you agree?

5 A. Yes, but I think the point he was making is that,
6 although there is statements that are missing, at the
7 very least 1.7 was spent -- well, more, but at the very
8 least 1.7 was spent.

9 Q. We missed an entire year. Now in the first year or at
10 least the first year that we have of the
11 American Express bill, you spent between -- in fairness,
12 between yourself and your wife -- you spent in excess of
13 \$1 million on that card, correct? March 2006,
14 February 2007, \$1 million. 1,067,661.

15 We then are missing a year of statements, but it is
16 clear that in March of the following year, you are still
17 spending. Now, I would suggest it is likely that in
18 the year in between, there was further expenditure on
19 that card. In fact, we know that on at least one month
20 there was expenditure because we have a letter from
21 the bank, from J&T Banka asking you to make a payment,
22 correct?

23 A. Yes.

24 Q. Is it possible that in the year in between, you again
25 spent about \$1 million?

1 A. I don't know without the benefit of the statements.

2 Q. Did you have a period of retrenchment? Did you cut back
3 on your spending for any particular reason then?

4 A. I don't know what was spent, without the benefit of the
5 statements.

6 Q. So with the statements that you have given us, we know
7 of 1.7 million. I suggest there could be any amount
8 higher than that, but if we said 2.7 million, if you
9 spent at the same rate, we would expect this period from
10 March 2006 all the way through to October 2008 to be
11 2.7 million rather than 1.7 million?

12 A. I can't speculate without the benefit of an statement.

13 Q. In any event, you draw down on the Arling Anstalt debt
14 and we have that in the bundle. So if you take
15 bundle 1, please. I would invite you to turn --

16 SIR ROBIN AULD: In black or red.

17 MR MILNE: It is black 1, sir. Arling Anstalt. Ironically
18 we had it a moment ago.

19 MR FITZGERALD: Volume 2, page 396.

20 MR MILNE: I am very grateful. I am going to ask you to
21 compare two figures, please, Mr Premier. Do you have
22 that?

23 A. Yes.

24 Q. This was the first drawdown that you made from this
25 facility, is that correct? It is the first one you have

1 disclosed to us. Were there any others before then or
2 have you disclosed all of them?
3 A. I have disclosed everything that I have received, yes.
4 Q. You disclosed everything you received?
5 A. Yes.
6 Q. Did you ask for all of them?
7 A. Yes.
8 Q. You have told us that these are all of them and indeed
9 they total about 1.7 million. We are assuming we have
10 everything?
11 A. Yes.
12 Q. Now, on 29th August 2006, you drew down \$77,395.02. At
13 the end of August 2006, you were being billed by
14 American Express \$77,360. So the difference there is
15 only some \$35.02 which may of course be explained by
16 transfer fees or something of the nature.
17 So would it be reasonable to assume that having
18 received your bill, having received a demand, you drew
19 down on that account to that amount?
20 A. It is probably reasonable to assume that.
21 Q. Reasonable assumption?
22 A. Yes.
23 Q. If you had been asked for more than that, you had up to
24 1 million to draw on so you could have drawn on it.
25 A. That would be reasonable to assume, yes.

1 (4.15 pm)

2 Q. So in August, effectively, Arling Anstalt becomes

3 the facility that you use in order to pay these bills?

4 Yes?

5 A. Well, one of, yes.

6 Q. One of them, fair enough. You could not have used it

7 before then because you didn't have it until the thing

8 was signed in about August of 2006. So any bills before

9 August 2006 must have been paid from some other

10 facility?

11 A. Well, there are two explanations in relation to that.

12 Obviously I would be getting all of the payments that

13 was requested by the Commissioner. Unless there were

14 back -- sort of back payments that wasn't paid that

15 I paid but when I get the facilities.

16 Q. Am I right in thinking that the American Express

17 Centurion card is, it is what is regarded as

18 prestigious. It is regarded as being something of

19 a privilege to be invited to apply for it and it has no

20 upper limit?

21 A. I don't think that is entirely true.

22 Q. How is that wrong?

23 A. Well, I think I understand that the limit is based on

24 your spending habit and your history of paying back.

25 Q. So your ability to pay it back essentially, the credit

1 rate?

2 A. And your history.

3 Q. You had very little history with American Express at

4 that stage, did you, because you didn't have

5 an American Express card before this? At least not that

6 you have mentioned. You had no previous

7 American Express card?

8 A. Ever in my life?

9 Q. During the period with which we are concerned?

10 A. Well, no.

11 Q. Have you had one in the past?

12 A. In the 1990s.

13 Q. I am not going to concern myself with the 1990s. Was it

14 an American Express Centurion card in the 1990s?

15 A. I thought you were not going to concern yourself with

16 the 1990s.

17 Q. As long as we are not talking about a similar card, sir?

18 A. No.

19 Q. Many people have American Expresses but the Centurion

20 card is one that you have to be invited to apply for.

21 Is that correct?

22 A. That is not my knowledge. I applied for it through --

23 Q. What did you understand was your spending limit on this

24 card?

25 A. I had no indication of what my spending limit was.

1 Q. On occasions you spent very large sums. You spent
2 \$100,000 in a month. Did you get a complaining
3 letter --

4 A. There were occasions when the card was denied, and then
5 I would call, and they would say your spending seem to
6 be excessive and so on, and you have to settle
7 a payment. That has happened.

8 Q. But the idea is that you should pay every month. They
9 expect payment every month. Whether or not they get it
10 may be another thing but they expect it?

11 A. Yes.

12 Q. Therefore if you failed to pay several months running,
13 American Express might get very concerned indeed?

14 A. Yes.

15 Q. You see the payments that we have in the early part of
16 this, 33,000 in March, 92,000 in April, the 92,799 in
17 May, 70,000 in June, in fact two payments, 70,000 and
18 a further 80,000 in June and 108,000 in July, all of
19 those payments, if they were not paid, you would be
20 having to draw on Arling Anstalt to make them up. You
21 would be having to catch up. There would be no reason
22 not to, would there? You would have the facility
23 available?

24 A. If they were not paid, you are saying?

25 Q. Yes.

1 A. Yes.

2 Q. It seems that they had been paid. It would be
3 reasonable to assume they had been paid because if they
4 had not been, you would be using the Anstalt facility to
5 clear the decks.

6 A. As I explained to you yesterday, that the -- I got
7 the card through J&T Banka. J&T Banka pays
8 American Express and then bills me.

9 Q. Yes, and you draw --

10 A. So there were times when I was behind a couple of months
11 on a payment to J&T Banka, and that's why some of the
12 payments would seem to double up from J&T Banka.

13 Q. Well, whether it is J&T Banka or American Express, they
14 want their money?

15 A. Yes.

16 Q. Do you have an overdraft limit with J&T Banka?

17 A. I don't have an account with J&T Banka.

18 Q. So if you don't have an account, you can't have
19 an overdraft limit, and on the face of it, you can't
20 have an overdraft if you don't have an account. Can
21 you? You can't have an overdraft if you don't have
22 an account?

23 A. I don't have an account with J&T Banka.

24 Q. I think we are in agreement. So from which account did
25 these payments, 33, 92, 92, 70, 80 and ◆108,000, from

1 which account would they have come?
2 A. On the face of it, I can't say. I would have to check.
3 Q. Well, can I tell you from where they did not come. It
4 might narrow the search a little bit. They didn't come
5 from the first FCIB account that you have declared to
6 us. The First Caribbean International Bank. They
7 didn't come from your Belize Bank account. They didn't
8 come from your HSBC account, the joint one in Miami and
9 you have not given us any statements for -- the joint
10 one in Beverley Hills. You have not given us any
11 statements for the relevant period for Miami. It
12 doesn't appear to be particularly active. Indeed they
13 don't come from any of the accounts that you have
14 disclosed to us, sir. So if we rule those out, from
15 which account would they have come?
16 A. As I said I would have to check to see.
17 Q. If it is the case that you carried on spending at the
18 same rate throughout 2007 as you had in 2006, somewhere
19 you got an extra \$1 million because you only drew 1.7
20 from Arling Anstalt, but you seem to have put in,
21 I would suggest, probably in the order of 2.7 into
22 American Express, maybe less than that, maybe only 2.5
23 but still a lot of money. Where would that money have
24 come from, do you think?
25 A. As I said, in relation to these I would have to check

1 and see.

2 Q. When you finally get a loan from J&T Banka, why does it
3 go into your brother's account?

4 A. I have to re-explain that?

5 Q. You have borrowed the money. You want to buy a house,
6 you have told us. You put \$200,000 down, it doesn't
7 work, you lose the 200,000. That leaves you
8 with \$5.8 million. Why not have it in your account?

9 Why leave it with your brother?

10 A. As I explained today or yesterday, he -- the loan money
11 came into my brother's client's account. He was going
12 to handle the purchase of the house in Los Angeles from,
13 I guess, corresponding with the -- either lawyers there
14 or whoever we were buying the house from there. So it
15 went into his client's account.

16 Q. When you decided you were not going to buy that house,
17 why not sent the rest of it back and settle the debt?

18 You don't need it any more for buying the house. You
19 have got a great big debt. \$6 million and it is going
20 to be racking up interest. Why not say to J&T Banka:
21 our plans have changed, I will reduce my loans to
22 200,000, keep the rest?

23 A. It probably was a bad decision but it is not dishonesty
24 or corruption. I owed J&T Banka 6 million. I spent
25 most of it, not all of it, supporting my ex-wife in her

1 lifestyle. Maybe I was a fool in love.

2 Q. Well, why not secure it on your own property? You have
3 told us that you are a man of substantial means with
4 great capital assets behind you. Why not secure it on
5 Cinema Plaza, Grace Bay Plaza? Why not secure it on all
6 that property? Why do you go to your brother's shares
7 in a golf course, which has not been built yet, to
8 secure this particular loan?

9 A. As I explained to Sir Robin earlier today, I had offered
10 a number of securities and that is the one that they
11 ultimately were more comfortable with.

12 Q. Whose idea was it that you offer your brother's shares
13 rather than your property? I mean, you can offer
14 a variety of property as security: I have this house,
15 I have this commercial building, I have this hotel or
16 condo or whatever, that would all make sense because it
17 is your property, you are securing it?

18 A. That is not unusual in the islands for a family member
19 to use a security of another family member to guarantee
20 a loan. That is not unusual.

21 Q. That may be perfectly sensible if the person has very
22 little property and they want to take out a loan and
23 they say to their brother: I have nothing against which
24 to secure it, I will pay it back but I can't secure it,
25 do you mind if I secure it against your property. That

1 would make sense. But you have, as you have told us,
2 considerable wealth in real property terms. So why
3 would you not use that?

4 A. As I explained earlier, because of their longstanding --
5 the J&T Banka longstanding dealings with the project and
6 because they were financing it, because they were
7 familiar with it, they were ultimately more comfortable
8 with that.

9 Q. Let's leave that topic, Mr Premier. One last area that
10 I need to cover with you is this. You have been asked
11 about the purchase of aircraft and about the use of
12 aircraft and you have given the Commission your
13 evidence.

14 I just want to ask you one or two questions about
15 a particular example that was looked at, which was
16 page 1072 in the third black bundle.

17 Do you have that?

18 A. Yes.

19 Q. This is the US document from the Department of Homeland
20 Security. It is a general standard declaration. It
21 appears to fall under agriculture, Customs, immigration
22 and public health. Essentially, planes that pass
23 through the US appear to have to make declarations.

24 This in fact -- it may be US air space, I know
25 not -- was a flight from Providenciales to Santa Maria

1 in Portugal upon which you were travelling, and a number
2 of other people. Your wife, Mr Garland, Croyden
3 Lightbourne were there. There is two people marked as
4 being US citizens, John Parker, USA. Do you know who
5 Mr Parker was?

6 A. He is a pilot.

7 Q. Michael Brassington?

8 A. He was the pilot.

9 Q. He is in fact from Guyana, but he is also a pilot?

10 A. Yes.

11 Q. Sarah Olenechuk?

12 A. Yes.

13 Q. Do you know what role she played?

14 A. She was the flight attendant.

15 Q. All three of those -- two are US citizens, one Guyanese.

16 Duane Martin?

17 A. Yes.

18 Q. Who is Duane Martin?

19 A. He is a friend of mine.

20 Q. He is a colleague of your wife's as well, isn't he? Is

21 he not a sitcom actor in the US?

22 A. Well, what is the relevance to that to corruption and

23 dishonesty.

24 Q. I understood this was an official flight to do

25 government business in Portugal?

1 A. Yes.

2 Q. Do you normally invite your friends along on official
3 flights?

4 A. Well, if I am going on an official flight and there is
5 an extra seat and a friend wants to come along, yes. It
6 has happened in the past.

7 Q. This flight is N425SV. That is the registration of the
8 aircraft. You have told us that in fact is an aircraft
9 that was rented and leased on a number of occasions,
10 yes?

11 A. Yes.

12 Q. The pilots, do the pilots come with the plane or are
13 the pilots already employed by the government?

14 A. The pilot?

15 Q. Yes.

16 A. The pilots come with the plane.

17 Q. This is 18th April 2007 that this takes place. Was
18 Mr Brassington someone who flew you on a regular basis?

19 A. Mr Brassington is -- while he is a pilot, he is also
20 a broker, and I think he was the part owner of Aerojet.

21 Q. Aerojet?

22 A. Yes.

23 Q. Is he a regular pilot for you though? Has he flown you
24 on other occasions?

25 A. He has flown me on other occasions. But when I was

1 chartering, he was primarily the broker for
2 the chartering.

3 Q. Which company, can you remember, was NR425SV from?
4 A. It was from his company.

5 Q. Which is called what?
6 A. I think his company is called Aerojet, but the plane
7 itself, I understand was owned by a gentleman by
8 the name of Mr Brideaux(?) or something like that.

9 Q. Mr?
10 A. Mr Brideaux.

11 Q. Mr Brideaux, okay. Clearly this is a Gulf Stream?
12 A. Yes.

13 Q. Gulf Stream 3. Because you had shown an interest in
14 the Gulf Stream, hadn't you? And we have documents in
15 relation to that. An offer to sell had been drawn up?
16 A. Yes.

17 Q. We have that at pages 1045 to 1046. When we say there
18 was an offer to sell, it is not just a case of walking
19 around the aircraft and, as it were, kicking the tyres.
20 You had gone to the point where the contract or
21 potential contract was being drawn up.

22 A. The contract?
23 (4.30 pm)

24 Q. Well, this appears to have been an official document --
25 A. It is an offer to purchase.

1 Q. An offer to purchase. Had you signed it, it would
2 effectively have made it a contract?

3 A. I didn't sign it.

4 Q. But they type your name in and give the address,
5 Michael Misick, the Premier, Government Square?

6 A. Well, have you ever bought a new car in the States? You
7 walk on to the lot, the first thing they will ask is
8 your name. They write your name on the paper and you
9 are only looking at the car. That is a very typical
10 American-style salesperson approach.

11 Q. Having done this, you say you didn't buy it?

12 A. No.

13 Q. But a company called Indigo Transportation Partners
14 bought it?

15 A. Yes.

16 Q. And then started leasing it to the government?

17 A. Yes.

18 Q. Whose suggestion was it that they should do that?

19 A. Should do what?

20 Q. That they should buy it and lease it back to you?

21 A. I believe that the principal of Indigo knew that on
22 behalf of the government, I was looking to lease a plane
23 or time for a plane, whether it was Nabja(?) or so on
24 and so forth. I certainly didn't suggest to him that he
25 should buy a plane and lease it back to the government,

1 no.

2 Q. You see, this document reflects discussions taking place

3 in Las Vegas in the USA. Did you go to Las Vegas?

4 A. Did I go to Las Vegas?

5 Q. Yes.

6 A. I have been to Las Vegas many times.

7 Q. I am sure you have but did you go to Las Vegas for this

8 purpose?

9 A. No.

10 Q. You didn't go to Las Vegas at all. How did you examine

11 it? How did you look at it?

12 A. My recollection was that also because I had flown with

13 Mr -- chartered with Mr Brassington a number of times,

14 he wanted me to see a plane and this -- I believe

15 the plane -- my recollection was I happened to be in

16 Los Angeles and that the plane came over to Los Angeles

17 and I took a look at it.

18 Q. You went and looked at it in Los Angeles?

19 A. I was there.

20 Q. You went to the airport no doubt and walked around it

21 and looked on the inside. You said you were interested

22 in buying a plane or time on a plane?

23 A. I am a pilot. I am always interested in planes.

24 Q. You are a pilot?

25 A. A private pilot.

1 Q. You were interested in buying this sufficiently enough

2 to go and have a look at it?

3 A. I didn't say I was interested in buying it. I said

4 I was interested in leasing a plane for government use.

5 Q. You already chartered planes on a regular basis. This

6 was to be a slightly different set-up, was it? It

7 should be a longer-term lease?

8 A. I'm sorry?

9 Q. Was it to be a longer-term lease, not merely --

10 A. Yes, it was supposed to be, instead of a one-off

11 charter, I was looking for a type of situation that

12 I thought I would save the government money by having

13 block time.

14 Q. But you told us that block time was going to cost, you

15 thought, over \$100,000 a month?

16 A. Yes.

17 Q. Cabinet voted on it. It was actually \$165,000 a month,

18 wasn't it?

19 A. That could be the number.

20 Q. In fact Cabinet voted at the end of July and paid for

21 June/July in a lump sum, some 320,000. You continued to

22 pay \$165,000 a month for, as it happens, the very same

23 plane that you had gone to look at at the airport in

24 Los Angeles.

25 A. Was it the same plane?

1 Q. Yes.

2 A. I am not sure it was the same plane.

3 Q. They voted to pay Indigo Transportation for their plane.

4 Indigo Transportation is -- I think it's

5 Miami-based, it's Florida-based, Flagler Street, Miami,

6 Miami-Dade County, US. It is a US company?

7 A. Yes.

8 Q. Indigo Transportation is run by a man called Jeffrey

9 Western?

10 A. Watson.

11 Q. Who is a political ally of yours, I would suggest?

12 A. Political ally?

13 Q. Yes. He assisted you to set up the Al Gore

14 environmental conference. Indeed, he has been given

15 permanent residency. He has been given Belongership

16 status, hasn't he?

17 A. Jeffrey Watson is someone that --

18 SIR ROBIN AULD: Quiet, please.

19 A. -- that I have known for years. He is someone who was

20 a special assistant to President Clinton. Someone who

21 is a businessman in his own right. Someone who worked

22 as a consultant lobbyist for a number of firms,

23 including -- he had a consultancy as a lobbyist for

24 Turks & Caicos and has assisted us greatly on a number

25 of things, including the Al Gore conference. Including

1 assisting students with going to Harvard and saving
2 the government a considerable amount of money in fees in
3 relation to that.

4 MR MILNE: So he is a friend of yours.

5 A. Everyone is a friend of mine.

6 SIR ROBIN AULD: That was the question, two or three
7 questions ago and all it needed was yes. He was
8 a friend of yours.

9 A. Yes.

10 MR MILNE: So instead of you buying this plane, you tell us,
11 your friend bought this plane and leased it to your
12 government for \$165,000 a month. Now, when was it
13 suggested he should do that?

14 A. I never said it was suggested. He knew that I was --
15 I guess he knew that I was looking for a plane to lease
16 on behalf of the government, and my understanding is
17 that he bought a plane. He borrowed the money to buy
18 the plane and he leased it to the government, it went to
19 Cabinet and Cabinet approved it.

20 Q. Mr Misick, with respect, Cabinet discussions only
21 mention Indigo Transportation. They don't mention
22 the fact that Jeffrey Watson is involved in any way at
23 all. Simply a company name is used. He is not based in
24 Miami. He is based in Washington DC. At least that is
25 the official address that he gives. The plane itself --

1 A. The Cabinet discussion only deals with the decision. It
2 does not deal with the discussion. You don't have to be
3 based in one jurisdiction to have a company in another.

4 MR MILNE: Would you accept, we can go to it if need be,
5 that in fact Jeffrey Watson's name was not mentioned in
6 Cabinet? In fairness, I should say this straightaway,
7 the vote appears to have been taken in your absence. It
8 was proposed by the Deputy Premier.

9 A. Can I go to it?

10 Q. The vote was taken in July 2007. This is the core
11 bundle 6. The first section. At page 120. Do you have
12 it, sir?

13 A. Yes.

14 Q. Indigo Transporting, it describes the partner's name:

15 "The Deputy Premier raised this matter advising
16 Cabinet that Indigo Transporting Partners LLC is usually
17 the aircraft used by the Premier for international
18 travel."

19 It appears you were already using them when
20 travelling with a delegation.

21 "He advised that TCIG would purchase 400 hours of
22 block time per year pro rata'd at \$165,000 per month.
23 He noted there was an amount owing to Indigo for months
24 of June and July and recommended or requested the amount
25 be paid."

1 The Cabinet approved that. The sums would then be
2 invoiced to government. They would be paid out by DEPS.
3 The government would pay.

4 The only question, when was it suggested that of all
5 the planes in all the world, Mr Watson should use his
6 company to buy the one that you had been looking at so
7 that it could be leased back and used regularly by you?

8 A. I don't recall. Certainly I never suggested to him to
9 buy a plane and lease it back to me. He said that he
10 knew that I was looking to do a lease for the government
11 and that is what happened.

12 Q. It is not the case, is it, that you and your wife were
13 considering having the aircraft customised?

14 A. Me and my wife?

15 Q. Yes.

16 A. My wife was under a lot of impressions. But the plane
17 belonged to Indigo.

18 Q. So it is not the case that she was getting ready to
19 spend large amounts of money, putting cabinetry and
20 curtains and matters of that sort into the aircraft?

21 You said she used it on a number of occasions?

22 A. Yes.

23 Q. And that you paid --

24 A. She has spent a lot of money.

25 Q. Was she spending money on that plane?

1 A. Did she spend any money on the plane?

2 Q. Yes.

3 A. Not to my knowledge. The plane belonged to Indigo.

4 Q. You see, the suspicious might suggest that you did

5 indeed buy it and simply had somebody else hold it for

6 you?

7 A. No.

8 Q. That is not a coincidence at all?

9 A. You can check it all. You can see that the plane is

10 owned by Indigo. You can see that Mr Watson himself got

11 a loan to buy the plane and you could ask him.

12 Q. Right.

13 A. I don't get what's suspicious. The facts speak for

14 themselves.

15 MR MILNE: Thank you, sir, I have no further questions.

16 SIR ROBIN AULD: Thank you. Mr Premier, it looks as if that

17 completes your stint as a witness. Thank you for giving

18 so much time this week to your evidence. Should

19 the Commission require to hear any more evidence from

20 you, subject to your own convenience, we will give you

21 good notification.

22 Well now it is time to stop for the week. Monday

23 morning at 10.30.

24 (4.40 pm)

25 (The court adjourned until 10.30 am

1 on Monday, 19th January 2009)

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