

1 Wednesday, 14th January 2009

2 (10.30 am)

3 HONOURABLE PREMIER MICHAEL MISICK (continued)

4 SIR ROBIN AULD: Good morning, everybody. Mr Milne.

5 MR MILNE: Good morning, sir. My learned friend, I believe,

6 wishes to --

7 MR FITZGERALD: Sir, there is just one matter arising from

8 the questions asked yesterday. The Premier wishes to

9 amplify one of the issues on which you asked him some

10 questions.

11 SIR ROBIN AULD: Yes, of course.

12 A. Thank you. Good morning.

13 In relation to, I think it is 161, you asked

14 a question about Caicos Construction and Development

15 Limited.

16 SIR ROBIN AULD: Yes.

17 A. I answered based on my knowledge at the time.

18 SIR ROBIN AULD: You mean yesterday?

19 A. Yesterday, yes. Since then my then minister of works

20 has informed me after the session yesterday that in fact

21 Caicos management and development had in fact in 2005 --

22 sorry, 2004 -- had a government contract. So I just

23 wanted to amplify that. What I can say is the donation

24 of 2006 had absolutely nothing to do with that and in no

25 way had anything to do with -- it was purely a political

1 contribution towards the election of 2007.

2 SIR ROBIN AULD: Thank you very much for checking that  
3 overnight.

4 A. Thank you.

5 SIR ROBIN AULD: Is there anything else you would like to  
6 say about that? That's it, is it?

7 A. For the time being.

8 SIR ROBIN AULD: Thank you very much. Yes, Mr Milne.

9 Cross-examination by MR MILNE (continued)

10 MR MILNE: Before I begin, might I also introduce Mr Rigby  
11 who appears on behalf of Chal Misick, who is new before  
12 the Commission this morning.

13 Mr Premier, before I go any further, there was  
14 another query that was raised with me and it would be  
15 perhaps appropriate to clarify that at the very outset.

16 You will recall that yesterday I had asked you about  
17 a company called My Way Productions 2 Limited, that  
18 apparently had in turn a link to a company called TCU.

19 Now, I believe some people concluded that TCU might  
20 be Turks & Caicos Utilities. Can you tell me, is that  
21 right or not?

22 A. Absolutely not right.

23 Q. Absolutely not, did you say?

24 A. Yes.

25 Q. What is the trade of TCU? What does it do?

1 A. As I believe -- as was explained in that letter, the TCU  
2 was an American holding company that had a --  
3 SIR ROBIN AULD: What company, please?  
4 A. An American holding company that had a -- if I can turn  
5 you to -- that had an interest in a commercial property  
6 in Los Angeles.  
7 MR MILNE: When you say had an interest in, I assume you  
8 mean it is owned or part owned. Do you remember,  
9 Mr Premier, or do you have to refer to documents for  
10 this?  
11 A. Well, you are referring to your documents so I have to  
12 refer to my documents. I am saying that TCU is  
13 a holding company that has an interest in a property.  
14 SIR ROBIN AULD: An American property or company?  
15 A. Property.  
16 SIR ROBIN AULD: Thank you.  
17 MR FITZGERALD: Sir, that is dealt with in  
18 the correspondence at pages 118 to 119.  
19 SIR ROBIN AULD: Thank you.  
20 MR MILNE: That's the only purpose of that company; it  
21 carries out no other trade?  
22 A. To my knowledge, yes.  
23 Q. Mr Premier, yesterday you told us a number of things.  
24 Let's take a moment if we could just to re-cap. You  
25 told us about your continuing employment whilst you had

1       been Chief Minister. You told us that you had a series  
2       of bank accounts and you told the Commission that you  
3       regarded the legal obligations to comply with  
4       the Registrar of Members Ordinance as being perhaps not  
5       that important, that there was a laxness in application,  
6       which you attributed to yourself and all your  
7       colleagues.

8               Is that correct?

9   A. To cross-party culture.

10 Q. Cross-party culture of not complying. During the time  
11 that you have been Chief Minister and subsequently  
12 Premier, has there been any attempt to correct or to  
13 clarify the registered interests of any member of either  
14 party?

15 A. Not to my knowledge.

16 Q. You are aware, no doubt, that the law says  
17 the registration of interests ordinance does make it  
18 mandatory that one should register any interests, yes?

19 A. Yes.

20 Q. And that failure to do so can result in a sanction from  
21 the House of Assembly?

22 A. Yes.

23 Q. Fines or indeed suspension?

24 A. Yes.

25 Q. Nobody has ever been fined or suspended under

1 administration for that?

2 A. Or no other administration for that.

3 Q. Right. So it would appear from, well, day one,  
4 the Register of Interests is pretty much a dead letter,  
5 isn't it?

6 It is honoured in the breach. It might as well not  
7 exist. If it is not going to be enforced, it might as  
8 well not be there, would you agree?

9 A. That wouldn't be my characterisation.

10 Q. You would not characterise it as that. What is  
11 the purpose of a register that is not enforced?

12 A. Sir, I am not the enforcer.

13 Q. You are not the enforcer?

14 A. Of the Register of Interests.

15 SIR ROBIN AULD: You are not the what of the Register of  
16 Interests?

17 A. Enforcer.

18 SIR ROBIN AULD: No, but you obviously have an interest in  
19 instruments of the law. There is an obligation which in  
20 part was attended to by you and most of your colleagues  
21 or many of them. The question is what was the point of  
22 it, if at all, if it was treated cross-party and  
23 culturally as something that need not be observed?

24 I think what Mr Milne is putting to you is that it was  
25 effectively a dead letter from the beginning. That's

1 a question really inviting a comment by way of  
2 an answer, but what do you say?

3 A. I said that I would not characterise it as such.  
4 I think the Register of Interests, when it was  
5 introduced, it was a good step. It was a right step in  
6 trying to ensure that some degree of  
7 register -- interest was registered and I also, when it  
8 was introduced, we were one of the first colonies.  
9 There are some colonies who still don't have a Register  
10 of Interests. To characterise it as a dead beat from  
11 the start would be going to far.

12 SIR ROBIN AULD: A step in the right direction?

13 A. I prefer that characterisation.

14 SIR ROBIN AULD: All right, thank you.

15 MR MILNE: Do you regard your role as Chief Minister and  
16 Premier as being to uphold the law of the Turks & Caicos  
17 Islands?

18 A. Yes.

19 Q. Not that law though?

20 A. All of the laws.

21 Q. Right. But you don't do very much about enforcing  
22 the registration of interests, do you, despite it being  
23 one of the laws?

24 A. Yesterday I said that I regret that certainly from my  
25 standpoint that I didn't register all of my interests.

1 I attributed that to the cross-party culture. I further  
2 state that there were members -- I remember when I was  
3 in opposition, there were ministers in the former  
4 administration that didn't register any interest at all,  
5 of which we at the time complained about and nothing  
6 happened. So, again, I attribute that to  
7 the cross-party culture and that's my answer.

8 Q. You told us also yesterday during the course of your  
9 evidence that you received a salary and a housing  
10 allowance from the TCI government, and I think you  
11 pointed out that receiving other money for other work,  
12 that is other employment, was not against the law?

13 A. Yes.

14 Q. There is a code of conduct for ministers, isn't there?

15 A. No.

16 Q. You see, there is a document that is touted as being  
17 the code of conduct for ministers. It has been drafted.  
18 It exists. If you take volume 1, the red volumes to  
19 your left, sir, and look under tab 9, you will see  
20 a document that starts like that.

21 A. Yes.

22 Q. Code of conduct for ministers of the Turks & Caicos  
23 Islands government. So it exists?

24 A. No.

25 MR FITZGERALD: I wonder if my learned friend could just

1 look at page 3 of that and see the language used there.  
2 It refers to the House of Commons, which is, as far as  
3 I know, not a phenomenon here.

4 SIR ROBIN AULD: I think I may be able to help a little. It  
5 is only because I read something about it this morning.  
6 The information that I have, and comes from a government  
7 source, is that this is a document which was seemingly  
8 never formally adopted by the Turks & Caicos cabinet.  
9 But although it is based on a UK code --

10 A. Well, I can probably even help further. This was a --  
11 the cabinet had intended to, especially after all of the  
12 various allegations, to introduce a code of conduct for  
13 ministers. I had asked the clerk to the House of  
14 Assembly to get a copy of the code of conduct from  
15 the UK. The cabinet had -- the plenary went through it.  
16 As you rightly stated, it was never adopted. She was  
17 supposed to have tidied it up -- make it relevant to our  
18 situation here in the Turks & Caicos and bring it back  
19 to the cabinet for further consideration. That never  
20 happened.

21 And so the fact is that there is no ministerial code  
22 of conduct that presently exists here in the Turks &  
23 Caicos.

24 SIR ROBIN AULD: Maybe Mr Milne is going to put this, but  
25 the information that I have is that it was amended in



1 cabinet, that is to say the UK form, with a view to your  
2 office submitting an amended draft for approval by  
3 cabinet, which never happened.

4 A. The cabinet office.

5 SIR ROBIN AULD: This is 2007. Do you know why it never  
6 happened?

7 A. No.

8 MR MILNE: This document is dated July 2007, so it pre-dates  
9 the Commission by a year. Yes?

10 A. I take your word for it.

11 Q. You don't need to take my word for it, Mr Premier. If  
12 you look at the first page, it says that on it. It says  
13 July 2007. In, I think in fact the press conference,  
14 when His Excellency the Governor announced that there  
15 would be a Commission of Inquiry, he mentioned that  
16 there was a code of conduct being introduced or that had  
17 been introduced. The Commission asked the cabinet  
18 office: could we please have a copy of the code of  
19 conduct and that's why we were given this document,  
20 which is dated now 19 months ago.

21 Clearly, in July 2007, although it appears to be  
22 somebody else's pro forma, somebody else's template,  
23 presumably the House of Commons in the UK, it was  
24 regarded as one must assume a good starting point. Did  
25 you regard it as a good starting point when seeking to

1           enforce quality standards within cabinet?

2    A.   This draft code of conduct was never adopted and  
3           therefore never enforced.

4    Q.   Did you regard it as a good starting point?

5    A.   It was never adopted and never enforced.  Therefore  
6           there is no ministerial code of conduct.

7    Q.   Did you regard it as a good starting point, sir?

8    A.   That's my answer.

9    SIR ROBIN AULD:  I think it is not an answer, Premier, with  
10           respect.  I think you should answer this question.  He  
11           is asking you what you thought about it.  Did you regard  
12           it as a good starting point?  Now, that is capable of  
13           a yes or a no or a qualification.

14   A.   Well, we used the UK code of conduct as a template, and  
15           so -- and it was our intention to make amendments to  
16           suit -- to make it relevant to our situation here in the  
17           Turks & Caicos.

18   MR MILNE:  No doubt it would become relevant by the suitable  
19           editing.  The obvious thing would be we would take out  
20           the expression "House of Commons" and insert "House of  
21           Assembly" or "TCI government" or whatever wording was  
22           felt to appropriately cover your situation.  That would  
23           be the first step, wouldn't it?

24   A.   There are a lot of editing that needed to be done.

25   Q.   Right.  You would not, when considering this, go through

1 with a blue pencil and make sure there was nothing in it  
2 that restricted your unfettered activity, would you?  
3 You would not read this with a view to making sure  
4 I can't get caught out, would you?  
5 A. I don't understand the question.  
6 (10.45 am)  
7 Q. Your starting point, as the Premier, would be we must  
8 enforce the highest possible parliamentary standards to  
9 ensure that public life matches the expectations of  
10 the population of the Turks & Caicos Islands. That  
11 would be your approach, wouldn't it?  
12 A. Absolutely.  
13 Q. No doubt work would have been done on it to make sure  
14 that it suited the local culture, but not to exclude  
15 rules regarding honesty and openness and candour with  
16 the public at large.  
17 A. And candour?  
18 Q. Candour.  
19 A. Obviously the purpose of this is to -- yes, in relation  
20 to that, a greater degree of transparency and so on.  
21 Q. It is clear also that work had started on it, hadn't it?  
22 A. Yes.  
23 Q. Apart from the cover that says Turks & Caicos Islands  
24 government, that didn't come from the House of Commons  
25 in London, did it?

1 A. Work had started on it.

2 Q. Work had started on it?

3 A. As I indicated, yes.

4 Q. If you turn to page 3 of the code of conduct, rule 1.3:

5 "It is the role of the Cabinet Secretary or other  
6 officials to enforce the code. If there is  
7 an allegation about it, a breach of the code and  
8 the Premier, having consulted the Cabinet Secretary  
9 feels it warrants further investigation, he will refer  
10 the matter for investigation."

11 So somebody had started altering it whilst it still  
12 retained a reference to the House of Commons. There is  
13 no Premier in the UK. That is a TCI alteration, isn't  
14 it?

15 A. Well, I think I have -- I think I conceded already that  
16 work had started on it.

17 Q. You see, this document, which is the sort of document  
18 that one finds in Overseas Territories, indeed in  
19 nations throughout the world, is a very important  
20 statement of principle, would you agree?

21 A. Sorry, would you repeat the question? I was reading  
22 something.

23 Q. If you stop reading and listen to the question, I will  
24 repeat it, sir.

25 This document is an important statement of principle

1 and reflects the standards that are expected of  
2 governments in Overseas Territories and countries and  
3 indeed emerging countries around the world?  
4 A. I have no idea. I mean, I know that we had used this  
5 document as a model and we had intended to make it  
6 relevant to our situation here in Turks & Caicos.  
7 Q. So you do not know whether it is an important statement  
8 of principle or not, is that your answer?  
9 A. You said Overseas Territories and you said around  
10 the world. I mean ...  
11 Q. I asked you whether you agreed that it was an important  
12 statement of principle. Why would you not want a code  
13 of conduct for the cabinet?  
14 A. I want a code of conduct, that's why I introduced it to  
15 the cabinet and that's why we have been working on it.  
16 Q. You introduced it to the cabinet. You introduced this  
17 document to the cabinet.  
18 A. Yes.  
19 Q. Subject obviously to some editing amendments,  
20 the document that emerged at the other end would be  
21 roughly similar, at least based upon this, yes?  
22 A. It would be based upon this.  
23 Q. Yes. This document, if we disregard the cover sheet,  
24 which simply tells us about the Turks & Caicos Islands,  
25 has in total 13 further pages. It has nine major

1 headings with subheadings and one annex which sets out  
2 the seven principles of public life.

3 This document was stamped, prepared by the cabinet  
4 of the Turks & Caicos Islands government a year and  
5 a half ago.

6 Between July 2007 and today as we stand here,  
7 14th January 2009, apart from changing Prime Minister to  
8 Premier, what other leaps forward have been made in  
9 enforcing this document, in bringing it to its final  
10 form?

11 A. Cabinet reviewed this document in principle.

12 The cabinet advice was that the Cabinet Secretary would  
13 make some of the changes that were recommended, tidy it  
14 up and bring it back to the cabinet for further  
15 consideration. Regrettably a year or so has gone and it  
16 has not come back to cabinet and so we have not  
17 considered it. Therefore, as I stated earlier, there is  
18 no ministerial code of conduct that is presently in  
19 existence here in the Turks & Caicos.

20 Q. The cabinet is the body that you sit on?

21 A. It is a body that I sit on that is chaired by  
22 the government.

23 Q. So is it the Governor's fault that it has not come back?

24 A. I didn't say it was anyone's fault.

25 Q. You see, is it not the job of the Premier to enforce

1 standards ultimately within his own government, is it  
2 not the job of the Premier's office to ensure that  
3 a proper code of conduct is drafted and applied?

4 A. Well, that is exactly why we, after almost 40 years of  
5 ministerial government, I was the one who introduced  
6 the ministerial code of conduct and I was the one who --  
7 with the present cabinet -- who had been working on it.

8 Q. But, with respect, Mr Premier, it is not exactly War and  
9 Peace, is it?

10 A. Sorry?

11 Q. It is a 13 page document. How long does it take to  
12 polish it up a bit and make sure that it is applicable?

13 A. Well, you obviously haven't worked in government.  
14 Sometime it takes years to get less than that out.

15 Q. I see, because nobody wants to agree upon a ministerial  
16 code of conduct, is that what you are saying?

17 A. No.

18 Q. Is this deeply controversial that there should be rules  
19 applied?

20 A. No.

21 Q. Or is this something that will enjoy cross-party  
22 support, that we should hold our politicians to  
23 the highest possible standards?

24 A. Is it something that would enjoy...?

25 Q. Cross-party support?

1 A. I believe so.

2 Q. Or is this another example of cross-party laxity,  
3 cross-party readiness to disregard rules that you talked  
4 about in relation to the Registrar?

5 A. No.

6 Q. If this were brought in, would this be disregarded in  
7 just the same way?

8 A. I hope not.

9 Q. Do you believe that it is necessary to actually have  
10 this on the record books before the standards  
11 encompassed in it are applied?

12 A. I didn't say that.

13 Q. Right. So you believe that those standards apply  
14 regardless?

15 A. What I am saying is that, in relation to this document,  
16 it is not enforced. What I am also saying, there is  
17 a certain standard that ministers and public officials  
18 should hold themselves up to, but you are asking me  
19 about this particular document.

20 Q. Yes.

21 A. I am trying to be as candid as possible with you on it.

22 Q. You are not saying, it is not your evidence that there  
23 should be no rules governing the behaviour of cabinet  
24 ministers?

25 A. I am not saying that.



1 Q. You are not saying that they should be effectively  
2 allowed to do what they like until and unless  
3 the Premier's office gets around to actually finishing  
4 this document off; that wouldn't be your evidence, would  
5 it?

6 A. I am saying that this ministerial code is not enforced.  
7 That's what I am saying.

8 Q. But I am asking you what the rules are. If the rules  
9 are not written, what are the unwritten rules by which  
10 you abide?

11 A. Well, we have been -- this is why we have been trying to  
12 have written rules.

13 Q. Right. So until such time as you manage to get this  
14 formally adopted by the cabinet, are you free to  
15 disregard it, the principles that are contained within  
16 it?

17 A. There are certain principles in relation to governance.  
18 I can't speak for this because this is a work in  
19 progress.

20 Q. Let's look at the work in progress. Let's look at some  
21 of the paragraphs in it. You tell me whether you agree  
22 they should apply or they should not.

23 If you turn to page 2. Paragraph 1.2, subsection  
24 (c). This draft code says:

25 "It is of paramount importance that ministers give

1 accurate and truthful information to Parliament,  
2 correcting any inadvertent error at the earliest  
3 opportunity. Ministers who knowingly mislead Parliament  
4 will be expected to offer their resignations to  
5 the Premier."

6 Does that strike you as a reasonable rule?

7 A. Yes.

8 Q. Is that one going to get the blue pencil when the final  
9 version comes out?

10 A. It didn't.

11 Q. No.

12 A. It didn't --

13 Q. It hasn't been knocked out so far, so presumably that  
14 one survived the first draft, didn't it?

15 Do you think it is a reasonable rule, sir?

16 A. Yes.

17 Q. It is going to cause a few difficulties in relation to  
18 the Register of Interests, since that is effectively  
19 something of a declaration to Parliament, isn't it?

20 A. I am sorry?

21 Q. If you read that in the context of  
22 the Registration of Interests Ordinance, when members  
23 are supposed to make declarations to Parliament about  
24 their personal interests, a failure to make such  
25 a declaration would clash with that principle, wouldn't

1           it?  Indeed, it might be a resigning issue?

2   A.  I mean, it depends on how you read it.

3   Q.  Let's go on.  (g) at the bottom of the page and over:

4           "Ministers should not accept any gift or hospitality

5           which might or might reasonably appear to compromise

6           their judgment or place them under an improper

7           obligation."

8           That one survived the first draft as well.  Do you

9           think that is a reasonable rule to apply to the cabinet?

10  A.  On the face of it.

11  Q.  So that could create some difficulties for

12           personal/political gifts, couldn't it, that might appear

13           to place ministers under some sort of obligation?

14  A.  Not necessarily.

15  Q.  Those gifts would have to be publicly declared, wouldn't

16           they, to avoid the possibility of that perception

17           occurring?

18  A.  It says it might reasonably appear to compromise their

19           judgment or place them under any improper obligation.

20           If the gift doesn't then ...

21  Q.  So if somebody gives you a political gift, a political

22           donation, but nobody else knows about it, then would you

23           say that avoids the perception that it might be corrupt?

24           Because what they don't know about won't hurt them?

25  A.  What I am saying is that in relation to political

1 contributions, there has been a history of non -- you  
2 can check the disclosure form of all members, including  
3 the present and past opposition members -- what I am  
4 saying is there has been a cross-party culture of not  
5 declaring it.

6 SIR ROBIN AULD: I think Mr Milne is not asking you just  
7 about political contributions. He is asking you about  
8 any gift. It might be all right or it might not be but  
9 until it is declared, nobody can tell.

10 A. What I am saying is that in the past, none of that has  
11 been declared. In relation to -- what I could say is  
12 that in relation to -- over the last year, we have been  
13 trying to -- whether it's through this, the integrity of  
14 the public office legislation, to tighten up and in  
15 relation to that to make matters more transparent.

16 MR MILNE: We are aware that there is an integrity -- is it  
17 an integrity commission being set up?

18 A. I am sorry?

19 Q. Is there not an integrity ordinance, an integrity  
20 commission intended by this government?

21 A. Yes.

22 Q. Is that in place yet?

23 A. The bill has been passed. I have given -- I have  
24 advised the Governor and the members that I would like,  
25 in accordance with the constitution, to be on

1 the Commission. I believe the opposition has. It is  
2 clearly in the hands of the government.

3 (11.00 am)

4 Q. Right. How long did it take you to get that bill  
5 through?

6 A. It took -- we began ministerial government in 1976,  
7 today is 2008. So it has taken us, I am not  
8 an accountant but --

9 Q. You say that work has been going on on that for 20,  
10 30 years?

11 A. I am saying that it has taken us as a country that long  
12 to get it through.

13 Q. Right. Why is it that the government of the Turks &  
14 Caicos Islands has to take so long, so very, very long,  
15 to get any sort of proper conduct rules in place? What  
16 is it about the Turks & Caicos that makes this such  
17 a dreadfully long process?

18 A. I don't understand the question.

19 Q. Why has it taken so long? It is a simple question  
20 Mr Premier.

21 A. Sir, instead of being applauded for introducing  
22 an integrity -- public office legislation, after no  
23 successive government has done it, the opposition before  
24 me was in office for nine years, I am being flogged for  
25 introducing it. I don't understand that.

1 Q. Mr Premier, in due course, I am going to be dealing with  
2 the development of your country. I am going to be  
3 dealing with development projects. I am going to be  
4 dealing with instances, one in particular, from a couple  
5 of years ago, where you got a decision within 48 hours  
6 from your cabinet to push ahead with a development  
7 project. You got a telephone call or a letter from  
8 a potential developer who asked you to grant some land.  
9 Within 48 hours you put that letter before the cabinet.  
10 You got their approval. When it comes to development,  
11 as far as the outsiders can see, you appear to want to  
12 move like greased lightning. When it comes to making  
13 money, when it comes to bringing developers in, with  
14 their millions of dollars, you can't move fast enough.  
15 When it comes to drafting basic, simple rules --

16 MR FITZGERALD: Is this a speech or a question, sir? We are  
17 here to investigate into corruption --

18 SIR ROBIN AULD: It is very tempting --

19 MR FITZGERALD: -- corruption and dishonesty and my learned  
20 friend, having said he will not make an opening speech,  
21 has made about ten.

22 SIR ROBIN AULD: It is moving to comment, I think, Mr Milne.

23 MR MILNE: I beg your pardon. Why is it, Mr Premier, that  
24 you can do one so quickly and you do the other so  
25 slowly. Could you please explain to us?

1 A. Sir, I explained that I should be applauded for  
2 introducing integrity in public legislation.

3 I have thousands, tens of thousands of people who  
4 depend on me. We have students who, under the British  
5 administration, before ministerial government, couldn't  
6 get any scholarships. We have people when we came to  
7 office, the then government spending a million, less  
8 than \$2 million on scholarships. We have people to  
9 educate. There is a window of opportunity to develop  
10 our country in a sustainable way, to provide employment,  
11 to provide empowerment --

12 SIR ROBIN AULD: You are doing what Mr Milne was doing  
13 a moment ago.

14 A. Yes, but I am answering his question.

15 SIR ROBIN AULD: Keep to the question: why did it take so  
16 long here. I wonder if we can approach this in stages  
17 and look at the mechanics of it. Am I right in  
18 understanding that legislation here, when it passes  
19 through the House of Assembly, all three readings are  
20 done in one go? Is that the pattern or am I wrong?

21 A. Not necessarily. It used to happen under the last  
22 government.

23 SIR ROBIN AULD: Sometimes are bills introduced here which  
24 go through three readings all in one day?

25 A. Only if it is an emergency money bill. In relation to

1 the integrity bill, one of the reasons why it took as  
2 long as it did was that there were certain international  
3 obligations that we have to ensure that was in it,  
4 the bill itself had to be in sync with the United  
5 Nations convention, in relation to corruption. We had  
6 consulted the UK. We waited on comments from there.

7 I am not a legal draft person. The bill was drafted  
8 and comes out of AG chambers. But in relation to  
9 development, Mr Milne speaks with such disdain, as if he  
10 doesn't want to see the Turks & Caicos develop and Turks  
11 & Caicos people benefit.

12 SIR ROBIN AULD: Let's just keep to the timetable of this  
13 for the moment. Mr Milne may intend to do this.  
14 The assent to the integrity commission ordinance was  
15 given in May of this year. Now, do you remember when  
16 the bill was put through its third reading in the House  
17 of Assembly?

18 A. I can't recall exactly.

19 SIR ROBIN AULD: Would it have been a few months before or  
20 years before?

21 A. It would have been a few months before.

22 SIR ROBIN AULD: What happens after a bill has gone  
23 successfully through the third reading? Is it then for  
24 the Premier to take the initiative to put it to  
25 the Governor for the royal assent?



1 A. No, it is -- the House then sends it to the Governor for  
2 the royal assent.

3 SIR ROBIN AULD: So it is the House that makes  
4 the initiative.

5 A. Yes. The speaker signs it and sends it to the Governor  
6 for royal assent.

7 SIR ROBIN AULD: Does it happen like that or does it depend  
8 on the discretion of the House in majority, when to put  
9 it to the Governor for the royal assent?

10 A. No. Once it is passed from the House it is out of the  
11 House's hands.

12 SIR ROBIN AULD: It goes straightaway?

13 A. Yes.

14 SIR ROBIN AULD: I see. We are looking here then at a bill  
15 which reached its maturity, successfully completed  
16 the third reading early in this year? Last year? 2008.

17 A. I don't have the -- that is quite possible.

18 SIR ROBIN AULD: Sorry, Mr Milne.

19 MR MILNE: Not at all, sir.

20 The principles encompassed in the original code of  
21 conduct, the draft, no doubt are the principles that  
22 guided you when you came to consider integrity  
23 commission. Would you agree?

24 A. Can you repeat the question?

25 Q. Yes. The principles that are encompassed in the code of

1           conduct are the same sort of principles that you would  
2           expect to see encompassed by the new integrity  
3           commission, the same principles that would be enforced.  
4           Openness, honesty?

5   A.   Yes.

6   Q.   Things like that.

7           I am still on the code of conduct.  If we turn to  
8           the final page, it has set out there the seven  
9           principles of public life.  Do you have that in front of  
10          you?

11  A.   What page are you on?

12  Q.   The last one, the final one.

13          Do you have that in front of you?

14  A.   Yes.

15  Q.   The principles are set out as selflessness, integrity,  
16          objectivity, accountability, openness, honesty and  
17          leadership.

18          I take just two or three.  Integrity:

19          "Holders of public office should not place  
20          themselves under any financial or other obligations to  
21          outside individuals or organisations that might seek to  
22          influence them in the performance of their official  
23          duties."

24          That is a laudable intention, isn't it?

25  A.   Yes.

1 Q. Honesty:

2 "Holders of public office have a duty to declare any  
3 private interests relating to their public duties and to  
4 take steps to resolve any conflicts arising in a way  
5 that protects the public interest."

6 Again, that is a laudable principle.

7 Leadership:

8 "Holders of public office should promote and support  
9 these principles by leadership and example."

10 I would suggest to you, Mr Premier, that you, above  
11 all, within Parliament have a duty as the Premier to  
12 uphold these principles of public life. Would you agree  
13 with that?

14 A. Yes.

15 Q. I also take you to section 10 within the bundle,  
16 page 18. This is in fact the integrity -- it is  
17 the same bundle, next divider.

18 SIR ROBIN AULD: The Premier's bundle like mine may not be  
19 paginated in this section. It becomes so. Yes, it is.  
20 Page 18 is there. This is gifts, is it?

21 MR MILNE: Yes, under "Gifts".

22 SIR ROBIN AULD: Have you got that, Mr Premier?

23 A. Which one is it?

24 SIR ROBIN AULD: You have to go on a bit into the section  
25 and then you find the pagination starts. Page 18,

1 "Gifts". Section 37 of the ordinance.

2 A. Thank you.

3 MR MILNE: I take this simply as an example, Mr Premier, but  
4 the ordinance that has been drafted and prepared and now  
5 apparently is entering into force --

6 A. I am sorry?

7 Q. This ordinance, created under your administration as you  
8 have told us, includes provisions whereby every person  
9 in public life who receives a gift worth more than  
10 \$10,000 shall make a report of that fact to the  
11 commission -- this is the integrity commission in a form  
12 as given as set out in the schedule:

13 "... stating name and address of the donor,  
14 description and approximate value of such gift and  
15 whether in the opinion of the donee the gift is a  
16 personal or [an] official gift. The commission  
17 determines whether it is personal or official."

18 Is that going to cause some difficulties with  
19 the culture that you described yesterday whereby gifts  
20 for political purposes can be given and spent for  
21 personal ends?

22 A. In relation to the integrity ordinance, sir, in spite of  
23 what has happened in the past, the intent was to again  
24 make steps in the right direction; make a new start, if  
25 you will. Regrettably both parties have been -- have

1 not declared interest. Both parties -- and the party  
2 culture -- political culture has been of that nature.  
3 As we modernise our country, we seek to modernise  
4 the laws to ensure that there is greater transparency.  
5 As a matter of fact, that is part of the terms of  
6 reference that this very Commission seeks, has. So,  
7 again, my government, instead of being applauded for  
8 trying to introduce the code of conduct, introduce  
9 legislation for greater transparency, has been flogged  
10 for doing so.

11 Q. You will forgive me in that case, Mr Premier, because I  
12 am afraid it is not my role to applaud you for what you  
13 have done, but to ask you questions about what has gone  
14 on. That's why I need to ask you about the terms of the  
15 documentation which your government, I accept, brought  
16 into being.

17 If you look over the page at paragraph 39, this  
18 deals with a failure to make a declaration to  
19 the commission. The commission, the new integrity  
20 commission will take over effectively from the Registrar  
21 as previously constituted and there must be declarations  
22 not to the Registrar but to the integrity commission; is  
23 that right?

24 A. What section are you looking at?

25 Q. I am looking at paragraph 39. It is all about gifts.

1 It is about declarations in relation to gifts.

2 Indeed, it is about declarations in general.

3 Because the paragraph there --

4 A. Well --

5 Q. -- gives you defences and penalties?

6 A. This integrity legislation deals with not only  
7 Parliament members but all -- a number of public  
8 officials, including senior public servants.

9 The Register of Interests will still be intact because  
10 it is a Parliamentary Register of Interests. So it sort  
11 of coincides.

12 Q. So it is effectively double protection, belt and braces?

13 A. I am not familiar with that term but it is what  
14 I explained it to be.

15 Q. Double protection.

16 The difference is that with the Register of  
17 Interests, there is a cross-party culture of not doing  
18 anything much about it, whereas in fact the Act which  
19 comes in now makes it a criminal offence not to disclose  
20 without reasonable cause, doesn't it? You are creating  
21 a criminal offence here, effectively.

22 A. Yes.

23 (11.15 am)

24 Q. If requests are made by the Governor or a tribunal to  
25 comply and the person fails to comply with those, they

1           should be guilty of a criminal offence, which can  
2           attract a fine of up to \$15,000 and imprisonment for  
3           a year. That is enough to make most people sit up and  
4           think, isn't it?

5    A. It will certainly make them sit up and register their  
6           interests.

7    Q. Yes. So was this to be a brand-new start, a brand-new  
8           approach to public life? This was to sweep away  
9           the years of laxity and disregard for the rules, is that  
10           how we should see it? Everything was about to change  
11           with the new commission. That appears to be what is  
12           being said here. Correct me if I am wrong?

13   A. It is new laws, the new laws are different and more  
14           stringent than the old laws. So, yes.

15   Q. Let's put it aside, Mr Premier, and move on. We have  
16           dealt with this --

17   SIR ROBIN AULD: Just before you leave the ordinance, if  
18           I may, just to determine one question of fact.  
19           Section 62 of the ordinance provides for the Governor to  
20           make regulations to give effect to provisions of the  
21           ordinance.

22           There are a number of aspects there which are to be  
23           dealt with by way of regulation. Have draft regulations  
24           been put to the Governor for him to make, to give effect  
25           to the ordinance?

1 A. I am not sure.

2 SIR ROBIN AULD: Thank you.

3 MR MILNE: Yesterday, Mr Premier, on your behalf a number of  
4 documents were served. Forgive me, but as a result of  
5 those and as a result of the evidence that you gave  
6 I have to go back, I hope just briefly, to a number of  
7 matters we also touched upon during the day yesterday.

8 You told us in your evidence that you had received  
9 a number of payments over the years from  
10 Prestigious Properties. You cannot be precise as to how  
11 much you were paid and when those payments were made.  
12 But you recall that there were several payments over  
13 a period of time, is that correct?

14 A. Yes.

15 Q. You told us also that you had interests in a property  
16 known as Grace Bay Plaza. That property was managed by  
17 Prestigious Properties and therefore they effectively,  
18 as the word suggests, they managed it. They paid  
19 the bills, organised whatever work needed doing,  
20 collected the rent, no doubt took a percentage and  
21 passed on the rest to you. Correct? A similar  
22 arrangement was in place as regards two other properties  
23 that you owned, one of those being the condominium at  
24 the golf club, by which I take it to be  
25 the Providenciales golf club?



1 A. Yes.

2 Q. And also a Cinema Plaza property. So in respect of each  
3 of those three, you were relying upon  
4 Prestigious Properties and they would account to you and  
5 in due course pay you funds that were due as a result of  
6 the properties that you owned?

7 A. Yes.

8 Q. That is correct, good.

9 Having re-considered the documents in the light of  
10 what you told us yesterday, I will very briefly take you  
11 back to those documents, if you could have in front of  
12 you, volume 1 of the black files.

13 Would you please go in that file to page 94. We  
14 focused yesterday, perhaps not with any great success,  
15 upon occasional payments, payments from time to time  
16 that you would have received. In fact, if we look at  
17 these documents in context, if we look at them as  
18 a whole, it is clear that they tell us a little more  
19 information than that. Starting at page 89, through to  
20 page 94, what you have there are headed up "Director's  
21 Dividends", "Fees", "Loans", and "Expenses".

22 As was made clear yesterday, it is an internal  
23 account. You get debits, you get credits, some money is  
24 paid on your behalf, some money is paid to you. At the  
25 end of the day, you are entitled to the benefit of it.

1 If we take the totals in fact on those documents,  
2 page 94, this particular document covers the period from  
3 in effect 2002, so going back quite a long way, right  
4 through to December 2007 when it ends. Over that  
5 period, in director's dividends, there is a total,  
6 the total being \$246,480.88. So over the period, you  
7 received credit to that amount.

8 Some of that you would have received in the form of  
9 cash or cheque, perhaps bank transfers. Some of it you  
10 got by way of what I will refer to as kind. That is  
11 bills were paid on your behalf.

12 It is a perfectly normal way to work. But you had  
13 the benefit of that, would you agree with that?

14 A. Okay.

15 Q. So when we consider the dividends received from  
16 Prestigious Properties, we can put a figure on it  
17 because those are the benefits that you got qua  
18 director, as a director. Even if you didn't receive all  
19 of it in cash, some of it was effectively bills. If you  
20 had received the cash, you would have had to pay  
21 the bill yourself anyway. So you had the benefit one  
22 way or the other.

23 Moving on from that, we can look also at page 100,  
24 six pages on. These pages are for the golf course  
25 condominium. Again, we can say the same thing. We have

1 a total there of \$178,563.13, I think. That again  
2 covers a period running from in this case 2003 through  
3 to -- page 96 -- September 2008.

4 It starts later but it ends later as well.

5 SIR ROBIN AULD: I think you dropped your voice when you  
6 said the page reference.

7 MR MILNE: I beg your pardon. It is effectively up to --  
8 the pages leading up to 100. The section with which we  
9 are concerned there --

10 SIR ROBIN AULD: It was just your last page reference.

11 I missed it and the court reporters may have missed it.

12 MR MILNE: I beg your pardon, page 100. That same page.

13 Going back slightly earlier than that, we have  
14 the Cinema Plaza. Page 97. The total credit there is  
15 \$207,556.

16 We also have at page 285 some separate documents in  
17 relation to very much the same thing. This, I think, in  
18 fact Grace Bay Plaza. No. The labelling on these is  
19 not always entirely clear. This appears to be  
20 Grace Bay Plaza again. And a further \$52,850 in  
21 relation to that at page 285.

22 So all of these are sums that have accrued to you  
23 over a period of time, is that correct?

24 A. Yes.

25 SIR ROBIN AULD: Did you say yes to that? Did you say yes?

1 A. I think I said yes.

2 SIR ROBIN AULD: Sorry?

3 A. I said I think I said yes.

4 SIR ROBIN AULD: I was not sure whether you did.

5 MR MILNE: I am anxious that we should not short-change you,  
6 Mr Premier, but there is a further entry at page 282,  
7 which is a sum of \$366,122.67.

8 SIR ROBIN AULD: It is another total credit?

9 MR MILNE: It appears to be, sir, yes.

10 Having missed one, I think I can now total that. It  
11 would appear, and the period we are dealing with here  
12 covers essentially five to six years between 2002 to  
13 2008, in all a little over \$1 million. \$1,011,572 is my  
14 total on that.

15 Does that sound as if that's broadly right?

16 A. These are internal documents from  
17 Prestigious Properties. I have to take your word for  
18 it.

19 Q. Well, Mr Premier, they are internal documents that you  
20 provided to us. They are internal documents for  
21 a company with which you are intimately connected, and  
22 we are simply relying upon the paperwork you have put  
23 forward?

24 A. Yes. So the answer is yes.

25 Q. So the answer is yes, thank you.

1           That sum of 1,011,000 would result, if one takes it  
2           over the six-year period, in a little under \$200,000  
3           a year. We will put a precise figure on it later if  
4           need be. Of course that is going to vary and there are  
5           a number of variables in that because the documents that  
6           you provided don't all coincide. Some go from 2002  
7           through to 2007 and others are 2003 to 2008. We work  
8           with the constraints that are placed before us, but  
9           essentially I would suggest you appear to be benefiting  
10          to the tune of a little under \$200,000 every year from  
11          Prestigious Properties.

12                 Would you agree with that?

13   A. I can't --

14   SIR ROBIN AULD: Short of doing the sums here and now it is  
15           quite difficult for you, but if there are is any error  
16           in the figures that Mr Milne is putting to you, you  
17           through him will have an opportunity to correct them at  
18           a later stage. Mr Fitzgerald, I am sure, will check  
19           the accuracy of them if it is important.

20   MR MILNE: Mr Premier, it is just important that we get some  
21           grip on where your money comes from and in rough terms  
22           at least how your finances work.

23                 You have told us, I think, you have never used  
24           an accountant. You don't regard it as necessary because  
25           income tax is not imposed within the Turks & Caicos

1 Islands. Essentially you are never going to be asked to  
2 account for this. So if you are not going to account,  
3 why need a accountant. That, I take it, I hope I don't  
4 in any way misstate it, that is the approach.

5 A. That is not what I said.

6 Q. That is how you said it?

7 A. That is not what I said.

8 Q. How would you characterise it then? You have not had  
9 an accountant. Is there a reason for that?

10 A. I stand by what I said yesterday.

11 Q. Well you said a lot of things yesterday, Mr Premier.  
12 Which particular answer yesterday are you standing by?

13 A. Sorry? In relation to this very question.

14 Q. Remind me, what was it you said yesterday?

15 A. I said that there are no taxes here and therefore there  
16 is not a requirement to have an accountant.

17 Q. No, there is not a requirement. But you have never  
18 chosen to have one.

19 A. No.

20 Q. You have never felt the need to have an accountant?

21 A. It is the -- that's the same question.

22 Q. It may be different. You have never felt that  
23 the multiple businesses and properties and streams of  
24 income that you have told us about would benefit from  
25 having an accountant, who might be able to advise you as

1 to how to run your accounts. Even if there's no income  
2 tax, there are costs involved, there are investment  
3 opportunities and an accountant does more than simply  
4 an annual tax return. You have never felt that you want  
5 somebody to look over your books and to examine them in  
6 any way?

7 A. Sir, I have never had an accountant.

8 (11.30 am)

9 Q. You told us also yesterday that you thought you made --  
10 the figures you presented indicate that you made \$90,000  
11 from Saunders & Co over a period of about four years in  
12 four, I think, lump sums. You have presented to the  
13 Tribunal a document which has, as part of it its papers,  
14 an appendix 5. Now, we keep referring to appendix 5 and  
15 I think it is probably quite important that we make  
16 clear what this document is. The bank accounts that you  
17 have declared to the Tribunal have, in part, been shown  
18 to us in terms of statements. Some more fully than  
19 others but we have received many pages of statements  
20 from your bank accounts over recent years. The  
21 Tribunal, the Commission, when it received those,  
22 extracted from the information given information as to  
23 payments into those accounts.

24 That schedule was then used to compare essentially  
25 known sources of income and the credits going into

1 the accounts.

2 In many cases the bank statements would make clear  
3 the source of the income. For instance, bank statements  
4 might say salary checked from TCI government. That  
5 would be an obvious source. In some cases where you had  
6 two accounts, there would be a debit on one day and  
7 a credit on the same or subsequent day shortly after in  
8 another account for precisely the same amount, and that  
9 would be identifiable. It would be clear that we could  
10 see money was moving from one account to another.  
11 Nothing suspicious there.

12 The reason that your appendix 5 has been created is  
13 because the Commission served upon you a schedule which  
14 extracted all of the payments into your accounts for  
15 which sources could not readily be identified.

16 You understand that, don't you? You, together with  
17 your attorneys, have sought to explain, as best you can,  
18 the sources of that income.

19 A. Yes.

20 Q. Appendix 5 is effectively that schedule served back on  
21 us with your comments attached as to the sources of  
22 the various items, some of which we dispute, some of  
23 which we don't.

24 In many, many cases you have said that the money is  
25 the result of loans to you and we will come to that in



1 a few minutes.

2 If you take appendix 5 for a minute, there are just  
3 one or two very specific points that I would like you to  
4 look at. At the top of page 51, this was an entry on  
5 26th April 2006. Your reference number 61. One of your  
6 accounts received a sum of \$325,000. You describe that  
7 as commission from Ashley Properties Limited, re  
8 the sale of Water Cay land.

9 MR FITZGERALD: Is it reference number 41?

10 MR MILNE: Yes.

11 SIR ROBIN AULD: Yes, it is.

12 MR MILNE: I am sorry, I said 41, I thought. Number 41, top  
13 line of that page. Who are Ashley Properties, please,  
14 sir?

15 A. That's a registered company here that had owned land on  
16 Water Cay and of which I assist -- private land on  
17 Water Cay, which I assist in the sale of that land.

18 SIR ROBIN AULD: I can't hear what you are saying. It is  
19 a private company which?

20 A. A private registered company who had owned private land  
21 on Water Cay of which I assist with the sale of that  
22 land.

23 SIR ROBIN AULD: Thank you.

24 MR MILNE: In what capacity did you assist?

25 A. As a salesman.

1 Q. Do you hold yourself out as a freelance salesman?

2 SIR ROBIN AULD: Let's have no outbursts of that sort,  
3 please. "I assisted with the sale of the land".

4 A. We discussed that yesterday, that I have been a real  
5 estate salesman since the early 1980s.

6 MR MILNE: I know you are, sir, but do you hold yourself out  
7 as a freelance salesman or was this in the context of  
8 Prestigious Properties?

9 A. No, I am a real estate salesman.

10 Q. So were you acting through Prestigious Properties?

11 A. No, not in this particular case. In some cases  
12 a commission or a sale has gone through Prestigious and  
13 in some cases they have not.

14 Q. So this was a freelance sale?

15 A. In this case it didn't go through Prestigious.

16 Q. It didn't go through Prestigious Properties?

17 A. Yes.

18 Q. You made the connection yourself, you organised the sale  
19 of the land, was that Crown land previously?

20 A. All of the land in this country was previously Crown  
21 land.

22 Q. Was it Crown land when it was sold on this occasion?

23 A. Not to my knowledge.

24 Q. Not to your knowledge?

25 A. Well, I can't sell Crown land. The land to my knowledge

1 was -- belonged to Ashley Properties. I organised  
2 the sale of putting the owners of the land in contact  
3 with interested party in buying it as real estate agents  
4 do.

5 Q. Mr Premier, can you please tell us how you became  
6 involved in this particular project? Who was it who  
7 thought to come to you and ask you to be the middle man  
8 in a sale of this nature?

9 A. I am not a middle man, I am a salesman.

10 Q. Salesman, middle man, however you wish to describe  
11 yourself, sir. How come when, as far as one can see,  
12 this Overseas Territory is not short of real estate  
13 salesmen. You appear to have many, many agencies on  
14 these islands, particularly on Providenciales. Many  
15 well established agencies. Why would it be that they  
16 would come to you personally?

17 A. I have been a real estate agent in this colony since  
18 1983.

19 Q. I know but you are now the Premier, sir. It is a bit  
20 different. Why did they come to you?

21 A. They came to me because they wanted me to assist them  
22 with selling their property.

23 Q. I think that is obvious, but why you, sir?

24 A. Because I have been a real estate agent in this colony  
25 since 1983 and have a lot of contacts, having been in

1 the business for such a long time.

2 Q. Was that not an application of your public position for  
3 private gain, sir?

4 A. I am sorry?

5 Q. Were you not applying your public position, your high  
6 profile, your title as Premier of the islands, in order  
7 to make a private profit?

8 A. No.

9 Q. It is pure coincidence that you happen to be Premier,  
10 they were not interested in the fact that you were the  
11 Premier; it was simply that you had done real estate  
12 agency sales in the past?

13 A. I have been a real estate agent much longer than I have  
14 been Premier.

15 Q. But there are other people, I suspect other men and  
16 women in this room who have been real estate agents for  
17 a long time. Do you not see the potential for conflict,  
18 sir?

19 A. Sir, I have been a real estate agent since 1983. In  
20 relation to Ashley Properties, they wanted me to assist  
21 them in finding a buyer. I did and I received  
22 a commission and I declared that commission.

23 Q. To whom did you declare it?

24 A. I am sorry?

25 Q. To whom did you declare it?

1 A. I declared it to you, to the Commission.

2 SIR ROBIN AULD: In the answers to the schedule?

3 A. Yes.

4 MR MILNE: You declared it, sir, yesterday?

5 A. I have declared it.

6 Q. Yes. Technically I can't fault you on that, Mr Premier.

7 You did declare it yesterday. We have been seeking

8 answers to our questions since September of last year.

9 Would you agree that you had never declared that name,

10 we have never heard that name in any of the papers, in

11 any of the letters, in any of the many letters from your

12 attorneys before that time?

13 A. This was declared when this document was put in.

14 Q. Right. So it didn't cross your mind to mention that you

15 had received a third of a million dollars, not that long

16 ago, from a private company? You didn't think that that

17 was something that the Registrar of Interests might be

18 interested in as well? Because it doesn't appear in the

19 Register of Interests, does it?

20 A. In relation to this, when the -- when this document was

21 submitted to me and my lawyers, we then went through my

22 accounts, meeting with the various banks and tried to

23 provide the information as adequate as possible, as

24 quickly as possible, relying on the bank to give us

25 the information. That is what I have done. I stand by

1 my answers in relation to this.

2 Q. Let's take a look at another entry on this.

3 SIR ROBIN AULD: Mr Milne, before you move from this  
4 transaction, you won't know the answer to this sitting  
5 there, but I am going to ask Mr Fitzgerald to take  
6 instructions and to identify the parcels of land by  
7 their registered numbers involved in this transaction.  
8 Do you understand? I think we would like that  
9 information promptly if it can be arranged,  
10 Mr Fitzgerald.

11 MR FITZGERALD: Yes, I will.

12 SIR ROBIN AULD: The second question I have arising out of  
13 the matter is, who was the moving spirit in  
14 Ashley Properties Limited? Who owned it? Who  
15 controlled it?

16 A. Who controlled, I would have to also look at that and --

17 SIR ROBIN AULD: You must know that. You must know that.

18 A. I don't know who controlled it.

19 SIR ROBIN AULD: I am sorry?

20 A. I wouldn't know unless I --

21 SIR ROBIN AULD: With whom did you deal, who approached you  
22 to assist you, who was the person with whom you were  
23 dealing?

24 A. Well, the person of which I -- there were two persons in  
25 relation to this. The first person was

1           the Deputy Premier and the second person --

2   SIR ROBIN AULD:  Mr Floyd Hall.

3   A.  Yes and the second person was Mr Alden Smith.

4   SIR ROBIN AULD:  Who is he?

5   A.  He, I believe, is a director shareholder of

6       Ashley Properties.

7   SIR ROBIN AULD:  Not a man in public life?

8   A.  No.  So the first -- just to make it clear,

9       the Deputy Premier first came to me and said, obviously

10     I had been in real estate, Mr Smith had asked him, had

11     asked me if I could assist him with finding a buyer for

12     his property.

13  SIR ROBIN AULD:  To whom did you sell the plots of land, all

14     to one buyer or to a number of buyers?

15  A.  To one buyer.

16  SIR ROBIN AULD:  Who was that, please?

17  A.  The land was sold to Mr Peter Wehrli.

18  SIR ROBIN AULD:  Peter?

19  A.  Wehrli.

20  MR MILNE:  W-E-H-R-L-I.

21  A.  Mr Wehrli is someone who has been known to me for

22     20 years.

23  SIR ROBIN AULD:  Yes, they are well known here.

24  A.  I sold him his first piece of property when he came to

25     the islands.

1 SIR ROBIN AULD: What corporate vehicle did he use for  
2 the purchase?  
3 A. I am not sure.  
4 SIR ROBIN AULD: Can't remember, don't know?  
5 A. I can't recall.  
6 SIR ROBIN AULD: If there are any questions arising out of  
7 that, Mr Milne, perhaps we could do it after the short  
8 adjournment. We will break for five or ten minutes now.  
9 (11.42 am)  
10 (A short break)  
11 (11.50 am)  
12 SIR ROBIN AULD: Mr Premier, before Mr Milne resumes  
13 questioning you, I am having some difficulty from time  
14 to time as you may have noticed hearing you. Now I put  
15 that down to my infirmity, but I gather that a number of  
16 people in the room, who are not as infirm as I am, are  
17 also having difficulty. So could you try to speak up,  
18 please?  
19 A. Yes, thank you.  
20 MR MILNE: Mr Premier, before we took the break -- I think  
21 we have lost Mr Fitzgerald, sir. I am sorry.  
22 SIR ROBIN AULD: His junior is not here? We had better wait  
23 for Mr Fitzgerald. (Pause)  
24 That's a yellow card, Mr Fitzgerald.  
25 MR FITZGERALD: Yes, I apologise.



1 MR MILNE: Mr Premier, before the short adjournment we were  
2 discussing Ashley Properties and you told us that you  
3 had received an initial approach from  
4 the Deputy Premier, is that correct?

5 A. Yes.

6 Q. Mr Floyd Hall?

7 A. Yes.

8 Q. He in turn introduced to you a gentleman. I am afraid  
9 I didn't catch the name very clearly. It sounded like  
10 Alden to me. How do you spell the first name?

11 A. I am not sure how to spell it but it is Alden Smith.

12 Q. Alden Smith?

13 A. With an A.

14 Q. Is the Deputy Premier involved in Ashley Properties to  
15 the best of your knowledge?

16 A. Not to the best of my knowledge.

17 Q. He is not or you don't know?

18 A. I don't know.

19 Q. Did the Deputy Premier receive a commission for his  
20 introductory part in this deal?

21 A. I don't know.

22 Q. Did you ask him?

23 A. No.

24 Q. Did you ask Mr Smith?

25 A. No.

1 Q. Did you ask Mr Wehrli?  
2 A. No.  
3 Q. Are you still in touch with Mr Smith?  
4 A. What do you mean, in touch?  
5 Q. Do you have contact with him, do you speak to him, do  
6 you see him about town?  
7 A. Yes.  
8 Q. Have you done any other work for him?  
9 A. No.  
10 Q. Have you done any other freelance sales of this nature  
11 since that time?  
12 A. I can't recall, I have declared all of the commissions  
13 that I have gotten.  
14 Q. Have you done any other freelance sales since that time?  
15 A. I have done real estate sales since 1983 to 2000 until  
16 the present. I cannot recall what I have done -- all of  
17 the information I have supplied to you is here.  
18 Q. That is absolutely right. All the information you have  
19 supplied is here. We are asking, the reason for us  
20 being here today, the reason for booking this hall and  
21 having you come to give evidence is so that we can  
22 explore a little further. So that is why I am asking  
23 you sir, have you done to the best of your knowledge and  
24 recollection any other freelance sales outside  
25 the confines of Prestigious Properties in recent years,

1           if so could you please tell us about them?

2    A.   I said all of the information I have supplied and so --

3    SIR ROBIN AULD:  Is the answer no, unless it is listed here?

4    A.   I am sorry?

5    SIR ROBIN AULD:  Is the answer no unless it is listed in

6           schedule 5?

7    A.   Or unless it is listed in all of the --

8    SIR ROBIN AULD:  Elsewhere.

9    A.   All of the documents that we have presented.

10   SIR ROBIN AULD:  If I write: have acted in no other

11           transactions on a freelance basis unless listed in

12           schedule 5 or in other documents produced.

13   A.   All the documents produced to the best of my knowledge.

14   MR MILNE:  Let's look at another entry in your schedule.

15           Further down, this is on 8th March 2007.  Payment from

16           Windsor Investment Group via T Chal Misick.  This was on

17           8 March.  As I say, item 68 on that same page.  You

18           received \$300,000.  What were you doing for

19           Windsor Investment Group?

20   A.   I am a shareholder, to the best of my knowledge, in

21           Windsor Investment Group.

22   Q.   You are a shareholder to the best of your knowledge.

23           Why the qualification, sir?  Why do you need to qualify

24           whether or not you are?  You either are or you are not.

25   A.   I am relying on my knowledge.

1 Q. I naturally assumed that you relied upon your knowledge,  
2 sir. Why do you say to the best of my knowledge? Let  
3 me suggest one possible explanation for that,  
4 Mr Premier. That you may or may not be a shareholder,  
5 in many cases you own or control companies in which you  
6 have no shares at all in your own name, is that not  
7 correct?

8 A. That is not correct.

9 Q. Because companies that you have told us about which are  
10 effectively yours, Arch Property Limited,  
11 Belview Holdings Limited, your name doesn't appear on  
12 the shares documents, it does not appear on the company  
13 documents, it does not appear anyway. Somebody else  
14 holds the shares. Somebody else takes care of it for  
15 you. That is your way of working?

16 A. Absolutely not. In relation to those two companies, we  
17 made full disclosure and you have the declaration of  
18 trust.

19 Q. Well, that may be the case, sir but it appears --

20 A. And so you know, based on my declaration that I am  
21 a shareholder in those companies and to give the public  
22 the impression that something has been hidden in  
23 relation to those two companies is disingenuous.

24 Q. Why are the shares not in your name in those companies?

25 A. You have the declaration of trust, you know who owns

1           them.

2    Q.   Why are the shares not in your name?

3    A.   You have the declaration of trust --

4    Q.   I know I do.   Why are the shares not in your personal

5           name?

6    A.   I stand by my answer, sir.

7    SIR ROBIN AULD:   Well it is not an answer, really, is it

8           Mr Premier?   Are you a shareholder in

9           Windsor Investment Group.

10   A.   I said yes to the best of my knowledge.

11   SIR ROBIN AULD:   You are.   If you are not, why would you not

12           have the shares in your name and who would have them?

13   A.   Well, in relation -- in Windsor Investment?

14   SIR ROBIN AULD:   Yes.

15   A.   I said yes.

16   SIR ROBIN AULD:   This \$300,000 is by way of dividend

17           payment, is it?

18   A.   In relation to that, Windsor Investment, which was

19           deposited by Chalmers, I believe he comes before you

20           shortly, you can also ask him.

21   SIR ROBIN AULD:   But is it to your -- best of your belief,

22           a payment of dividend?

23   A.   It is to the best of my belief.   As I said, I am

24           a shareholder in Windsor Investment.

25   SIR ROBIN AULD:   I can't hear you I am sorry.

1 A. I am a shareholder in Windsor Investment, I would not  
2 want to characterise it strictly as dividends. I would  
3 want to check to see exactly what it is.

4 SIR ROBIN AULD: What else could it be?

5 A. I have no idea.

6 SIR ROBIN AULD: Why does it come via Chal Misick?

7 (12 noon)

8 A. Because Windsor Investment is a company in which --  
9 I have an interest in that. He manages.

10 SIR ROBIN AULD: He manages your interest in the company?

11 A. Yes.

12 MR MILNE: Mr Premier, when we were told we wanted an  
13 explanation for that \$300,000, you went away presumably  
14 to try to find out where did it come from, and you made  
15 investigations, yes?

16 A. Yes, through my lawyers. That's why the note is there.

17 Q. Absolutely. So did you not, at the time, remind  
18 yourself of why it should be that \$300,000 drops into  
19 your account? Surely you knew if this was dividend.  
20 Surely you know if this is from a specific sale. You  
21 must know the details, you have gone and checked.

22 A. Sir, I have answered the question.

23 Q. No, you have not, sir, with respect --

24 A. You probably don't like the answer, but I have answered  
25 the question.

1 Q. Surely you would have checked? You would have checked.  
2 Mr Premier, is it the case that money just turns up in  
3 your account and you think, that is nice, I will spend  
4 it? Is it as simple as that? Does money just drop out  
5 of the sky for you?

6 A. No.

7 Q. Then you must know what the sources of your income are,  
8 surely, you must know the nature of the income that is  
9 coming in?

10 A. It is listed here.

11 Q. It is listed, but it is not explained, sir. That's what  
12 we are getting at. With respect, you understand that.  
13 You understand what I am getting at and you are not  
14 answering the question.

15 A. No.

16 SIR ROBIN AULD: Is this a matter that we will be able to  
17 ask Mr Chal Misick about?

18 A. I suspect, yes.

19 SIR ROBIN AULD: Thank you.

20 MR MILNE: So Windsor Investment Group, for whatever reason,  
21 for whatever purpose provided you with \$300,000, yes?

22 A. Yes.

23 Q. That is income, in your hands, isn't it? It is money  
24 you are free to spend?

25 A. Yes.

1 Q. So you -- a simple check across your accounts would show  
2 you received that money; yes?

3 A. Yes.

4 Q. Why is it in that case that when you made your  
5 declarations to the Commission, in the initial  
6 declarations you made no reference, not a word of  
7 reference to owning Windsor Investment Group, when  
8 the first documents were sent through. Did you simply  
9 forget that you were a director or a shareholder of  
10 Windsor Investment Group?

11 A. I made full disclosure to the Commission.

12 Q. No, sir, when we started out you did not. I think we  
13 need to be clear about that. You did not make full  
14 disclosure in the early stages of these proceedings?

15 A. I have now made full disclosure to the Commission.

16 Q. You have now corrected the position. So why was it that  
17 you did not mention Windsor Investment Group at the  
18 outset?

19 A. I have now made full disclosure to the Commission.  
20 The process of disclosure has been one of going  
21 backwards and forwards with the Commission and lawyers  
22 and all of that. And I have now made full disclosure to  
23 the Commission.

24 SIR ROBIN AULD: I don't think that is an answer. You are  
25 being asked why you didn't make it before. Again, there



1 was a reason or it was simply an oversight?

2 A. I have no answer for that. But I have now made full  
3 disclosure.

4 MR MILNE: Let us remind ourselves of when the disclosure  
5 was made and I am not suggesting this was yesterday  
6 because it was not. We received a letter of  
7 27th October 2008 from your attorneys. It was sent to  
8 the Commission and it is in your correspondence bundle  
9 and in fact, Windsor Investment Group shows page 63.  
10 Will you take page 63, please. Do you have that?

11 A. Yes.

12 Q. Here for the first time we are told of  
13 Windsor Investment Group by your attorneys. Mr Misick  
14 beneficially owns 10 per cent of  
15 Windsor Investment Group. Does that jog your memory at  
16 all, sir?

17 A. Yes.

18 Q. "Our client has requested the corporate documents for  
19 this company which we will forward to you on receipt."  
20 Have you ever done that?

21 A. Yes, through my lawyers.

22 Q. You have given the corporate documents to your lawyers?

23 A. No, it says that my client has requested it, which  
24 I have requested it.

25 Q. You partly own this company, sir. So since your brother

1 T Chalmers Misick --

2 A. 10 per cent is not partly owning it.

3 Q. What is it, if not partly owning it?

4 A. Well, I understand you say partly --

5 Q. I am sorry, sir, I am reading from the words that your  
6 lawyers used:

7 "He owns 10 per cent."

8 So he owns part of this group. What is it about  
9 that that is not clear?

10 A. That's clear. But when you said partly, I thought you  
11 meant majority.

12 Q. No. Partly owns. Who runs it? Your brother. Where  
13 does your brother live? A few miles from you in  
14 Providenciales? Your brother who manages and moves  
15 money for you, it would appear on number of occasions,  
16 and no doubt he will answer questions on that. How  
17 difficult is it to go down to your brother and ask for  
18 the documents?

19 A. Sir, I requested it from him through the lawyers who  
20 were dealing with my affairs.

21 SIR ROBIN AULD: Did you ask them whether they had done it?  
22 Are you saying they simply haven't done it or not?

23 A. I don't know. I assume it was done.

24 SIR ROBIN AULD: So if it has not been done, it is your  
25 lawyer's fault, is it?

1 A. I assume that it was done --

2 SIR ROBIN AULD: If it has not been done, it is their  
3 omission not yours, is that what you are saying?

4 A. I did give instructions for it to be done.

5 MR MILNE: Turn over the page, please, sir?

6 SIR ROBIN AULD: Are you moving from this transaction or  
7 staying with it?

8 MR MILNE: Just one more question on this transaction, sir.  
9 When you sat down with your lawyers and you gave  
10 them your instructions and you told them about  
11 Windsor Investment Group Limited, you no doubt were  
12 asked, what can you tell us about it and you would have  
13 provided details, yes?

14 A. Can you say that again?

15 Q. You would have provided details to your lawyers. They  
16 would not know about Windsor Investment Group unless you  
17 told them, would they?

18 A. No.

19 Q. So they wrote what you told them, one must assume.  
20 Correct?

21 A. That I owned 10 per cent of Windsor Investment? Yes.

22 Q. You must have told them that?

23 A. Yes.

24 Q. They must have written down what you told them on this  
25 page as well. Item 5:

1 "Windsor Investment Group Limited, no income  
2 earned".

3 Page 65. Your declaration to the Commission was  
4 that you had made no income.

5 A. What page are you on?

6 Q. 65. The same letter, further down the letter, (v):

7 "Windsor Investment Group Limited, no income  
8 earned".

9 That was not true, was it?

10 A. Well, there is a lot of -- there is TCI Cinemas which  
11 says no income earned and it's a cinema company, so  
12 income has to be earned as well. So obviously there  
13 were mistakes made.

14 Q. Two mistakes don't make one mistake better?

15 A. I am not saying that.

16 Q. This was wrong, wasn't it? This was positively wrong.  
17 This was positively misleading. Why was it sent to us  
18 in that format?

19 A. You have to ask my lawyers that.

20 Q. I am asking you, sir, you gave them the information upon  
21 which this information was based?

22 A. I would have to ask them that then.

23 Q. You would agree that this was positively misleading? It  
24 was wrong to say there was no --

25 A. It has never been my intention or the intention of my

1 lawyers to mislead the Commission. We have been honest,  
2 frank and we have made full disclosure and we are here  
3 today co-operating with the Commission.

4 Q. Mr Premier, I would suggest that this has come out drip,  
5 drip, drip, over a period of time. Questions have been  
6 asked, we get one version and then a different version.  
7 We are told one thing and then we are told the diagonal  
8 opposite. We keep asking and every time we ask we get  
9 something either new, that has not been mentioned or  
10 something different that has been mentioned and has been  
11 gotten wrong. Why is that the case, sir?

12 A. I don't necessarily agree with that characterisation.

13 SIR ROBIN AULD: Are you leaving Windsor?

14 MR MILNE: I am, sir.

15 SIR ROBIN AULD: May I just ask one matter by way of  
16 enquiry. The \$300,000, Mr Premier, how was that payment  
17 made to you, was it by cheque or by bank transfer or in  
18 cash?

19 MR FITZGERALD: I think we can help on this.

20 SIR ROBIN AULD: Thank you.

21 MR FITZGERALD: Because it is in the documents bundle.

22 SIR ROBIN AULD: It is to be found in here, is it?

23 MR FITZGERALD: Sir, if you look at the supporting documents  
24 for appendix 5 that was handed in yesterday. It is at  
25 page 131, a cheque.

1 SIR ROBIN AULD: I don't think I have that bundle. If I had  
2 it, I have lost it. (Handed)

3 MR FITZGERALD: Page 131, there is a cheque.

4 SIR ROBIN AULD: Drawn on whose account?

5 MR FITZGERALD: It is drawn on Chalmers Misick's company.

6 SIR ROBIN AULD: Account with what bank?

7 MR FITZGERALD: The First Caribbean International. Sir, if  
8 you go to page 131, all the details are set out.

9 SIR ROBIN AULD: Thank you very much.  
10 I needn't trouble you, Mr Premier.

11 MR MILNE: Moving on, Mr Premier. Yesterday, for the first  
12 time, we received this document. It was provided to us.  
13 I say yesterday, it is within the last two days. For  
14 the first time ever in that document you mentioned that  
15 you received what you described as a PNP salary. Is  
16 that true?

17 A. In this document?

18 Q. Yes.

19 A. Yes.

20 Q. Do you receive a PNP salary?

21 A. When I became the leader of the PNP in 2002, it was  
22 agreed that as the leader of the PNP that I would  
23 receive a salary. So, I have periodically received  
24 payments or salary from the party, yes.

25 Q. Does anybody else receive a PNP salary?

1 A. There are others who have, yes.

2 Q. There are others who have?

3 A. Yes.

4 Q. Are there others who do?

5 A. Well, we have the -- yes, there are others who receive

6 salaries in relation to the party's business.

7 Q. How much is your salary from the PNP?

8 A. The amount that was agreed was 10,000 a month.

9 Q. 10,000 a month?

10 A. Yes.

11 Q. Have you received 10,000 a month every month since then?

12 A. No.

13 Q. Why not?

14 A. Well, because there were times when the party were not

15 in funds.

16 SIR ROBIN AULD: When you say others, do you mean fellow

17 ministers?

18 A. No, there are other persons who work within the party.

19 SIR ROBIN AULD: But were you the only minister receiving

20 a PNP salary?

21 A. I was not receiving it as a minister. I was receiving

22 it as a leader?

23 SIR ROBIN AULD: I know that, but were you the only minister

24 who was receiving a PNP salary?

25 A. Salary, yes.

1 SIR ROBIN AULD: Were you the only minister receiving  
2 a PNP --  
3 A. A salary, yes, to my knowledge.  
4 MR MILNE: So when you became leader, you decided or  
5 the party decided that you would have a salary.  
6 A. Yes.  
7 Q. That was in 2002?  
8 A. Yes.  
9 Q. And you have been receiving it with gaps perhaps on and  
10 off ever since, yes?  
11 A. Yes.  
12 Q. Paid monthly?  
13 A. No.  
14 Q. How often is it paid?  
15 A. Now and then.  
16 Q. It doesn't sound like a salary, Mr Premier, does it?  
17 A. Well, it's --  
18 Q. You have a contract of employment with them?  
19 A. It is like running a small business. If you run a small  
20 business, you say you receive a salary and you pay  
21 a salary when your small business has it.  
22 Q. This is not a small business though, is it, sir? It is  
23 the governing party in what you have described as  
24 an emerging nation. Do you have a contract of  
25 employment?



1 A. Do I have a contract of employment?

2 Q. Yes.

3 A. Politicians don't have contracts of employment. We are  
4 political parties.

5 Q. You don't have a contract of employment perhaps with the  
6 people but you have one with the party. I am talking  
7 about the salary. Do you have a contract of employment  
8 with the PNP? You are its leader --

9 A. Politicians don't have contracts of employment with  
10 political parties.

11 Q. Quite apart from your elected position, do you have any  
12 contract with the party as leader, yes or no?

13 A. An employment contract?

14 Q. Yes.

15 A. No.

16 Q. Do you have letters, documentation, setting out  
17 the terms upon which you would be paid salary?

18 A. No.

19 Q. Why not?

20 A. Because we did not operate in that fashion.

21 Q. Are there minutes of the meeting at which it was decided  
22 that you would receive a salary?

23 A. I am not sure.

24 Q. Who keeps the minutes?

25 A. Of the party?

1 Q. Yes.

2 A. The Secretary General.

3 Q. Right. Who is the Secretary General of the party?

4 A. Now or then?

5 Q. Who is it now?

6 A. The present Secretary General of the party is Akierra  
7 Misick.

8 Q. Would that be the same Akierra Misick who is sitting to  
9 your left-hand side?

10 A. Yes.

11 (12.15 pm)

12 Q. Your attorney?

13 A. Yes.

14 Q. Who was present at the meeting when this decision was  
15 taken to pay you a salary?

16 A. I can't recall. It was certainly the Chairman at the  
17 time, the Treasurer and other officers of the party.

18 Q. Does the Chairman have a salary?

19 A. Yes, we do pay the Chairman a salary.

20 Q. The Chairman receives a salary?

21 A. Yes.

22 Q. What about the Treasurer, does the Treasurer receive  
23 a salary?

24 A. I am not sure. Not to my knowledge. I am not sure.

25 Q. So you are not sure if the Treasurer of your party, of

1       which you are a leader, and elected Premier, is on  
2       salary or not?

3   A.   That's my answer.

4   Q.   Right.  So, where does the money come from that pays  
5       this salary?

6   A.   Political party contributions, monies come from  
7       donations.

8   Q.   Right.  Aren't those the same donations that in some  
9       cases are made personally and simply go off to cover  
10      personal debts?

11  A.   Political party contribution come from donations.

12  Q.   Does the deputy leader of the party have a salary?

13  A.   Well, the deputy leader of the party has received, and  
14      again has received monies from time to time from  
15      the party like other candidates as well.

16  Q.   Is the deputy leader of the party the same as  
17      the Deputy Premier?

18  A.   Yes.

19  Q.   Any other members of your cabinet, do they receive PNP  
20      salaries?

21  A.   There are other members who, from time to time, receive  
22      monies from the party to assist them in their political  
23      activities.

24  Q.   That's not quite the same thing, is it?  Do they receive  
25      money as salary?

1 A. Well, there are other members who receive money from  
2 time to time to help them -- other elected members or  
3 candidates -- for their political activities.  
4 The difference is that, as the leader or chairman or  
5 officer of the party, where you are more involved with  
6 the party on a day-to-day -- more involved with the  
7 running of the party on a day-to-day basis.

8 Q. So, presumably, as Chairman of your party, as leader of  
9 your party, I beg your pardon, you will have access to  
10 the records of your party?

11 A. As a leader?

12 Q. Yes. As leader.

13 A. When you say access, what do you mean?

14 Q. Access. You can get hold of them. You can have  
15 somebody get hold of them. You can have a look at them.  
16 I hesitate to say this, but you could try disclosing  
17 them, which we would have expected, given that you now  
18 tell us, for the first time in the last 48 hours, that  
19 you have been receiving sums of money, indeed, sir,  
20 substantial sums of money from a political party.

21 A. Did you ask the PDM to disclose where they get their  
22 political contribution from?

23 Q. If I had asked the PDM, sir, would they have told me  
24 about your PNP salary?

25 A. They have told you many things.

1 SIR ROBIN AULD: Let's all just stop for a moment, please.  
2 Keep this nice and quiet and cool. That goes for  
3 everybody. Yes, Mr Milne.

4 MR MILNE: Who else knows about the PNP salary that you  
5 receive?

6 A. I told you that the decision was taken at the time, by  
7 the party NEC at the time. I don't remember who that  
8 make-up was, that was comprised of back six years ago.  
9 Six or seven years ago.

10 Q. Well, thank you for that. I will ask the question  
11 again. Who else knows about the salary that you  
12 receive? Did it go no further than the room in which  
13 the decision was taken?

14 A. I don't --

15 Q. Is it published information?

16 A. As I said to you, there is no campaign finance rules.  
17 There is no rules governing -- no legislation governing  
18 the party that a party has to disclose. I don't know  
19 what the rules are in England but certainly here it is  
20 not the case.

21 Q. Does your party never publish an annual report? Does it  
22 never publish documents in which it sets out its  
23 internal working? Does it never --

24 A. No.

25 Q. Given, sir, that there have been many, many allegations

1 of corruption that have come ultimately to this  
2 Commission, has your party never considered laying open  
3 its accounts so that the world can see with clarity how  
4 it is run and how it is funded?

5 A. I have never seen open accounts of this party or  
6 the PDM.

7 Q. Right. So that is a no. There is no public, visible,  
8 clear --

9 A. There is no campaign finance rules. I have said that  
10 from the very beginning.

11 Q. And if there is no rule, you don't have to do it.  
12 Why did you not declare this salary to the Register  
13 of Interests? Do you have an answer, sir?

14 A. I have made full disclosure to this Commission --

15 Q. You have not made full disclosure to the Register of  
16 Interests and that is what I asked you about. Why did  
17 you not make disclosure to the Register of Interests?

18 A. Regrettably, I have not made full disclosure over  
19 the years to the Register of Interests, including this.

20 Q. Will you ask your party to produce the minutes of that  
21 meeting and the records of payments made to you?

22 A. No, I will not subject my party to anything that  
23 the opposition is not subject to.

24 SIR ROBIN AULD: Don't worry, Mr Premier, we can ask them  
25 direct and we shall.

1 MR FITZGERALD: Sorry, I think --

2 MS MISICK: Sir, if I may assist the Commission. We did  
3 write to the current Chairman of the party requesting  
4 this information. We were informed by the Chairman that  
5 the office manager of the party is overseas, currently  
6 pregnant, and she is a bit ill and she actually holds  
7 the key that locks this information in her room. So we  
8 are trying to obtain these documents. It was part of  
9 our original disclosure plan to assist the Premier.

10 SIR ROBIN AULD: That's very helpful, Ms Misick. When  
11 Mr Milne had concluded his questions on this particular  
12 matter, I was going to ask the Premier whether the  
13 system is with the PNP that they have regular meetings  
14 which have agendas and minutes of decisions made, and if  
15 so, we would like sight of those; and secondly, if it  
16 has a bank account, where is the bank account and on  
17 what account were these various payments drawn?

18 MS MISICK: Yes, we have requested this information.

19 SIR ROBIN AULD: That is very helpful. When do you think  
20 your lady will be able to help us?

21 MS MISICK: The status of Ms Terry Clare is still unknown to  
22 me personally. I am trying to find out some information  
23 on her status and how can we get into the office.

24 SIR ROBIN AULD: Which door of which room is locked?

25 MS MISICK: Her office in the Progressive House where the

1 parties' headquarters --

2 SIR ROBIN AULD: Is there nobody else with the key?

3 MS MISICK: Not to my knowledge.

4 SIR ROBIN AULD: Somebody should make arrangements to have

5 the door opened, a member of the party, and access to

6 the documents given straightaway. All you need is

7 a locksmiths.

8 MS MISICK: We will make these arrangements as soon as

9 possible.

10 SIR ROBIN AULD: Thank you.

11 Yes, Mr Milne.

12 MR MILNE: The declarations that have been made in this

13 schedule only cite two payments by the PNP to yourself.

14 One of these was on 17th May 2004 where it says funds

15 from PNP, this is item 5 on your appendix, \$18,000.

16 Yes?

17 A. Yes.

18 Q. The other entry is 25th February 2005. So a few months

19 later. Funds from PNP, donations -- perhaps we can

20 clarify that in a minute -- \$100,000.

21 Now, that is why I suggested a moment ago that this

22 doesn't really smack of salary in that there are two

23 lump sums, several years ago, one of them very large,

24 the other not insubstantial. Why, if you are entitled

25 to a salary, is the salary not paid regularly?



1 MR FITZGERALD: Sir, I am not sure the premise of that  
2 question is entirely correct. This is merely  
3 an explanation of what were listed as unexplained  
4 deposits, and that's the reason for giving the details  
5 of those particular payments were the subject of enquiry  
6 by the Commission.

7 That is not -- that is what the Commission asked, to  
8 deal with those two particular credits.

9 SIR ROBIN AULD: Do you mean there may be others?

10 MR FITZGERALD: There may well be. As I understood my  
11 learned friend's questioning earlier, he said that there  
12 were bank statements indicating regular payments.

13 SIR ROBIN AULD: Thank you, Mr Fitzgerald.

14 MR MILNE: Are there other payments, Mr Premier?

15 A. Other payments to what?

16 Q. Other payments to you.

17 A. From the PNP?

18 Q. Since 2004.

19 A. To the PNP, from the PNP?

20 Q. From the PNP to you.

21 A. There may be. I mean --

22 Q. When you were shown this schedule --

23 A. When you get the records, you will see.

24 Q. Well, they were payments to you, sir. Did you keep no  
25 record?

1 A. You know that.

2 Q. Do you have no recollection?

3 A. I filled this out to the best of my recollection.

4 Q. Why is it that you remember a sum of \$18,000 in 2004 was  
5 funds from the PNP, and you remember that a sum of  
6 100,000 in February 2005 was PNP but you don't remember  
7 anything in between?

8 A. I have disclosed this information to the best of my --

9 Q. Why do you remember then? Why do you remember those two  
10 sums?

11 A. They were probably cheques.

12 Q. I beg your pardon?

13 A. I said they were probably cheques, so they were probably  
14 easier to --

15 Q. In that case, the others must have been cheques as well,  
16 mustn't they?

17 A. Could have been, but as I said I have disclosed it to  
18 the best of my knowledge.

19 MR FITZGERALD: I wonder if it would assist my learned  
20 friend if he looked at pages 4 to 5 of the back-up  
21 bundle --

22 SIR ROBIN AULD: 45?

23 MR FITZGERALD: Pages 4 and 5 where the Belize Bank gives  
24 particulars of the deposits in the bank, and there are  
25 references to a number of deposits on behalf of the PNP.

1 SIR ROBIN AULD: But are these cash deposits or cheque  
2 deposits?

3 MR FITZGERALD: They were cheques. That has been provided  
4 by the Premier.

5 MR MILNE: Mr Premier, do you get pay slips?

6 A. From the government, yes.

7 Q. From the PNP?

8 A. No, I spend money on the PNP. I have spent money on the  
9 PNP. They have reimbursed me. They spent money on me.  
10 That is the way it operates. I explained that  
11 yesterday.

12 Q. So is the attitude this --

13 A. I really don't intend to get into it any more.

14 Q. I am sorry, sir, but you have put this forward and  
15 we have to ask questions about it.

16 A. But I have explained it.

17 Q. Is the attitude that their money is yours and your money  
18 is theirs?

19 A. No.

20 Q. That the two can mix and intermingle and it does not  
21 matter?

22 A. No.

23 Q. You can spend PNP money because you are the leader of  
24 the party?

25 A. No.

1 Q. You are sure about that?

2 A. The party has a Treasurer. I cannot unilaterally spend  
3 PNP money.

4 Q. The Treasurer no doubt would wish to keep records of  
5 everybody who receives a salary. Were you asked to sign  
6 for the cheque? Were you asked to acknowledge  
7 the cheque?

8 Did you see anything being written down?

9 A. I have explained my position in relation to the party.

10 Q. You don't want to give any more information, is that  
11 the position?

12 A. I have explained my position in relation to the party.

13 Q. Mr Premier, for somebody who is the head of a political  
14 party, do you not think one might expect a little more  
15 information, a little more knowledge of the party  
16 itself, the workings of the party?

17 A. I have explained my position in relation to the party.

18 Q. Are there any other jobs, are there any other sources of  
19 employment as we stand here today that you have  
20 forgotten about? Do you have any other sources of  
21 income that have slipped your mind as so many of these  
22 have over the last five to six months?

23 A. I have made full disclosure to the Commission.

24 Q. That's not quite the same thing. Have you remembered,  
25 even since these documents came through, you might have

1 another source of income? You might have other bank  
2 accounts, other shareholdings, other interests?

3 A. No, I have made full disclosure to the Commission.

4 (12.30 pm)

5 Q. So apart from the money that we have discussed here,  
6 anything else that comes into your accounts would be  
7 gifts or possibly political contributions or one-off  
8 benefits from sale of land, yes?

9 A. I have made full disclosure to the Commission.

10 Q. Or indeed there would be loans, is that correct?

11 A. I have made full disclosure to the Commission.

12 Q. You see, Mr Premier, when we put together that schedule  
13 of unallocated numbers, the total that we could not  
14 explain going into your bank accounts was \$10.4 million,  
15 which is a lot of money, would you not agree?

16 A. You now have the explanation.

17 Q. We have --

18 A. And you now -- again, for the benefit of the public, you  
19 also know that the majority of that is by way of loans.

20 Q. I am going to come to that. We are going to have a look  
21 at the question of loans.

22 When you were first asked to make declarations to  
23 this Commission --

24 MR FITZGERALD: Sir, are we moving on from PNP, sir?

25 MR MILNE: Yes.

1 MR FITZGERALD: I just wondered at this stage, if I could  
2 draw your attention to a number of entries on pages 4  
3 and 5 talking about deposits --

4 SIR ROBIN AULD: I think you can do but you will have  
5 an opportunity to do so in your own examination of the  
6 Premier. But I think we can shortcircuit this and I was  
7 going to say just before the adjournment break and  
8 really address myself to your junior, Ms Misick.  
9 Ms Misick, as counsel you have indicated that you will  
10 see that the Commission obtains promptly, somehow or  
11 other, the information which would indicate not only  
12 the bank account but records from the bank account of  
13 any payments to Mr Misick Premier, but you are also  
14 under -- I of course accept your assurance as counsel on  
15 that -- but should you not have the ability to bring  
16 that about in your capacity as General Secretary of the  
17 party, upon whom would the Commission have to serve  
18 a summons if it were driven to do that to obtain  
19 production of these documents? Is it you?

20 MS MISICK: It looks like it would fall on me sir. But if  
21 the Commission can bear in mind, I took on this post in  
22 August of last year.

23 SIR ROBIN AULD: But you are the officer on whom a summons  
24 would, and I hope won't have to be, served, should you  
25 fail, despite your best efforts as counsel?

1 MS MISICK: Yes, sir, I accept that.

2 SIR ROBIN AULD: Thank you.

3 MR MILNE: You declared, Mr Misick, a series of loans that  
4 you had taken out. Back in 2003 you told us that you  
5 had, I think, a loan from the Bank of Belize and another  
6 loan from Barclays. That is at page A2 of the first  
7 volume of documents. Is that right?

8 A. A2 of what?

9 Q. A2, the very beginning of that bundle.

10 A. For bundle 1?

11 Q. Bundle 1.

12 A. Yes.

13 Q. We have since learnt, and this is in the bundle that you  
14 have disclosed within the last two days, further details  
15 of those original loans taken out in the Belize Bank.  
16 These are at appendix 3. Do you have that?

17 A. Yes.

18 Q. So we have the two documents open, A2 and appendix 3.  
19 It would appear that at a relatively early stage, in  
20 fact we go back to 1998, you had borrowed a sum of  
21 \$200,000 to help fund the purchase of the golf  
22 condominium.

23 That, although it is described in the schedule as  
24 First Caribbean International Bank, am I right in  
25 thinking that that, at the time, was probably titled as

1 Barclays?

2 A. Probably, yes.

3 Q. Same bank, different branding. Subsequent to that, you  
4 took on a number of further loans. In 2004, we see from  
5 the appendix 3, you borrowed a further \$360,000 from  
6 Belize Bank. If we turn briefly over the page to  
7 appendix 5, that \$360,000 entered your account on  
8 20th January or appears to have done so, and is listed  
9 in here as proceeds of loan, Belize Bank.

10 SIR ROBIN AULD: This is item number?

11 MR MILNE: Item 1 of the schedule, in relation to 2004, sir.

12 You went on to acquire further loans. In December  
13 of 2004, you took out a further loan, it would appear,  
14 of \$500,000 to fund bank overdraft and consolidated  
15 debts, we are told.

16 SIR ROBIN AULD: Item?

17 MR MILNE: That is on appendix 3, third item down in that  
18 row.

19 You had at some stage acquired property in  
20 Providenciales with a view to having a house built.  
21 That house was being built by Johnston International,  
22 which I think is popularly known on the islands. Yes?

23 A. Yes.

24 Q. In the process of house building, we are given to  
25 understand, you borrowed from a company called



1           Secured Holdings Limited a further \$1 million, correct?

2    A.   Yes.

3    Q.   Secured Holdings Limited in fact is a company set up for

4           the purpose of lending you the money?

5    A.   I don't know that.

6    Q.   You knew who the money came from?

7    A.   I am sorry?

8    Q.   You knew from whom the money came?

9    A.   Yes.

10   Q.   Who did it come from?

11   A.   It came from [Security] Holdings.

12   Q.   Who was behind Secured Holdings?

13   A.   Security Holdings is owned by Mr Peter Wehrli.

14   Q.   The same Mr Peter Wehrli whom we discussed a short while

15           ago?

16   A.   Yes.

17   Q.   Secured Holdings was a shelf company.  It did no

18           business, it didn't trade, but it was the wrapper,

19           effectively the front for the money that was being

20           loaned to you?

21   A.   I don't know the internal workings of it.  I know that

22           Secured Holdings, who is owned by Mr Peter Wehrli,

23           loaned me \$1 million.

24   Q.   Let's pause there for a moment.  With

25           the First Caribbean International Bank loan, \$200,000,

1           have you repaid that?

2    A.  No, not in full.

3    Q.  With the Belize Bank account, the \$360,000, have you

4           repaid that?

5    A.  No, not in full.

6    Q.  Have you repaid any of those?

7    A.  I have made payments on both of those.

8    Q.  How much of it have you repaid?

9    A.  I don't know.

10   Q.  Is there still a substantial amount outstanding?

11   A.  In relation to First Caribbean, I am not exactly sure

12           what is outstanding.  I am making a monthly payment.  In

13           relation to Belize Bank, that loan was, I believe,

14           ultimately consolidated --

15   Q.  There are two here from Belize Bank.  360 --

16   A.  My belief and recollection is that they were probably

17           ultimately consolidated in the 5 million Belize Bank

18           loan that you would come to.

19   Q.  You have paperwork to support that?

20   A.  No, I said that is my belief.

21   Q.  That is what you believe, you don't know?

22   A.  No, that is my belief.

23   Q.  360,000 --

24   SIR ROBIN AULD:  Just forgive me, Mr Milne.  There must be

25           paperwork for these loans somewhere.  You must have

1 access to it.

2 MS MISICK: Sir, if we may assist. At volume 1 of the  
3 Premier's bundle, at page 81 is the lending facility  
4 from Belize Bank, this being the consolidation of these.

5 SIR ROBIN AULD: He clearly has access to them. He seemed  
6 to be suggesting that it was not available  
7 documentation, but it is.

8 MS MISICK: Sir, it is. We have already disclosed this.

9 SIR ROBIN AULD: Thank you very much.

10 MR MILNE: At page 81, we deal with the further loan that  
11 you were subsequently to get. It is a borrowing  
12 document. No doubt it will be pointed out to me where  
13 it indicates this consolidated earlier loans.

14 You seemed uncertain, Mr Premier.

15 A. I am sorry?

16 Q. Are you convinced this did consolidate earlier loans?

17 A. I am not convinced. I am not sure of it. But --

18 Q. I am happy to accept that if you can demonstrate it to  
19 me. But I am afraid I have not seen it.

20 A. Okay.

21 Q. Let's leave it to one side for the moment. We can come  
22 back to that. If we are told that it is a consolidated  
23 loan, then obviously the earlier ones may have been, as  
24 it were, absorbed into it.

25 So you had borrowed at that stage, this is going

1 back to -- in fact the secured holdings loan came  
2 through in January 2006. By 2006 you had \$1 million  
3 from Secured Holdings, \$860,000 from Belize Bank and  
4 a further 200,000 from  
5 the First Caribbean International Bank, yes?

6 A. Yes.

7 Q. We move on. In 2006, you entered an agreement with  
8 a company based in Liechtenstein called Arling Anstalt.  
9 That company lent you another \$1 million.  
10 Yes?

11 A. Yes.

12 Q. That money was coming from a bank in Prague, correct?

13 A. I don't know where the money was coming from.

14 Q. The documents you have served tell us it came from  
15 Prague?

16 A. Okay.

17 Q. So that is another \$1 million. Subsequent to that, in  
18 2007, you entered a further agreement with a bank called  
19 the J&T Banka, which is, if I am correct, also in  
20 Prague?

21 A. Yes.

22 Q. That company, that bank lent you a further \$6 million.

23 A. Yes.

24 Q. We have been told that the purpose of that loan  
25 originally was to purchase a property in Los Angeles?

1 A. Yes.

2 Q. In the event you did not purchase a property in  
3 Los Angeles, did you?

4 A. Well the purpose of the -- of that loan was to purchase  
5 a house in Los Angeles for my family.

6 Q. In where?

7 A. Los Angeles at the time. I had a contract to purchase  
8 the house. That loan was to be a bridge loan to  
9 purchase the house and it was my intention to re-finance  
10 the house with American banks once the house was  
11 purchased, and repay the loan.

12 MR MILNE: You did not in fact purchase the house though?

13 A. No.

14 Q. The house was never bought?

15 A. No. But I had a contract to purchase. I lost my  
16 deposit and the house was never bought because my wife  
17 at the time decided that she no longer wanted to  
18 purchase that particular house.

19 (12.45 pm)

20 Q. You paid out \$200,000 on deposit?

21 A. Yes.

22 Q. And that deposit was lost?

23 A. Yes.

24 MR FITZGERALD: Sir, we do have the documentation in  
25 relation to that if that would assist. The 200,000 --

1 SIR ROBIN AULD: That is in addition to what you have  
2 already provided.

3 MR FITZGERALD: Yes, it has just come.

4 SIR ROBIN AULD: Perhaps at the adjournment they could be  
5 handed to the Secretariat and we will have them copied.  
6 Thank you very much.

7 MR MILNE: However, Mr Premier, despite the fact that  
8 the house was not bought and 200,000 of the \$6 million  
9 was lost, which no doubt was unfortunate, you did not  
10 revoke the loan, you took the loan nonetheless.  
11 Correct?

12 A. The house was -- the revocation of the contract came  
13 after I had already received the loan.

14 Q. Right. We will come back to the issue of security later  
15 on but --

16 SIR ROBIN AULD: Is the answer to Mr Milne's question, yes,  
17 you retained the loan money?

18 A. The answer is a qualifying yes.

19 SIR ROBIN AULD: But did you keep the money or not?

20 A. I received the money, yes.

21 SIR ROBIN AULD: And kept it.

22 A. Yes.

23 SIR ROBIN AULD: That is all he asked, thank you.

24 MR MILNE: In 2007, having obtained your earlier loan from  
25 Arling Anstalt and your loan from J&T Banka, and having

1 set out on the construction of the property which was to  
2 become Belview Villa, yes.

3 A. Yes.

4 Q. That being your property in Providenciales, in order to  
5 pay Johnston International for construction, you took  
6 out a further loan with Johnston International or more  
7 precisely with a company called Coral Square Limited,  
8 which is an affiliated organisation, is that correct?

9 A. That is correct.

10 Q. You borrowed a further \$4.7 million?

11 A. Yes.

12 Q. Or precisely \$4.72 million, is that correct?

13 A. Yes.

14 Q. That was in fact signed on 7th February 2007.

15 A. Yes.

16 MR FITZGERALD: I think the chronology is going a bit wonky  
17 here. We have it set out in chronological order in  
18 appendix 3, and it is in fact the February one is before  
19 obviously the March one which is before the May one. My  
20 learned friend has been just slightly taking them out of  
21 sequence which may be confusing.

22 SIR ROBIN AULD: Thank you.

23 MR FITZGERALD: It may not matter but he is getting  
24 the witness to agree to a sequence which is not in fact  
25 correct.

1 MR MILNE: I beg your pardon. I think I may have been  
2 misled by the date on the bottom of the appendix 3 which  
3 says 9/05/05.

4 MR FITZGERALD: It is 9th May.

5 MR MILNE: Yes, 9th May 2005.

6 SIR ROBIN AULD: Does the sequence matter?

7 MR MILNE: Not greatly, sir.

8 So as we have got so far, Mr Premier, you have  
9 200,000 from First Caribbean, 360 from Belize Bank,  
10 a further 500,000 from Belize Bank, \$1 million from  
11 Secured Holdings, \$1 million from Arling Anstalt,  
12 \$4.7 million from Coral Square and \$6 million from  
13 J&T Banka. In March 2007 you took a further \$5 million  
14 loan from Belize Bank, is that correct?

15 A. Yes.

16 Q. Subsequent to that, you took out a loan from Meridian  
17 Mortgage for \$200,000?

18 A. Yes.

19 Q. Around the same time, you took out a loan from  
20 Saunders & Co for \$275,000.

21 A. Yes.

22 Q. You borrowed further monies from Arling Anstalt, you  
23 renegotiated the loan and you took out up to \$1 million  
24 from them.

25 Correct?



1 A. Yes.

2 Q. That was simply to top it up. In fact, in fairness, you  
3 do not, at least on the documents disclosed so far,  
4 appear to have used all of the second million dollars.  
5 You have only drawn three-quarters of a million, about  
6 772,000 from that.

7 Is that right?

8 A. Yes.

9 Q. In the document that you disclosed to us yesterday, for  
10 the first time, we learn, and here I turn to appendix 5,  
11 page 51, that in May of 2006, and June of that year, you  
12 were loaned by the Deputy Premier, Floyd Hall, \$150,000?

13 A. Yes.

14 Q. You were loaned by cabinet minister, the Honourable  
15 Jeffrey Hall, \$100,000?

16 A. Yes.

17 Q. By Lillian Boyce, \$100,000?

18 A. Yes.

19 Q. By your brother T Chal Misick, a further \$125,000, I  
20 think \$15 short, but \$125,000, followed by a further  
21 \$200,000, yes?

22 A. Yes.

23 Q. Further down, in November of that year, 2006, a further  
24 \$50,000 from Chalmers Misick & Co. A further \$80,000 on  
25 top from Chalmers Misick & Co.

1           Have I missed anything out, sir?

2   A.   I don't know.  What it shows is that I am heavily in  
3       debt.

4   Q.   Let us look then if we could, please, at page 1137 of  
5       your bundle which is the very end or very close to the  
6       end of your bundle, which is ...

7   A.   Is that volume 3?

8   Q.   It is volume 3.

9           Sir, you have loans -- do you have that schedule?

10  A.   Not yet.

11  Q.   You have loans on those figures that we have given which  
12       total \$20,832,706.42.  This calculation obviously  
13       doesn't take into account any repayments you may have  
14       made on the early ones.

15           Have you made any repayments so far on  
16       Secured Holdings, Arling Anstalt or the Belize Bank  
17       loans?

18  A.   Secured Holdings?  No, I have not made any.  [Arlington]  
19       I have not.  Belize Bank, I have made some.

20  Q.   Belize Bank, you have made some repayments.  That is on  
21       the early loans, is it?

22  A.   No, that is on the 5 million.

23  Q.   How much have you repaid of the 5 million.

24  A.   I can't recall exactly.

25  Q.   Have you repaid Floyd Hall?

1 A. No.

2 Q. Jeffrey Hall?

3 A. No.

4 Q. Lillian Boyce?

5 A. No.

6 Q. Or your brother?

7 A. No.

8 Q. Have you repaid the First Caribbean International Bank?

9 A. I have made some payments, yes.

10 Q. Saunders & Co?

11 A. No.

12 Q. Meridian Mortgage, \$200,000, have you repaid them?

13 A. No.

14 Q. Coral Square, \$4.72 million secured against your house,  
15 have you repaid them?

16 A. No.

17 Q. Of this 20 million, how much do you think you have  
18 repaid? A few thousand? A few hundred thousand?

19 A. I can't tell just by -- this is the first time I am  
20 seeing this. This was only served on me today.

21 Q. Yes, because the documents were only served on us in  
22 the last two days. This is an extraction from  
23 the documents that you have. Were you aware of the  
24 extent of your debt?

25 A. Yes, I have been in real estate all my life. If you go

1 by the debts, my assets is greater than my debt, and so  
2 in relation to the J&T loan, for example, it is not --  
3 it is a single payment that is not due until some time  
4 later on this year.

5 So my assets is greater than my debt. So ultimately  
6 I can satisfy these debts by selling assets if I have  
7 to.

8 Q. Let's look at the interest. The documents that have  
9 been disclosed to us, where we have documents and in  
10 many cases we don't, but those that we have indicate for  
11 Arling Anstalt, a level of interest of only 5 per cent  
12 which is probably good in the circumstances. J&T Banka  
13 are looking for 10.27 per cent interest. Belize Bank  
14 have a rate of interest which I think is linked to  
15 the base rate, but certainly started out at 10.9  
16 per cent, and Coral Square wanted 12 per cent interest  
17 on their loans. In the cases where we don't have  
18 details, we have assumed to your benefit that 5 per cent  
19 would be payable on these.

20 But notwithstanding that, the total annual interest  
21 on these loans as they stand and we disregard  
22 compounding of interest, that is interest earning more  
23 interest because it has not been paid, is 1.983 million,  
24 \$235,000 a year. Nearly \$2 million a year in interest.  
25 To put that in context, it is \$5,433 a day every day of

1 the year or \$226.40 every hour of every day of the year.

2 So since you have been in that seat this morning,  
3 sir, I am afraid that you are something like \$500 worse  
4 off in terms of interest.

5 How do you propose to pay that level of interest?

6 A. As I indicated just now, some of these loans were in  
7 relation to one-off payments. My assets outweigh  
8 the liabilities. I have in the past built homes and  
9 sold them, and so the bottom line is that in some of  
10 these, if I have to ultimately sell assets to satisfy,  
11 plus in many cases they are secured loans, the banks  
12 would rather have security that they can draw on.

13 So it would be -- I mean, it is a case where my  
14 asset can satisfy the debt.

15 Q. Later on today, sir, we will go through your assets  
16 because you have made declarations in relation to those,  
17 and you can assist us, I hope at that stage, with  
18 a little more detail. If that is an appropriate time.

19 MR FITZGERALD: Sir, can I just raise one issue now. From  
20 the trend of my learned friend's questions, it appeared  
21 that he was suggesting that the financial improvidence  
22 is corruption or dishonesty --

23 SIR ROBIN AULD: I think he is simply identifying the state  
24 of Mr Misick's receipts against the borrowings.

25 The implication may or may not be there but we are

1 simply trying to gather facts here. At least I am.

2 MR FITZGERALD: I am just concerned because it was

3 structured in a somewhat rhetorical way to indicate that

4 there's something deeply wrong about borrowing. I mean,

5 it may be improvident but I wonder whether it is

6 relevant to dishonesty or corruption.

7 SIR ROBIN AULD: You can rest assured if I were a jury and

8 had to decide the matter, I would not take the view that

9 improvidence itself is an indicator of corruption.

10 MR FITZGERALD: I am obliged.

11 SIR ROBIN AULD: 2 o'clock.

12 (12.58 pm)

13 (The short adjournment)

14 (2.00 pm)

15 MR FITZGERALD: Sir, we have one of the items of information

16 that you requested us to research and disclose.

17 The parcel of land in question in respect of which

18 the Commissioner Received is lot number 61 --

19 SIR ROBIN AULD: This is Ashley Properties, is it?

20 MR FITZGERALD: Yes.

21 SIR ROBIN AULD: It is one lot or one parcel, is it?

22 MR FITZGERALD: 61203/39, on East Cays, Providenciales.

23 SIR ROBIN AULD: Thank you very much indeed.

24 MR FITZGERALD: It was sold to Aquarius Development Limited.

25 SIR ROBIN AULD: Thank you.

1 MR MILNE: Following on from that last point, Mr Misick,  
2 Aquarius Development then, is that the same as  
3 Mr Wehrli?  
4 A. Yes.  
5 Q. So Mr Wehrli runs Aquarius Development Limited?  
6 A. To my knowledge, yes.  
7 Q. Before the adjournment, we were looking briefly at your  
8 many, many loans --  
9 A. What page again?  
10 Q. Page 1137 is what I have in front of me. It is  
11 the summary we have created from the documents provided.  
12 With these loans clearly some of them come from banks on  
13 Turks & Caicos Islands. Some of them come from outside  
14 the jurisdiction. Quite a number are from private  
15 individuals. Tell me if I am right, you told us that  
16 you borrowed the money from Saunders & Co to pay off  
17 bills, yes?  
18 A. Yes.  
19 Q. What about the money from Meridian Mortgage, was that  
20 not also to pay off bills?  
21 A. Yes.  
22 Q. What happened with the money from Floyd Hall,  
23 Jeffrey Hall and Lillian Boyce, what was that for? To  
24 pay off bills again?  
25 A. Yes, those monies -- some of those loans happened -- it

1           was to help me to pay bills. Some of those loans  
2           happened just after my marriage, wedding, rather.  
3    Q.   It happened after your marriage?  
4    A.   Yes, wedding.  
5    SIR ROBIN AULD: Are you saying these loans were taken to  
6           enable you to pay bills, that was the question?  
7    A.   Yes.  
8    MR MILNE: Your marriage --  
9    SIR ROBIN AULD: Some of them or all of them, from Floyd  
10           Hall down on the list?  
11   A.   Just one minute. Yes.  
12   SIR ROBIN AULD: Thank you. All of them, from Floyd Hall  
13           down on this schedule to pay off your bills, these were  
14           loans you took to pay off bills that you had to pay?  
15   A.   Yes, most of them.  
16   SIR ROBIN AULD: In connection with your marriage.  
17   A.   I am not saying all of them were in connection with my  
18           marriage but most of them were to help me pay off bills.  
19   MR MILNE: They are unsecured loans in each case.  
20   A.   Yes.  
21   Q.   What are the terms of the loan?  
22   A.   In case of -- some of these loans were sort of informal  
23           loans. They are not banking institutions. So you may  
24           not be familiar, on the island sometimes you do borrow  
25           money from friends and family with no particular terms,



1 but with the intention of paying back.

2 Q. Of course. Is Floyd Hall a member of your family?

3 A. Floyd Hall is -- no, he is a friend of mine.

4 Q. He is a friend of yours?

5 A. Yes.

6 Q. Is Lillian Boyce a member of your family?

7 A. No.

8 Q. Is she a friend of yours?

9 A. Yes.

10 Q. Jeffrey Hall, another friend of yours?

11 A. Yes.

12 Q. Chal Misick is obviously your brother?

13 A. Yes.

14 Q. Between them, they have loaned massive amounts of money,  
15 significant amounts of money, would you not agree?

16 A. They have lent me money. When you compare it to my  
17 other debts, you be the judge. What's important, sir,  
18 for me to point out, and I wanted to point it out before  
19 we started, is that on my Leeward estate alone, if  
20 I were to sell it, and as I have said, I have sold homes  
21 in the past, on my Leeward estate alone, if I were to  
22 sell it, I would be able to pay off more than half of my  
23 debts. I am not sure what you are getting at, but it is  
24 not unusual to build houses, or build properties or buy  
25 properties, borrow to do so, sell it, pay off debts and

1 do it all over again. I come back to my fundamental  
2 point that my assets outweigh my liabilities. I am in  
3 a position to have to liquidate some assets to pay off  
4 those liabilities.

5 Q. When are you going to pay Floyd Hall back?

6 A. Well, that's a matter between Floyd Hall and I.

7 Q. Have you agreed a date with Floyd Hall when you are  
8 going to pay him back?

9 A. We have not agreed a specific date.

10 Q. Have you agreed an interest rate?

11 A. We have not agreed a specific interest rate, no.

12 Q. What about Lillian Boyce, Jeffrey Hall, have you agreed  
13 dates or rates with them?

14 A. No.

15 Q. Your brother Chal Misick, have you agreed dates or rates  
16 with him?

17 A. No.

18 Q. What if they came back and said I want 20 per cent  
19 interest. Would that not cause you a problem?

20 A. That would be unreasonable, wouldn't it?

21 Q. Why not agree it in advance?

22 A. Because it was an informal loan by a friend or family.

23 Q. One could understand if you turned to your colleagues  
24 and said: I have not got enough money to buy lunch  
25 today, do you mind lending me \$20, \$50. One could

1 understand if you said: I am a bit short for  
2 the weekend, could you lend me a couple of hundred  
3 dollars. You have borrowed about \$600,000 or \$700,000  
4 from them, without any paperwork, without any formal  
5 agreement, without even a written or verbal agreement as  
6 to when it will be repaid or the interest rates?

7 A. They know I am good for it, and perhaps you are looking  
8 at it from an English perspective.

9 Q. Tell me what the perspective is from the Turks & Caicos  
10 Islands, Mr Premier? Is it common in the Turks & Caicos  
11 Islands for someone to have \$20 million worth of debt?

12 A. There are many people who have more than that.

13 Q. Right. With each of these loans, you told us that you  
14 made some payments on the early Belize Bank loans,  
15 \$360,000 and \$500,000. With the Secured Holdings  
16 Limited loan of \$1 million, which was effectively a loan  
17 from Mr Wehrli, the same man whom you sold the other  
18 property to, you appear to have in that case \$1 million  
19 upon which no interest has been paid at all since it was  
20 taken out in the early part of 2006. Is that not  
21 correct?

22 A. Yes.

23 Q. You signed a formal agreement with Mr Wehrli, indeed he  
24 had an attorney involved and that agreement contained  
25 most of the standard clauses which I am sure you are

1           thoroughly familiar with, since you have been in real  
2           estate as you have told us since the 1980s. One of the  
3           provisions is when you make that loan, that loan should  
4           not rank equal with or below any other loan, is that  
5           correct? Are you familiar with that?

6           Do you know what the expression *pari passu* means?

7   A. I think the loan in relation to Security Holdings ranks  
8           *pari passu* with the loan from Coral Square.

9   Q. Both of those agreements though, maybe we can go and  
10          find them, say they should not rank *pari passu* with any  
11          other loan. In both cases they wish to be the first  
12          loan, the priority loan. Have you told either of them  
13          that you have the other loan?

14   A. They both know. It is on the Land Registry record.

15   Q. It may be on the Land Registry record, have you told  
16          them personally? Have you said: I am taking out another  
17          loan on this?

18   A. I believe in relation to the second loan, the first  
19          holder would have had to agree.

20   SIR ROBIN AULD: Which one was taken first?

21   A. My recollection is that the security was -- can  
22          I refresh my memory?

23   SIR ROBIN AULD: Yes, do.

24   MR FITZGERALD: If the Premier wants the list of the loans,  
25          they are at page 51.

1 MR MILNE: I think it is 48 in fact.

2 MR FITZGERALD: Yes, appendix 3 at page 48.

3 A. Yes. So the Secured Holdings loan was taken out first.

4 It was registered first.

5 SIR ROBIN AULD: Secured loan was taken before the --

6 MR MILNE: Secured Holdings --

7 A. Was at least registered first.

8 SIR ROBIN AULD: Was taken before which loan, the Arling

9 asset?

10 A. No, the Coral -- was registered before the Coral Square.

11 MR MILNE: Secured Holdings, the contract included

12 a particular provision in it, a term, that if a further

13 subsequent loan was taken out, this subsequent loan

14 should be used to pay off the first loan, but that was

15 not done, was it?

16 A. I would have to see the contract. I am not aware that

17 that was the case. I know that when I took out

18 the second loan, they were aware of it and they were

19 aware of the nature of it and they agreed to have

20 the second loan on the security.

21 Now, whether or not the agreement was amended to

22 accommodate that, I am not sure.

23 Q. The property that we are talking about here, of course,

24 is your personal house. Your house in Providenciales.

25 A. Yes.

1 Q. The land was bought for \$360,000 back in 2004?

2 A. Yes.

3 Q. That land was purchased from Leeward Limited, Rodney  
4 Propps?

5 A. No.

6 Q. From whom was it purchased, then?

7 A. In 2004 Leeward Limited -- well, Leeward Limited has  
8 a long history. Leeward Limited is a company that  
9 originally developed Leeward, which was originally owned  
10 by some Bermudans, that was bought by Elf, a French oil  
11 company. It was later sold to -- I don't know how  
12 the nature of it was, but I believe it was later sold to  
13 a company somehow controlled by Lord Ashcroft and who  
14 also, I believe, has an interest in Johnston.

15 Q. So when we look at page 35 of the bundle, which is  
16 a document that you sent to us, bundle 1; which is  
17 the contract between Leeward Limited in consideration of  
18 \$360,000, selling parcel 60903/104 to Belview Holdings  
19 Limited, that is wrong, is it?

20 A. I am sorry?

21 (2.15 pm)

22 Q. Leeward Limited sells the parcel of land to  
23 Belview Holdings Limited for \$360,000. The document is  
24 actually dated 31 December 2003. But I think  
25 the transfer, which was subsequently put through, was

1 the early part of 2004.

2 I suggested to you a few minutes ago that Leeward  
3 Limited sold the property on which it stands to you,  
4 effectively, since you accept Belview Holdings is held  
5 by your brother on your behalf; am I wrong about that?

6 A. Again, you give the wrong information. Belview Holdings  
7 is not held by my brother on my behalf, number 1.

8 Q. Is it held by Saunders & Co on your behalf?

9 A. You know that.

10 Q. I am seeking your assistance.

11 SIR ROBIN AULD: I need to know it. Who owned it?

12 A. He knows it.

13 SIR ROBIN AULD: Who did?

14 A. It is held by -- the registered office is Saunders & Co.

15 SIR ROBIN AULD: Saunders & Co, right.

16 A. The second question is that Leeward to my knowledge,  
17 Leeward Limited is -- again, I have explained  
18 the history of Leeward Limited. Your question was do  
19 I know that Rodney Propps owned Leeward Limited and  
20 I said no.

21 MR MILNE: You don't know who runs Leeward Limited? Leeward  
22 Limited, as I understand it, was a big developer on  
23 the Turks & Caicos Islands. This is not a very big  
24 community. Do you know who is behind Leeward Limited?

25 A. Sir Robin, I have explained to you the history very

1 clearly of Leeward Limited to my knowledge.

2 SIR ROBIN AULD: If you don't know who owned Leeward  
3 Limited, that is the end of it. But if you do know,  
4 tell us.

5 A. I explained the history, saying --

6 SIR ROBIN AULD: I don't need the history. I need to know  
7 if you know who owned it when this contract took place.

8 A. Who presently owns Leeward Limited? I don't know who  
9 owns -- who presently owns Leeward Limited, no.

10 SIR ROBIN AULD: No, who owned it when you bought it from  
11 Leeward?

12 A. I don't know.

13 SIR ROBIN AULD: You don't know.

14 A. No.

15 MR MILNE: With whom did you deal?

16 A. I dealt with Mr Alan Forester.

17 Q. Alan Forester?

18 A. Yes.

19 Q. So you have had many dealings with Rodney Propps over  
20 the years and you know that he is connected with  
21 companies which are tagged, named Leeward. Leeward  
22 Resort Limited for a start. You are well aware of that.  
23 Did you not think: Leeward Limited, that is likely to be  
24 Mr Props or one of his companies?

25 A. No. To my knowledge Leeward Limited is owned by



1 the Ashcroft. Alan Forester has been CEO of Johnston,  
2 Leeward Limited for a long time. When I bought  
3 the property I was dealing with Alan Forester, Leeward  
4 Limited, Johnstons.

5 Q. You believed you were dealing with the Ashcrofts?

6 A. I dealt with Alan Forester.

7 Q. He may have been the man on the ground. Did you think  
8 he owned it personally?

9 A. Well, Leeward Limited owned it.

10 Q. You didn't believe that for a minute did you? He was  
11 not the owner of Leeward Limited. He was not  
12 the managing director of Leeward Limited, surely?

13 A. He was.

14 Q. Did you think he was the person behind the company? Was  
15 this his personal company?

16 A. That is not my business.

17 Q. You are Premier of this Overseas Territory. Did you not  
18 wish to know who it was you were doing business with?  
19 Is this such an obscure or such an opaque society that  
20 you never know who it is who you are doing business with  
21 because nobody is prepared to put their own names on  
22 company documents? You know who is behind these things.

23 A. I have explained to you what I know about Leeward  
24 Limited. Now, you can go and try to diminish the Turks  
25 & Caicos if you like, but I have explained to you who is

1 behind Leeward Limited.

2 Q. I don't for a minute seek to diminish the Turks &  
3 Caicos, Mr Premier. What I seek to do is find out why  
4 people will not tell us who owns property. Why it is  
5 that properties have to be put in the names of  
6 companies. Those companies not held. We have asked  
7 this question already and you don't seem prepared to  
8 give me an answer and I assume you won't give me one  
9 now, but if you wish to, you may explain it so that  
10 the Commission understands why you would use a company  
11 to buy your house that you are going to live in.

12 What is the purpose of that?

13 A. People form limited liability companies to limit their  
14 liability. It is simply that. You are a lawyer and  
15 a banker. You know that.

16 Q. I am not a banker, thank you, Mr Premier. I am glad  
17 that you attribute that to me but...

18 A. You was a banker.

19 Q. No. I have never been a banker.

20 A. You worked in a bank.

21 Q. What I do, Mr Premier, is what I have been doing for  
22 many, many years now. I must admit, I think I am going  
23 to be doing this for quite some weeks to come if we  
24 carry on as we are. Let's see if we can get to the  
25 heart of this, please.

1           Limited liability companies serve a purpose if  
2           people are running a business, if people are concerned  
3           that they would find themselves exposed financially in  
4           some form or fashion.

5           If you want to own a house, for many people, they  
6           would simply buy the house in their own name.

7   A.   Maybe that is the way it works in England.

8   Q.   So if I go to the Land Registry at the Turks & Caicos,  
9           or at least the Companies Registry, am I going to find  
10          that going round the room and asking people here that  
11          all of them have bought their houses in the name of some  
12          shelf company, is that going to be a common experience  
13          or is that only something done amongst a very small  
14          number?

15          You are an estate agent as you have told me many  
16          times. Do you only sell to companies or do you sell to  
17          people?

18   A.   I have sold to both.

19   Q.   So it is not uncommon, may I take it, for people to buy  
20          houses in their own name because they want to buy that  
21          house, pay for it and live in it?

22   A.   Many houses and condos and the like are sold in company  
23          names, as a matter of fact.

24   Q.   If you were going to buy a property and rent it out as  
25          a commercial venture, then clearly you might wish to

1           have the benefit of corporate protection. But if that  
2           were the case, then why not simply declare oneself as  
3           the director and shareholder of that company, since you  
4           would have the protection in any event? If I want to  
5           set up a company because I want the benefit of being  
6           merely a director, I may set up Providenciales Property  
7           Limited, but why not simply put my own name in as  
8           the shareholder, my own name in as the director, because  
9           I have the protection regardless. What is the benefit  
10          then of putting in another company as director or  
11          shareholder and have them hold it on trust for me unless  
12          I have something to hide?

13    A.   That is absurd really and you know it. Jurisdiction  
14          such as this in the Cayman Islands and Bermuda and BVI,  
15          all of these colonies that would like to close down,  
16          that is the type of business they are in.

17    Q.   I am not closing anybody down, Mr Premier. I am simply  
18          asking questions and I am still, I am afraid, waiting  
19          for an answer. What is the benefit of hiding your  
20          identity?

21    A.   I didn't hide my identity. There is a declaration of  
22          trust saying that I own the property.

23    Q.   Is the declaration of trust lodged at a public registry?

24    A.   I don't know. My lawyers dealt with it. And I did what  
25          I was advised by my lawyers.

1 SIR ROBIN AULD: This is a declaration of trust in favour of  
2 you by Saunders & Co, is it?

3 A. Yes.

4 MR MILNE: You see we know of no registry, no public record  
5 of these declarations of trust. When we came, as  
6 the Commission, as outsiders, I suppose, the obvious  
7 place for us to go is the Companies Registry and  
8 the Land Registry and we had co-operation from  
9 the officials there. But what we found, what I suggest  
10 we were probably intended to find was that companies are  
11 owned by other companies or are owned by nominee  
12 companies. So there are so and so nominees, so and so  
13 directors.

14 So if I look at a company, frequently there is no  
15 way on the face of it for me to tell who is  
16 the director, who is the shareholder, and I ask, and  
17 I ask you this, so maybe you can help us with it because  
18 we are outsiders to that degree, why would you do that?  
19 Why would you hide the identity when all you are doing  
20 on the face of this is buying a house to live in?

21 A. I have answered that.

22 Q. With respect, no, you have not. Why would you hide it?  
23 Are you trying to keep your address secret? Everybody  
24 knows where you live.

25 A. I didn't hide anything. I declared my interest. I have

1 full disclosure to you in it and that's how you know  
2 that I own it, because I have disclosed it.

3 Q. Mr Premier, I am not talking about disclosure in this  
4 case. I am talking about in day-to-day life in  
5 the Turks & Caicos Islands, as I think you are, with  
6 respect, fully aware, and what I am talking about is  
7 this: why, when you bought the house, did you use  
8 a company, on which your name does not appear anywhere  
9 except for a deed of trust held, I suspect in the safe  
10 or in one of the files of Saunders & Co, not lodged at  
11 any public ministry at all, any public record office?

12 A. I have explained to you that I did that based on advice  
13 from my attorneys. I also explained to you that many  
14 homes, many condos, many businesses, that is the way it  
15 is done in jurisdictions such as this, so-called tax  
16 havens. Tax havens that people like you would like to  
17 close. I have explained that to you.

18 SIR ROBIN AULD: But are you suggesting -- I am not for  
19 a minute querying the lack of generality or generality  
20 of this, but are you suggesting that it is of aid to  
21 those from abroad who might have tax to pay abroad to  
22 have houses in different names here?

23 A. I didn't say anything about abroad. I said that --

24 SIR ROBIN AULD: There is no tax here, so you don't have to  
25 hide from the taxman in the Turks & Caicos because there

1 is not one.

2 A. You don't have to hide from the taxman. Maybe you have  
3 to hide from your wife, who knows. But that's what  
4 I was advised to do and I did it based on advice.

5 SIR ROBIN AULD: Anyway, that is the way it happens down  
6 here.

7 A. That is the way it happens. If he wants to kill me for  
8 it, then, take a shot.

9 MR MILNE: Let's go back through these loans. We have  
10 Secured Holdings was secured against the house for  
11 \$1 million. So ultimately was the Coral Square loan,  
12 \$4.72 million.

13 The J&T Banka loan, \$6 million, was secured against  
14 I think shares held by your brother, is that correct?

15 A. Yes.

16 Q. Meridian Mortgage was in fact used to pay off debts but  
17 was secured against a property. Am I right in that?

18 A. Yes.

19 Q. That property, I will be corrected if I am wrong, was  
20 61203/55. No matter, we will come back to it in  
21 a minute. First Caribbean International Bank mortgage  
22 was \$200,000 secured against a condominium. That is  
23 the golf course condominium. So many of these are  
24 unsecured. Some are secured.

25 Many of the smaller ones are wholly unsecured. You

1        have told us that you believe your properties are worth  
2        in excess of this. The main property we have been  
3        discussing, of course, is your house. You have on your  
4        declarations a number of properties. Can I summarise  
5        these. I hope I will do so accurately and no doubt you  
6        will correct me if I do not. But you have two  
7        condominiums.

8    A. What page are you on?

9    Q. I am not on any particular page at present. I am asking  
10    you to cast your mind back to your own property. You  
11    own a condo at the golf club and a condo at the  
12    Alexandra Resort, am I right about both of those?

13   A. What page are you on?

14   Q. I am not on any page. You own a condominium at the golf  
15    course?

16   A. Yes.

17   Q. You own a condominium at the Alexandra Resort?

18   A. Yes.

19   Q. Both of those are rented out?

20   A. Yes.

21   Q. The condominium at the golf club, we know any money it  
22    generates comes through Prestigious Properties.

23    The Alexandra Resort one, I think you told us was in  
24    the rental pool; that is it is available for general  
25    rental, yes?



1 A. If I told you that, why do you keep asking me?

2 Q. The condominium at the Alexandra Resort again is in  
3 a company name. I think that is in the name of  
4 Windsor West Limited. Does that ring any bells?

5 A. I am not sure.

6 Q. You don't remember.

7 Other than that, Mr Premier, as I read it, you have  
8 property in North Caicos?

9 A. Yes.

10 (2.30 pm)

11 Q. The number we have been given, if it assists, is  
12 50500-226, which is in Whitby, North Caicos?

13 A. Yes.

14 Q. You had a lease on that property from about 1994  
15 onwards?

16 A. Yes.

17 Q. And in 2004 you transferred or converted that leasehold  
18 into freehold?

19 A. Yes.

20 Q. Upon payment of \$300,000. Who paid that money?

21 A. I did.

22 Q. Did you borrow that money?

23 A. Yes.

24 Q. From whom?

25 A. Belize Bank.

1 Q. Belize Bank?

2 A. Yes.

3 Q. That would be one of your early loans would it,  
4 the \$360,000 loan?

5 A. Yes.

6 Q. The following year you sold that property or you sold  
7 a share of that property, is that right?

8 A. 50 per cent, 49/50 per cent.

9 Q. You put your 50 per cent -- well, the property was  
10 transferred into the name of a company called Solana, is  
11 it Solana Holdings Limited?

12 A. Yes.

13 Q. You retained a 50 per cent share in Solana Holdings  
14 Limited, so you still have a 50 per cent share, a half  
15 share in that property. That property, I think, is  
16 a dwelling house, is it?

17 A. A dwelling house is on it. It is a 10-acre parcel with  
18 a house on it.

19 Q. How many houses?

20 A. One.

21 Q. So one house, but it is a large parcel and was necessary  
22 for just one house. In return for that 50 per cent  
23 share, you got \$1.173 million, yes?

24 A. Actually, no, I got more than that.

25 Q. In terms of cash you have told us that you received

1           that. I think at one point it was described as  
2           1 million, but there is 1.173 million in your  
3           schedule 5, your appendix 5 which we are told represents  
4           the proceeds of that.

5           Was there more than that received?

6    A. And also page 51, it shows that I have received more.

7    Q. I can't hear you, Mr Premier. Page 51?

8    A. Number 72.

9    Q. That is 20th April 2007. So two years later. You  
10       received on that occasion \$400,000?

11   A. Yes.

12   Q. That says deposited by CMC. Who is CMC?

13   A. Chalmers & Co.

14   Q. So what did you give for the \$400,000?

15   A. In relation to the -- I believe that all this was  
16       disclosed to you -- but in relation to the North Caicos  
17       property, as you know, I had entered into a contract  
18       ultimately to sell the -- it was sort of a option  
19       contract to sell the entire parcel for, at that time,  
20       \$6 million.

21           Or \$3 million for 50 per cent of it, of which some  
22       of the monies as you said was paid upfront. There was  
23       a pledge for -- it was sold to some of the people who  
24       were doing this in Charles. It was two condos. All of  
25       this was pledged for it and also they had an option to

1 take up more shares and we --

2 Q. Go ahead.

3 A. Go ahead.

4 Q. Where would we find this in your documents? We have  
5 some bare bones of this that there was to be an option  
6 on two North Caicos lots at St Charles but other than  
7 that, we have no details.

8 A. You have it.

9 Q. Please carry on. Explain it to me so that we all  
10 understand.

11 MR FITZGERALD: Sir, the list of properties is dealt with in  
12 the statement at part 6 from page 38 onwards and  
13 North Caicos is introduced there. Then in the sources  
14 of funds, there is also a passage dealing with  
15 North Caicos.

16 SIR ROBIN AULD: Mr Fitzgerald and Mr Milne, we have three  
17 bundles which came in in the last couple of days.  
18 The first was the Premier's statement with some  
19 appendices or schedules with it. Then we had a bundle  
20 of correspondence supporting that, and then we have had  
21 a further bundle, to which we have referred, starting  
22 with a letter from the Belize Bank of 22nd October.

23 So we have three little bundles all produced in the  
24 last few days. Can we give them a name. Even for those  
25 who have got them, it is difficult enough to follow.

1           Can we call your statement bundle A, please, and could  
2           we call the bundle which starts with the letter of  
3           29th August from Misick & Stanbrook to Mr O'Dea bundle  
4           B, and the third bundle, which is a letter beginning  
5           22nd October 2008 from Belize Bank, bundle C.

6           Is that a convenient way of dealing with it?

7   MR MILNE:   Certainly sir.

8   MR FITZGERALD:  Bundle C will then be the back-up to  
9           appendix 5?

10  SIR ROBIN AULD:  Yes.

11  MR FITZGERALD:  Yes, fine.  I was just giving reference.  It  
12           is in bundle A, then, that he deals -- in bundle A he  
13           deals with his various properties at part 6 and sets  
14           them out from pages 38 to 41, the various properties,  
15           and he also deals with the fact that there had been  
16           a sale of the North Caicos property in relation to his  
17           sources of funds at part 3.

18  SIR ROBIN AULD:  Thank you.

19  MR FITZGERALD:  If I just give you the exact reference.  
20           Part 3, it is sale of land.  Page 3.15.  He deals with  
21           the sale of land.

22  SIR ROBIN AULD:  Thank you.

23  MR MILNE:  Maybe we are taking longer than we need to  
24           Mr Premier.  So we can get to the heart of this,  
25           the disclosure as I understand it is this, I am looking

1 at page 68 of what is now bundle B. That is  
2 the correspondence bundle. On which occasion we  
3 received note from your attorneys saying this, that:  
4 "Mr Misick has a contingent interest in two  
5 condominiums in the St Charles condominium development."  
6 The heading to it is "St Charles, North Caicos":  
7 "The interest arises out of a transaction" --  
8 A. What page are you on?  
9 Q. Page 68?  
10 A. Of what?  
11 Q. Of bundle B. I will start again.  
12 A. Yes.  
13 Q. "St Charles, North Caicos":  
14 "Mr Misick has a contingent interest in two  
15 condominiums in the St Charles condominium development.  
16 The interest arises out of an transaction for the sale  
17 of parcel 60504/226 to Solana Land Holdings Limited."  
18 That number, I take it, is an error?  
19 A. Which number?  
20 Q. 60504?  
21 A. I don't know.  
22 Q. It doesn't appear anywhere else in any of your  
23 documents. However, there is 50500/226. Can I take it  
24 that that is simply an error of draftsmanship on  
25 somebody's part?

1 A. Where do you see 5 --

2 Q. 50500 --

3 A. That would be an error because 6 applies to

4 Providenciales.

5 Q. Exactly. The digits beginning 5, the numbers beginning

6 5 are North Caicos?

7 A. Yes.

8 Q. So it is the North Caicos property we are dealing with

9 here:

10 "Mr Misick was to receive \$3 million of which he

11 received \$1 million. The other \$2 million may be

12 satisfied by the transfer of units in the St Charles."

13 Is that accurate? Leaving aside the misstatement of

14 the number, did you receive \$1 million?

15 A. I in fact received more than \$1 million.

16 Q. So the answer to my question is: no, it is not accurate,

17 I received more than \$1 million. You would agree?

18 A. I have answered your question.

19 Q. You have received \$1.173 million. So a couple of

20 hundred thousand nearly more, but you are telling us now

21 that you further received \$400,000 at a later stage. So

22 in fact \$1.5 million?

23 A. Yes.

24 Q. So that actually is well out, that figure. It also says

25 that you were to get -- the contingent interest on two

1 properties to the remaining \$2 million, which clearly  
2 cannot be right either, may be satisfied by the transfer  
3 of units in the St Charles, which is the development,  
4 I think, on North Caicos.

5 A. Mmm hmm.

6 Q. So that is a contingent interest. You may or may not  
7 get it?

8 A. What I meant is either I get it, either I get the condos  
9 or I get the money.

10 Q. When will you find that out?

11 A. I have gotten -- that is why it says a contingent  
12 interest. I have gotten some more money in relation to  
13 the balance of the 2 million.

14 Q. I still can't hear your answers.

15 A. I said if they are unable to -- I have an option either  
16 to take it in relation to the units or the money, if  
17 they have the money available.

18 Q. You have only a 50 per cent share in this. So that  
19 property essentially has cost you about \$3 million.

20 A. Which property?

21 Q. It is worth \$3 million to you, the St Charles one.  
22 Until and unless there is further development of it.  
23 Would that be right?

24 A. I can't value it here.

25 Q. There is one house on it. Is there any other property



1 as we stand here today?

2 A. You are talking about the St Charles property?

3 Q. Let's take them in turn. The St Charles property is the  
4 50500 property. What is that worth?

5 A. I don't know.

6 Q. You don't know?

7 A. No.

8 Q. You sold half of it, you tell us, for \$3 million?

9 A. That's not the St Charles property.

10 Q. I beg your pardon?

11 A. That is not the St Charles property I sold half of.  
12 The St Charles property is, as it states, two condos.

13 Q. I realise that. The property I am asking you about is  
14 the property that you had and you sold 50 per cent of.  
15 The papers that we have suggest, and if they are  
16 misleading you can tell me so, but they suggest that  
17 the property that you sold, not St Charles but something  
18 else on North Caicos, presumably Whitby, you sold your  
19 50 per cent share for \$3 million, be that partly in cash  
20 and partly in options. Correct?

21 A. Yes.

22 Q. So the property that you have sold the half of is worth  
23 presumably \$6 million unless it has improved in value  
24 since then.

25 A. I submit that it has.

1 Q. Right. How has it improved? Has it been developed?

2 A. Well, the land prices in the Turks & Caicos has improved  
3 tremendously over the last several years.

4 Q. So inflation?

5 A. No, because of the growth that has taken place over  
6 the last several years.

7 Q. We can bandy words, sir, as to reason, but  
8 essentially --

9 A. When the property was bought, there was no port in  
10 North Caicos, there were no paved roads, there was no  
11 causeway, there was no Royal Reef Resort and many other  
12 developments that has taken place since then.

13 Q. So you say that there has been a general improvement in  
14 the quality of the infrastructure on North Caicos which  
15 would suggest that you could sell it for more than that.

16 A. Which would suggest that the property is worth  
17 significantly more than it was worth in 2004/2005.

18 Q. Have you had a recent valuation done on it?

19 A. No.

20 Q. You say that you also have the two condominiums or  
21 the option on the two condominiums in St Charles?

22 A. Yes.

23 Q. Do you have a value for them?

24 A. No.

25 Q. On Providenciales you own five properties, apart from

1 the two condominiums that we have already mentioned.

2 You have the house, 60903/104, which is the house that

3 was built for you by Johnston International, yes?

4 A. I have a house that Johnston was a contractor of.

5 Q. Did they build it?

6 A. That is what a contractor is.

7 Q. So when I say it was built for you by

8 Johnston International, what is actually wrong with

9 that?

10 A. I just wanted to make it clear.

11 Q. You have a house which is the topic of, we know, much

12 conversation and has been debated on previous occasions,

13 but you say that that property is now worth how much?

14 A. A lot more than it was worth when it was built.

15 (2.45 pm)

16 Q. Ballpark figure?

17 A. Well, I don't know.

18 Q. You can't put a price on it?

19 A. I could, but put it this way, I certainly -- it is

20 certainly worth a lot more than it was worth when it was

21 built.

22 SIR ROBIN AULD: You are a property salesman. What would

23 you put it on the market for, say at best or at worst

24 now?

25 A. I certainly wouldn't take less than 10 million for it.

1 Q. The other properties you own, and we will have to give  
2 you, I am afraid, the numbers, because that is all we  
3 get, but 60718/07. It is property you have held since  
4 1986. You obtained a Belize Bank loan to develop it.  
5 60718/07.

6 SIR ROBIN AULD: That is a Providenciales property, is it?

7 MR MILNE: Yes, all these are, sir.

8 SIR ROBIN AULD: Does it have a name or an address?

9 A. Is that the Windsor Plaza you are referring to,  
10 the Cinema Plaza?

11 MR MILNE: You have not told us that. I am prepared to  
12 accept it from you if you say that is the address of it.  
13 You have had it since 1986.

14 A. What is the legal description?

15 MR FITZGERALD: Is my learned friend referring to the list  
16 at page 66 at bundle B?

17 MR MILNE: I was not, but I can do.

18 MR FITZGERALD: There is a little bit more description  
19 there.

20 A. Yes.

21 MR MILNE: There is, but there is no name. Date of  
22 acquisition, 1986, purchase price not available. Stamp  
23 duty paid, not available. Status of acquisition, raw  
24 land. Currently a commercial building. We know no more  
25 than that. Acreage not available. It does not tell us

1 a great deal, but it may help you, Mr Misick. Can you  
2 tell me anything about that property?

3 A. That is the Cinema Plaza.

4 Q. That is the cinema plot?

5 SIR ROBIN AULD: Cinema Plaza, thank you.

6 A. Yes.

7 MR MILNE: So that is the Cinema Plaza that is rented or is  
8 managed by Prestigious Properties. You also bought  
9 a property at 60905/93.

10 A. Yes.

11 Q. That actually is not listed in that letter. You bought  
12 that in 2000 for \$800,000 and it is held by Grace Bay.  
13 Presumably that is the Grace Bay Plaza, is it?

14 MR FITZGERALD: Yes, it is referred to at 6.10, sir, of  
15 bundle A.

16 SIR ROBIN AULD: Thank you.

17 MR FITZGERALD: At page 41.

18 MR MILNE: So does that help you at all, that is Grace Bay?

19 A. Yes.

20 Q. Of which you own in fact 80 per cent, yes?

21 A. Yes.

22 Q. You have a property at 61203-55. That was bought in  
23 June of 2006 for \$100,000, designed for residential  
24 development?

25 MR FITZGERALD: That is at 6.8, sir, at page 40 of A.

1 MR MILNE: Bought for \$100,000. The letter that we were  
2 given, stamp duty not available. Status acquisition,  
3 raw land. Current state of development, raw land. Not  
4 applicable. It has not been developed.

5 So that was bought for \$100,000. How much do you  
6 say that is worth?

7 A. When was it bought?

8 Q. 2006.

9 A. It is certainly worth a lot more than it was when  
10 I bought it.

11 Q. Property prices only go up. It is still raw land. It  
12 has not been developed, is that correct?

13 A. Yes.

14 Q. How much is it worth now?

15 A. I don't know exactly.

16 Q. Give me a rough figure. You paid \$100,000 for it. You  
17 have a \$200,000 mortgage secured against it, although  
18 the mortgage appears to have been spent for other  
19 purposes.

20 A. Certainly I would not sell it for less than \$1 million.

21 Q. So it is \$1 million. So you have made 900 per cent  
22 profit on that, with doing nothing at all?

23 A. I have not made any profit. I am saying that I would  
24 not sell it.

25 SIR ROBIN AULD: We are talking property valuation here,

1           which is always a slippery subject.

2           We in the UK have got, like many other countries in  
3           the world, if it is not a depression or a recession, it  
4           is not good and property prices are tumbling. Does that  
5           apply here or is the property market buoyant?

6   A. The property prices are certainly not tumbling. Over  
7           the last few months the property prices have stayed --  
8           this is probably the first year or early part of this  
9           year that the property prices have stayed at a certain  
10          level. But in relation to the valuation, you have to  
11          take a lot of things into consideration. Are you saying  
12          what I bought a property for, I mean there are many  
13          properties, either developers or speculators or -- out  
14          here, and what you buy a property for and what you may  
15          sell it for is completely different.

16   SIR ROBIN AULD: It really depends if you take a short or  
17          a long view, doesn't it?

18   A. Yes, exactly. It depends.

19   SIR ROBIN AULD: But at the moment you say the property  
20          prices are pretty stable in the TCI.

21   A. Yes.

22   SIR ROBIN AULD: Thank you.

23   MR MILNE: 60101-36, this is the final one we have to deal  
24          with. It is a property that was bought in 2007. Do you  
25          remember this one?

1 A. Yes.

2 Q. This is 18 acres. It is a big property?

3 A. And your point?

4 Q. This is a property that is now owned jointly between  
5 your company, Arch Property Limited, and another company  
6 called Saber Limited or Saber Holdings Limited?

7 A. Yes.

8 Q. You have 50 per cent, Saber Holdings have 50 per cent,  
9 the property itself is in the name, I think, of  
10 MIG Investments Limited?

11 A. Yes.

12 Q. That property was bought for \$1.9 million. Is that  
13 right?

14 A. Yes.

15 Q. How much of that did you pay?

16 MR FITZGERALD: It is referred to at page 66 of bundle B.

17 SIR ROBIN AULD: I have it at page 39, bundle A,  
18 paragraph 6.6.

19 MR FITZGERALD: It is in both places. 6.6 and --

20 MR MILNE: We know what the purchase price was, I am not  
21 concerned about that. We know there was a Belonger  
22 discount, which no doubt you were attracted to it by  
23 the fact that you are a Belonger. But how much of it  
24 did you pay?

25 A. The 1.9 million I was paid for it, that amount was paid



1 by the partners in the totals transaction, in MIG.

2 Q. So you didn't pay any of that 1.9 million. They paid  
3 it?

4 A. I had an option on the land and I sold 50 per cent in  
5 the land to them for 1.9 million and they paid the 1.9  
6 million.

7 Q. I am sorry, I don't quite follow that. This is  
8 a property that you had the option on. You sold it to  
9 them for 1.9 million or they paid the government  
10 1.9 million?

11 A. Again, I have to explain.

12 Q. Please.

13 A. It is a property that I had intended and still intend to  
14 develop a small resort on. Invariably what happens here  
15 in the Turks & Caicos is sometimes either you get  
16 funding from domestic institutions or sometimes you --

17 SIR ROBIN AULD: Funding from?

18 A. Domestic institutions or -- institutions or sometimes  
19 you seek an investor, whether it is local or foreign or  
20 whatever, to invest with you in developing the property.

21 So friends of mine who knew of my interest in  
22 the land, we came to an arrangement where we would own  
23 the property jointly, develop the property jointly.  
24 They would put forward the monies to pay for the free(?)  
25 hotel, and for that they would get 50 per cent of

1 the ongoing interests in the property, in  
2 the development.

3 Q. How much money did you put into it?

4 A. I mean, I just explained to you, I took almost five  
5 minutes trying to explain to you to make it clear.  
6 I already said you to the 1.9 million was paid by them.  
7 So I don't understand why you keep asking me the same  
8 question.

9 Q. Because the lengthy answer perhaps can cloak a simple  
10 answer. The simple answer appears to be: I didn't put  
11 any money into this at all. They put the money in and  
12 made me a 50 per cent partner. Is that an accurate  
13 rendition of what happened?

14 A. I have answered the question.

15 Q. Do you agree with that rendition or not?

16 A. I have answered the question and I stand by my answer.

17 Q. Well, let me therefore ask you who the partner was?

18 A. Ask what?

19 Q. Who was the partner? Who was the man who put up  
20 \$1.9 million or indeed the woman who put up \$1.9 million  
21 so that you would be a partner without paying anything??  
22 Were they a resident of the Turks & Caicos Islands?

23 A. They were -- do you want the name?

24 SIR ROBIN AULD: Yes, I do.

25 A. The name of my partners in MIG Investment is Caetan and

1 Inazio.

2 SIR ROBIN AULD: That is a person's name, is it? How do you  
3 spell it?

4 A. Two brothers, Caetan. Caetan is the first name and the  
5 second name is Inazio. The last name is Caltigirone.

6 SIR ROBIN AULD: You will have to spell it, I am afraid.

7 A. I can't spell it either. Let's try it, C-A-L --

8 MR MILNE: Can I assist, sir.

9 SIR ROBIN AULD: Please.

10 MR MILNE: Francesco Caltigirone is an Italian billionaire.  
11 C-A-L-T-I-G-I-R-O-N-E. Is that the gentleman we are  
12 talking about?

13 A. I am talking about his sons.

14 Q. His sons, right.

15 SIR ROBIN AULD: So who are these people? Are they  
16 Belongers or residents here or what?

17 A. A mixture of Belongers and residents. They have lived  
18 here for a considerable amount of time. They are  
19 friends of mine. They have homes here and I have known  
20 them for --

21 SIR ROBIN AULD: They have, is it 50 per cent interest in  
22 MIG?

23 A. Yes.

24 SIR ROBIN AULD: Thank you.

25 MR MILNE: Are they Belongers, Mr Premier?

1 A. I am not sure.

2 Q. You have gone into a \$2 million business with this  
3 gentlemen and you don't even know if they are Belongers.  
4 Is that seriously the case?

5 A. I am not sure whether they are Belongers, sir.

6 Q. Did you ask?

7 A. I don't go around asking people if they are Belongers.

8 Q. Being a Belonger is quite important in the context of  
9 the Turks & Caicos Islands, isn't it? Belonger status  
10 is important if somebody is receiving Crown land, which  
11 this was.

12 SIR ROBIN AULD: In the statement which is in bundle A at  
13 page 39, the second sentence says, seemingly referring  
14 to these two longstanding friends, "they are  
15 non-Belongers", and they have a company called  
16 Saber Holdings. Are we talking about the same thing?

17 MR MILNE: Yes, sir.

18 SIR ROBIN AULD: We are. At least in your statement you  
19 thought they were non-Belongers.

20 MR FITZGERALD: Sir, I don't know if the Premier has found  
21 the place. It is 6.6, page 39.

22 MR MILNE: Mr Premier, has this property been developed so  
23 far?

24 A. No.

25 (3.00 pm)

1 Q. So it stands as it did 18 months ago, waiting some sort  
2 of money being put into it so it can be developed?  
3 A. The property has not been developed so far.  
4 Q. It may or may not at some stage be developed, provided  
5 somebody puts some money up?  
6 A. The property has not been developed so far.  
7 Q. It is a different question. If you want to give  
8 the same answer to every question, we can carry on but  
9 it may be developed at some stage?  
10 A. The intention is to develop the property, yes.  
11 Q. Who is going to pay for it when it is developed? Are  
12 you going to borrow some more money?  
13 A. If I have to.  
14 Q. Right. So since 2007, April, has this one rocketed in  
15 value as well, do you think, or is the general slump  
16 pressing down on the Turks & Caicos Islands as it is  
17 throughout most of the rest of the Western world?  
18 A. In relation to the property, I believe that a property  
19 is worth considerably more than it is -- than it did  
20 when it was bought.  
21 Q. Considerably more?  
22 A. Yes.  
23 Q. You can't put a figure on it?  
24 A. No.  
25 Q. So what it comes down to is this, you can't put a figure

1 on really any of the properties, although you have been  
2 an estate agent as you have mentioned many, many times,  
3 you can't put a precise price on any of these properties  
4 or a value?

5 A. I think it is unfair, sir, to ask me to value these  
6 properties sitting here. If the Commission wants  
7 a valuation on the various properties, and they are  
8 prepared to pay for it, then I can have a valuation  
9 done. But I am trying to co-operate to the best of my  
10 knowledge and ability.

11 Q. Mr Premier, the reason I am saying this is at the end of  
12 the day, it may make little or no difference, the value  
13 of the properties that you bought or acquired over  
14 the years, but there are aspects to this which ask for  
15 a little more searching interrogation.

16 You have told us that you have borrowed 20, nearly  
17 \$21 million. You have told us and you accept, I think,  
18 that the figure for interest on those loans has got to  
19 be somewhere close to \$2 million a year?

20 A. Yes.

21 Q. You confidently assure us that your property is worth  
22 well in excess of that, and that therefore it is all  
23 secured, although these interest payments are  
24 compounding day by day, hour by hour because you are not  
25 making payments, sir, as I understand it on any of

1           these.

2    A.   In addition to that, you also miss my interest in  
3           Prestigious Properties and the Alexandra who is also of  
4           value.

5    Q.   They are income streams to you.

6    A.   I am talking about interest.

7    Q.   If you tell the properties --

8    A.   I am talking about my ownership interests, that is what  
9           I am talking about.

10   MR FITZGERALD:  Sir, I just wonder whether -- my learned  
11           friend is saying that no value has been put on any of  
12           these properties.  He gave a value of 10 million as  
13           the lowest on his house --

14   SIR ROBIN AULD:  What are you looking at, Mr Fitzgerald?

15   MR FITZGERALD:  The evidence that he has just given.  My  
16           learned friend said you are not able to put a value on  
17           any of these properties.  The witness gave a value of  
18           3 million on the North Caicos, 10 million on his house,  
19           1 million on the Water Cay.  He was not asked for  
20           a value on the Cinema Plaza or the plaza in Grace Bay  
21           and then my learned friend says you have not put a value  
22           on anything.

23   SIR ROBIN AULD:  I have a note of what values have been  
24           given and where they have not.

25   MR FITZGERALD:  I do not think he was asked about the

1 Cinema Plaza or the plaza in Grace Bay, what the values  
2 were.

3 MR MILNE: I apologise and I ask it now.

4 SIR ROBIN AULD: I think really the drift of Mr Milne's  
5 questions is, it is a pretty shaky overall figure in  
6 the background here to cover all the debts. That may be  
7 a matter of comment and it may or may not be borne out  
8 in the light of events and the way the property market  
9 moves and so on.

10 MR FITZGERALD: I appreciate that, sir, but I think he  
11 should not say you have not put a value on anything,  
12 when he has put a value on four things and hasn't been  
13 asked for one on two others.

14 SIR ROBIN AULD: I have notes of the values given.

15 A. Sir, if I can assist, the fact is that, in relation --  
16 in addition to those you have the Cinema Plaza and  
17 the Grace Bay Plaza and in relation to that, which is  
18 valuable. So my position is and certainly I accept that  
19 when the loans were gotten, the world was in a better  
20 position than it is today, but my position is, even with  
21 the world in the position that it is in, that my assets,  
22 as listed, outweigh my liabilities.

23 Q. How much is this Cinema Plaza worth, do you think?

24 A. Certainly it would be worth in excess of 3 and a half,  
25 \$4 million.



1 Q. Grace Bay Plaza?

2 A. Probably in the same vicinity. I don't know. A wild  
3 guess.

4 Q. You see, the figures that you have given us may exceed  
5 your liabilities but not by massive amounts. Not by  
6 very much. With respect, if you are living your life on  
7 the basis that I will borrow and borrow and borrow  
8 against my properties, then you will want to know  
9 precisely what they were worth, surely?

10 A. I cannot tell him how to live his life so he should not  
11 be able to tell me -- it is not dishonest or corrupt to  
12 borrow money, to take risks, to invest in business.  
13 Sometimes when you invest you win, sometimes -- we have  
14 seen over the last few months many businesses, big  
15 companies, have gone out of business.

16 So for him to school me that I have taken a risk in  
17 my country to invest, I think is inappropriate in this  
18 forum. I thought this was about dishonesty and  
19 corruption, not whether I borrow money or not.

20 Q. Mr Premier, let me come then to the heart of it. Many  
21 people borrow money. Many people extend themselves.  
22 They mortgage. They take out secured loans. They take  
23 in a sense a gamble. They gamble on their health and  
24 they gamble on their continuing employment. And they  
25 aim to make repayments of their debts over a period of

1 time.

2 I suspect virtually everybody in this room at some  
3 stage has had a loan or a mortgage of some sort.

4 You have \$20 million in loans and you are not being  
5 asked for repayment on any of them, it would appear.

6 You have \$2 million facility from Arling Anstalt in  
7 Liechtenstein. \$1 million from Mr Wehrli through  
8 Secured Holdings. \$6 million from J&T Banka in Prague.  
9 5 million more from Belize Bank. 4.7 million more from  
10 Coral Square. Then other assorted loans running to  
11 about \$2 million.

12 Nobody is asking for you to make payment. Nobody is  
13 asking you or pressing you to pay immediately. In every  
14 single case you have managed to persuade banks,  
15 authorities, individuals to forego interest payments.

16 Did you find that in any way strange?

17 A. To forego?

18 Q. Yes.

19 A. How did you arrive at that?

20 Q. They are prepared to wait. Everybody is prepared to  
21 wait for you. Everybody is prepared to delay.

22 A. That is completely untrue. That is not even  
23 the evidence given. I have said that I have paid money  
24 in relation to Belize Bank. I have paid money -- as  
25 a matter of fact I think the First Caribbean is nearly

1       paid off. I have made payments. I have said that in  
2       some cases there was a lump sum amount due. If I am  
3       able to persuade financial -- or lenders, people do that  
4       all the time, to re-arrange their loans, then that is  
5       not corrupt or dishonest. That is a part of doing  
6       business.

7    Q. Is business very good when you are the Premier of  
8       an Overseas Territory?

9    SIR ROBIN AULD: I think we might break now.

10   (3.10 pm)

11                                   (A short break)

12   (3.20 pm)

13   SIR ROBIN AULD: Mr Fitzgerald.

14   MR FITZGERALD: Sir, I just wonder if it would be fairer to  
15       the Premier if my learned friend would put the figure,  
16       the total figure which I think is 23 million, on  
17       the basis of the properties.

18   SIR ROBIN AULD: The totals?

19   MR FITZGERALD: Yes, because he has given a long speech just  
20       now, but he has not actually given the information,  
21       which was a total of 23 million.

22   SIR ROBIN AULD: Mr Milne.

23   MR MILNE: I am happy to accept my learned friend's  
24       mathematics if that is what we have achieved.

25       I suggested that it was not greatly different, but

1 I will accept 23 million. Would you, Mr Premier, regard  
2 23 million, covered by 20 million debt, as being a risky  
3 scenario?

4 A. I am not a banker.

5 Q. You, of course, are an estate agent as you have told us  
6 and you are familiar, no doubt, with mortgages and you  
7 are familiar with the falling market.

8 A. They are figures that -- they are guesstimates that my  
9 lawyer has stated. You have not put a value to my  
10 interest in Alexandra Resort, you have not put a value  
11 to my interest in Prestigious Properties. So, you  
12 know --

13 Q. Are you saying that your interest in Prestigious is  
14 something that you could sell?

15 A. No, I am saying it is an asset.

16 Q. You see, far be it from me to wade through all of your  
17 personal finances, but I don't get the impression you  
18 have gone into it that deeply, sir. Am I wrong about  
19 that? You don't appear to have analysed it very  
20 carefully or to have balanced out the risk against  
21 the exposure.

22 A. Sir, again, I thought this Commission was about  
23 dishonesty and corruption, not about schooling me on my  
24 borrowing.

25 SIR ROBIN AULD: I think I have that point, Mr Premier, but

1           Mr Milne's question, although not quite put in this form  
2           is, are you really on top of your finances?  
3    A.    Again, is that dishonest or corrupt?  
4    SIR ROBIN AULD:  Never mind what it is and what the next  
5           question is; would you say you are or you are not on top  
6           of your finances?  
7    A.    What I would say is that my assets far outweigh my  
8           liabilities, and if I was called on to liquidate my  
9           assets to satisfy my liabilities, I can.  
10   SIR ROBIN AULD:  You are confident in your assessment of the  
11           various constituents of those figures, are you?  That is  
12           what Mr Milne is after?  
13   A.    Yes, and in some cases those figures may be  
14           conservative.  
15   SIR ROBIN AULD:  Right.  
16   MR MILNE:  Let's move on to a different topic.  
17           When you were first asked to make disclosure of your  
18           financial status, background, your income et cetera, you  
19           were asked specifically by the Commission to provide  
20           details of credit cards, held by yourself or your family  
21           and essentially to give us the statements so that we  
22           could see the pattern of expenditure and indeed money  
23           being put into the credit cards.  You were aware of  
24           that?  I will take that as a yes.  
25   A.    Well -- okay.  When I was asked about the credit cards,

1 I initially disclosed to my lawyers all of the credit  
2 cards that I had in my name with the numbers.  
3 Obviously, in relation to the statements itself, they  
4 had to be requested and I believe that the lawyers and  
5 this is in paragraph --

6 SIR ROBIN AULD: Which bundle are you in?

7 A. I am not sure what the bundles are called.

8 MR FITZGERALD: I think he is in A. The statement, Premier.

9 SIR ROBIN AULD: Thank you. Page 19, might it be, or  
10 thereabouts?

11 A. Yes.

12 Actually page 17, 319.

13 SIR ROBIN AULD: Thank you. What is the point you want to  
14 make, please?

15 A. The point I am making is I disclosed all of my credit  
16 card numbers so that my lawyers -- as the gentleman  
17 knows that there was an error in disclosing one of the  
18 numbers, which was later disclosed. An error in which  
19 the lawyers for whatever reason omit to or mistake,  
20 I think, in not disclosing it, but it was later  
21 disclosed.

22 Q. Let's go through the history if we might, Mr Premier,  
23 because I think it bears a little more examination than  
24 that.

25 Following the request from the Commission of

1 Inquiry, your attorneys forwarded to us credit card  
2 statements for a Belize Bank credit card. We have  
3 those, should anybody need to refer to them, at  
4 pages 447 to 498. I don't ask you to look at them now.  
5 447 to 498 are the Belize Bank credit cards. Those are  
6 the statements.

7 Also disclosed, and this is at page 546, was  
8 a series of credit card statements from a credit card,  
9 which is a Mastercard under the branding Horizon,  
10 Horizon Mastercard. For clarity, and again I don't  
11 propose to read out full numbers, but this was a credit  
12 card that ended with the four digits, 4030.

13 We had a certain number of credit card statements  
14 from that card.

15 In fact, that card, the statements disclosed only  
16 covered the period from September 2007 to August 2008.  
17 So a year, just shy of a year. That credit card was in  
18 the name "office of the Premier". So on the face of it,  
19 apparently an official card. The address, Turks &  
20 Caicos Islands government, Providenciales.

21 The Belize Bank card, for completeness, is in your  
22 personal name, with a Post Office box address at  
23 Providenciales.

24 Therefore, one could draw perhaps a clear  
25 distinction between the Horizon card in an official

1 title and the Belize Bank card in a personal title.

2 The Commission learnt from a number of different and  
3 independent sources of the existence of  
4 an American Express Centurion card. We had not been  
5 told about that American Express Centurion card in any  
6 correspondence to date coming from your attorneys,  
7 Mr Premier.

8 A. That is not true.

9 Q. At that stage there was --

10 SIR ROBIN AULD: Did you say that is not so?

11 A. It can't be. To date?

12 MR MILNE: No, Mr Premier, if you listen, if you follow me,  
13 then I think it might help.

14 MR FITZGERALD: I think it might help if my learned friend  
15 Mr Milne asks questions, because he is making very long  
16 preludes to his questions.

17 SIR ROBIN AULD: I think there is some scene-setting here.  
18 I am normally very alert to unduly lengthy questions,  
19 but there is some scene-setting here, and I was just  
20 anxious that the Premier's intervention or his answer  
21 was recorded. He seemed to be denying what was being  
22 said.

23 A. Well, I understood him to say that there has been no  
24 disclosure of this card to date.

25 MR MILNE: No, that is not what I said. Forgive me if it



1 appeared to you that I said that. Let me go through it  
2 again because I think I was making it clear.

3 A. Why don't you ask me a question that you want to ask.

4 SIR ROBIN AULD: Please, Mr Premier, just bear with  
5 Mr Milne. The point that he is going to deal with,  
6 I imagine, will be that it took you a very long time to  
7 tell the Commission about the Centurion card, and you  
8 only did so when you knew the secret was out. I think  
9 that is the point and now just listen to the questions.

10 MR MILNE: With respect the Commissioner has put it very  
11 succinctly. We were not told in the early stages of the  
12 existence of the Centurion card. We learnt of it from  
13 independent sources. Indeed, the statements from  
14 the card were put on the Internet by some party, we know  
15 not who, it was not anybody connected with this Inquiry  
16 that we are aware of. You know that your  
17 American Express statement was put on a website? Did  
18 you become aware of that?

19 A. I heard it was, yes.

20 (3.30 pm)

21 Q. Now, on 17th December we sent to you, Mr Premier,  
22 a summons requesting details of credit cards hitherto  
23 undisclosed, including the Centurion American Express  
24 card.

25 It was also pointed out in that summons that

1 the Commission was aware of other cards with other  
2 numbers that had not been disclosed and we asked for  
3 disclosure of those details. Were you aware that they  
4 had not been disclosed either at that stage? I will  
5 give you specifics. Apart from your Centurion  
6 American Express card, there was your wife's Centurion  
7 American Express card which was linked to it.  
8 The statements come together but there is a clear  
9 distinction as to who is spending. Do you recall that?  
10 A. Can you repeat that again?  
11 Q. Your American Express card and your wife's  
12 American Express card are linked. They are two cards on  
13 the same account?  
14 A. My ex-wife's American Express card was a supplementary  
15 card from the main account.  
16 Q. So they are linked and they appear on the same account?  
17 A. Yes.  
18 Q. We were aware also of a card, a Horizon card ending 9956  
19 which had not been previously disclosed. In fairness,  
20 that appears to have been a predecessor card to the 4030  
21 card. It is the same account but the number changed.  
22 But we had none of the earlier statements.  
23 That is what we requested as well. Do you agree?  
24 Were you aware that we had requested those?  
25 A. I was aware that you requested my statements. I made

1 a request to American Express. I supplied through my  
2 lawyers the statements that American Express have  
3 supplied me.

4 Q. The enquiry also asked that we be allowed to see  
5 the statements from two other people. Two other Horizon  
6 cards. Each of those was a further Horizon Mastercard.  
7 Yes?

8 A. Yes.

9 Q. Are you aware of that?

10 A. Yes.

11 Q. One of those was in the name of, as you described, your  
12 ex-wife, although she was your wife at the time, for  
13 the period that we are concerned. That is Lisa-Raye  
14 McCoy Misick. The further card on top of that was for  
15 a lady in the US called Mildred Rivas.

16 Having asked for these cards, we were told in  
17 an email dated 28th December that they may have omitted  
18 to pass on to us the number of the American Express  
19 card. Is your evidence that you told them the number of  
20 this card and they simply failed to pass it on?

21 A. My evidence is that at the beginning, when I was asked,  
22 I gave all of my card numbers.

23 Q. Did you give the American Express card number?

24 A. Yes.

25 Q. You did. So they have missed out the American Express

1 card.

2 A. They said that they omitted to send it.

3 Q. Had you at that stage given them any statements from  
4 the American Express card?

5 A. At what stage?

6 Q. When you were first giving them the details?

7 A. No.

8 Q. You had not provided any statements at that point?

9 A. No.

10 Q. On 30th December we were provided with American Express  
11 card statements from the Centurion card. You are aware  
12 of that? We are at page 562 onwards in the bundle.  
13 Would you please go to page 562?

14 SIR ROBIN AULD: Which black volume is that, please?

15 MR MILNE: It would be the second one of the two -- Mr  
16 Misick's own.

17 SIR ROBIN AULD: Black 2?

18 MR MILNE: Black 2.

19 We were provided with a number of American Express  
20 cards, statements. These were documents, as I recall,  
21 and I will be corrected if I am wrong about this.  
22 I think they were scanned at the centres in PDF format,  
23 if you know what that is. They were emailed to us in  
24 the UK.

25 The documents we have that begin at page 562 are

1 the American Express statements. The original though,  
2 the document that was scanned was clearly a fax  
3 document, because faxes leave fax headers across  
4 the top. The fax header on these documents that were  
5 disclosed made clear that they had been faxed on  
6 20th November. Is that correct? Do you recall that  
7 they were faxed to you on 20th November?

8 A. No, I don't recall it exactly. I think I explained to  
9 my lawyers and I thought they did to you that I was --  
10 I had requested it. I was travelling perhaps when  
11 it came in and as soon as I was able to give it to them,  
12 I gave it to them and I imagine as soon as they were  
13 able to give it to you, they gave it to you.

14 Q. They gave it to us at the end of December, so some six  
15 weeks later. My question is simply this: why was it  
16 that you having received these in mid-November, we  
17 didn't get them until the end of December?

18 A. I think you should check the accuracy of whether it was  
19 six weeks later.

20 SIR ROBIN AULD: Another question is why you didn't disclose  
21 these documents at the very first time you are asked to  
22 disclose your interests to the Commission. We are  
23 talking August/September now.

24 A. My answer to that was when they asked me about the card,  
25 I gave them the number. I requested the information

1 from American Express. When they sent the information,  
2 as I said which was sent on the 20th I guess, I was  
3 travelling and as soon as I got back I gave to the  
4 lawyers.

5 SIR ROBIN AULD: We are talking August/September when you  
6 were first asked to disclose to the Commission your  
7 interests. Why were these statements not disclosed  
8 then?

9 A. That is what I said. At that time I am not sure I was  
10 asked for my card numbers, which I gave to the lawyers  
11 and then I requested a number of statements.

12 SIR ROBIN AULD: Are you saying that since at least early  
13 autumn of last year, you told your attorneys about  
14 the existence of these accounts and through some mistake  
15 of theirs, the Commission was not informed in the way it  
16 was until the very last day of the year almost? Is that  
17 what you are saying?

18 A. That is not what I am saying.

19 MR FITZGERALD: Sir, as I understood it, my learned friend  
20 was asking questions about why the fax was not passed on  
21 and which is dealt with at 3.27. But my learned friend  
22 was asking --

23 SIR ROBIN AULD: I am asking questions about why this  
24 account was not disclosed right at the very early stages  
25 when the Commission was asking for disclosure of this

1 man's accounts.

2 MR FITZGERALD: I appreciate that, sir. But I think  
3 the point that was being raised was about not passing on  
4 in the period between November and December what had  
5 been provided to him. That's what my learned friend was  
6 asking. When he said it took one month or five weeks,  
7 he was -- the witness I think was referring to that.  
8 That is to say from the time that he got the statements  
9 sent to him by American Express to the time that my  
10 instructing attorneys provided it, was a period of, from  
11 20th November until --

12 SIR ROBIN AULD: That is clearly an important issue but  
13 a primary issue is why they were not disclosed much  
14 earlier, and you will know, no doubt you will deal with  
15 in due course, my particular interest in that.

16 MR FITZGERALD: Of course.

17 SIR ROBIN AULD: Thank you.

18 MR MILNE: So, Mr Premier, your answer is simply, correct me  
19 if I have misunderstood this, I pass them on as soon as  
20 I got them?

21 A. The statements?

22 Q. The statements.

23 A. Yes.

24 Q. When did you get them?

25 A. As I said, from the fax that came in on 20th November,

1           and as soon as, I believe I was travelling around that  
2           time, and so as soon as I received it, I passed it on to  
3           the lawyers.

4    Q.   When did you get them?

5    A.   I can't recall the exact time.

6    Q.   How long were you travelling away from the country?

7    A.   I can't -- probably I made two trips within that period.  
8           I can't remember the exact times.

9    Q.   Because unless you are away for six weeks, five or six  
10           weeks, you must have been in the office at some stage.  
11           They must have come to you. You must have been aware of  
12           the importance of these documents since they had been  
13           requested by the Commission. Does everything grind to  
14           a halt when you are away, sir?

15   A.   I am sorry?

16   Q.   Does somebody not manage your office while you are away?

17   A.   This was faxed to my home fax.

18   Q.   Do you not have anybody in your home who can pick up  
19           faxes and pass them on?

20   A.   I am single.

21   Q.   So you don't have a housekeeper --

22   A.   They don't pick up faxes and pass it on.

23   Q.   The fax header has one other piece of information on it  
24           as well. When faxes come through they are numbered.  
25           This is not a number that is put on by the person



1 sending it. It is automatically put on by the fax  
2 machine so that when you take the fax off, it will say  
3 in the top corner, page 1 of 8, for instance, 2 of 8, 3  
4 of 8. This fax reveals from its header that there were  
5 142 pages.

6 So this was a substantial fax. One can see the size  
7 of the paper this we have now. However, the disclosure  
8 we have received is only pages 6 through to 61. What  
9 was the rest of the fax, Mr Premier?

10 A. When I received the fax, I delivered the fax as received  
11 to -- and I received it from my housekeeper --  
12 I delivered it as received to the lawyers. I didn't  
13 check the numbers as you have, and so based on what was  
14 given to me, I assumed that that was the extent of what  
15 was faxed by American Express.

16 Q. It was pointed out to you, though, that it was not  
17 complete?

18 A. It has been recently pointed out to me that it was not  
19 complete, and I believe that the statement was missing  
20 from March 2007 to March 2008, and I have requested  
21 those from American Express and I hope to receive it  
22 very shortly.

23 Q. We received other documents subsequently but certainly  
24 not the remaining 80 pages that would have been  
25 expected. We received a further 31 pages. Let me

1 suggest a possibility, sir. It might be as mundane as  
2 this, it may be that your fax machine ran out of paper.  
3 Certainly if it received 60 pages, one might expect it  
4 to run out, but the fax would be retained by most modern  
5 fax machines. Did you check? Did you inquire? Did you  
6 try to find out if in fact there was far more that  
7 should have been sent?

8 A. I had no reason to check, because when I came home, she  
9 gave me this and said a fax came for me and I gave it to  
10 my lawyers.

11 Q. This is not a case of certain other statements being  
12 taken out and withheld?

13 A. Absolutely not.

14 Q. We did subsequently receive further faxed  
15 American Express statements from you, and we have now  
16 American Express statements which cover a period of  
17 about a year, and then a gap of a year and then further  
18 statements. On Friday of last week we received further  
19 credit card statements, these being the Horizon credit  
20 card statements that have been mentioned; being those in  
21 the name of yourself, that is there is a Horizon credit  
22 card in the name of Michael Misick in full. There is  
23 a credit card that is in the name -- it started out as  
24 officer of the Chief Minister. It subsequently became  
25 office of the Premier. You should have those statements

1 in front of you. They are towards the end of that  
2 bundle.

3 With the American Express card, this is a Centurion  
4 American Express card, which is a brand name, no more  
5 than that.

6 I think, you will correct me if I am wrong, it is  
7 black, is that right?

8 A. Yes.

9 Q. It is an unusual American Express card because it is one  
10 that you can only take out if you are invited to take it  
11 out, and it is aimed at people who spend large amounts  
12 of money. Yes?

13 A. I don't know that.

14 Q. In your case, the American Express statements are all  
15 addressed to a bank in Prague. Why is that?

16 A. Because as I explained starting from page 19, 3.24 --

17 SIR ROBIN AULD: Can you not remember, Mr Premier, why they  
18 were addressed to a bank in Prague?

19 A. It was addressed to the bank in Prague because the bank  
20 in Prague is the issuer of the card. And  
21 the application that I made for the card was made at  
22 a bank in Prague.

23 (3.45 pm)

24 MR MILNE: Why not have the statements sent to your home  
25 address?

1 A. The statement is sent to the -- because -- I am only  
2 speculating but the statement is sent to the bank in  
3 Prague from American Express. The bank in Prague then  
4 sends the statement to my home address.

5 Q. So you get these statements sent to you by the bank?  
6 Why does it have to go through the bank?

7 A. Because the bank is the issuer, I guess. Because  
8 I applied to the bank --

9 Q. There are many, many issuers of American Express cards  
10 but they don't have to have their cards sent back  
11 through the issuer. The statements don't go through  
12 the issuer.

13 A. You don't know that for a fact, do you?

14 Q. Let me give you an example, sir. I have  
15 an American Express card issued by British Airways, but  
16 my statements don't go to Heathrow Airport.

17 MR FITZGERALD: So far as I am aware, British Airways is not  
18 a bank. I mean if the issuer -- if we are going to swap  
19 anecdotes, I do have my credit cards sent to my bank  
20 sometimes. I am just wondering whether this is going to  
21 get anywhere.

22 MR MILNE: Why would it go to that bank, though? Simply  
23 because that bank issued the card?

24 A. Sir, you have to be fair in these hearings and this  
25 gentleman -- I have answered the question that the bank

1 issued the card and the statement goes to the bank.

2 SIR ROBIN AULD: How is it you happened to be in Prague,  
3 going into a bank in Prague to take out this account,  
4 I think is the question. You might have been there on  
5 holiday or a day visit, I don't know.

6 A. That is not what he asked me.

7 SIR ROBIN AULD: Well, I am asking you. How come you opened  
8 the account at an bank in Prague?

9 A. I was introduced to the chairman of J&T Banka some time  
10 ago by Mr Hoffman. I was in Prague. When I applied for  
11 the card I was in Prague. I filled out an application  
12 at that bank and based on my application, I got a card  
13 from American Express issued by that bank and  
14 the address -- and the statement as I explained go to  
15 the bank.

16 MR MILNE: From which account were the bills paid?

17 A. The bills were paid from a variety of accounts.

18 Q. The bills were paid by the bank?

19 A. You mean to American Express?

20 Q. Yes.

21 A. Yes, I believe that is the way it works in relation to  
22 a bank issue card. The bank pays the bill and you pay  
23 the bank.

24 Q. So from which accounts did you pay for these cards?

25 A. From a number of accounts. From a Belize Bank account,

1 the loan from [Arlington] was -- part of that was in  
2 paying off my American Express.

3 SIR ROBIN AULD: Take this slowly, if you don't mind. One  
4 was from the Belize Bank account. What was the next  
5 one, please?

6 A. I said the loans from [Arlington].

7 SIR ROBIN AULD: How were the transactions effected? How  
8 were the payments effected? That is where you got some  
9 money to enable you to draw a cheque.

10 A. Yes and they paid the card for me directly.

11 SIR ROBIN AULD: They paid?

12 A. Yes, I had a line of credit or a loan and they paid  
13 the card for me.

14 SIR ROBIN AULD: You are saying they paid direct for you?

15 A. Yes.

16 SIR ROBIN AULD: The Anstalt?

17 A. Yes. So it came from a variety -- yes.

18 MR MILNE: So Arling Anstalt paid for this card from  
19 the outset, is that correct?

20 A. That is not what I said, sir.

21 SIR ROBIN AULD: Say it again, say it clearly --

22 A. I said it.

23 SIR ROBIN AULD: And how many channels of payment were there  
24 through the Anstalt, one or more?

25 A. More.

1 SIR ROBIN AULD: You better identify them, please.

2 A. They have been submitted.

3 MR MILNE: Tell us again.

4 A. So the answer is, as I say, the payments made from my  
5 Belize Bank account; payments were made from the loan  
6 I received from Arling Anstalt.

7 SIR ROBIN AULD: That was a Liechtenstein concern?

8 A. Yes.

9 SIR ROBIN AULD: They were paid direct, I think you said,  
10 through various accounts. I was not quite clear how you  
11 put it.

12 A. I didn't say various -- I said -- I am listing a couple  
13 of the accounts. One was my Belize Bank account, one  
14 was a lot from the [Arlington] Anstalt.

15 SIR ROBIN AULD: So would Arling Anstalt have copies of  
16 the accounts showing the debits to their account in  
17 payment of your Centurion bill?

18 A. There should be, yes. Yes.

19 SIR ROBIN AULD: They would. Who is the person to write to  
20 in Arling Anstalt?

21 A. I believe I have them as well.

22 SIR ROBIN AULD: I am sorry? You have what?

23 A. The slips showing that.

24 SIR ROBIN AULD: Just tell us who was Arling Anstalt in  
25 Liechtenstein?

1 A. I can't remember -- I can't recall the name of the  
2 person.

3 SIR ROBIN AULD: Who was behind it, who controlled that  
4 Anstalt?

5 A. The first name is -- I believe it was a gentleman named  
6 Robert. I can't recall the exact name.

7 SIR ROBIN AULD: You borrowed 1 million and then another  
8 1 million from them, you must have had some personal  
9 contact with somebody there.

10 A. But just like the money I borrowed from -- a lot of  
11 people -- I mean -- the names, I can't.

12 SIR ROBIN AULD: Mr Milne, I better leave this to you  
13 I think.

14 MR MILNE: The money that you drew dawn from Arling Anstalt  
15 was money drawn down through various tranches.

16 A. Yes.

17 Q. Which accounts did it go through in order to pay this  
18 American Express bill?

19 A. My understanding is that it went from them to  
20 American Express, not an account that I controlled.

21 Q. It went directly from them to American Express?

22 A. Sorry to the J&T Banka.

23 Q. So it didn't pass through any of your accounts?

24 A. Not the money from [Arlington], no.

25 Q. Mr Misick, would you please look in bundle 3 of your



1 three bundles. The very last page. Do you have that?

2 A. Bundle 3?

3 Q. Bundle 3. The very last page. What we have there is

4 a list of the payments made to the Centurion

5 American Express card. These are purely the payments

6 made on the statements that we have had disclosed to us.

7 Do you understand that?

8 SIR ROBIN AULD: Which page number is this?

9 MR MILNE: Page 1141, the very last page of the third

10 bundle.

11 A. Yes.

12 Q. Those are the payments to the American Express card.

13 Dealing if we could, firstly, with the period from 1996

14 onwards, the sums that were being paid out, these are

15 monthly sums, were large amounts, would you agree? I am

16 sure that you will say that it is relative, but they are

17 large by most people's standards. Would you agree?

18 A. Yes, relatively.

19 Q. March of 2006: \$33,000. April: \$92,808. May: \$92,799.

20 June: nearly 71,000 and then a further 80,000. So

21 \$150,000 paid in in one month. It carries on like that.

22 Between March of 2006 and February of 2007, \$1,000,000

23 is paid into the credit card account, yes?

24 A. Yes.

25 Q. We then have a gap from February of 2007 through to

1 March of the following year, 2008. So we don't know  
2 what was being spent. Let us assume, for the sake of  
3 argument, it would have been broadly the same sort of  
4 scale. We then have a patch from March 2008 until  
5 October. So in total some eight months, where, just shy  
6 of \$700,000 is spent on this American Express card.

7 We know of 1.7 million on the American Express but  
8 we know that there is a gap that we have no figures on.  
9 If we were to turn then back to bundle 2 --

10 A. Which one?

11 Q. Towards the end of bundle 2. Let me give you a more  
12 precise page. It is the mid-600s. This starts at 562.  
13 The way that this American Express card operates -- take  
14 page 562 as an example -- is this, that each month you  
15 will get a bill. Each month it is clear that  
16 American Express require complete satisfaction of that  
17 bill. So, as you have told us, your bank paid the bill.

18 MR FITZGERALD: Sir I wonder if we could have a copy. Our  
19 bundle goes up to page 561. It is not in volume 3,  
20 I understand.

21 MR MILNE: No, it is not. The point I am making is in fact  
22 a generic one. Mr Misick may obviously see this.

23 SIR ROBIN AULD: What does your 562 look like? Mine is  
24 an interesting blank page almost of the Centurion card  
25 account. Is that what it should be?

1 MR MILNE: Yes.

2 MR FITZGERALD: Sir, I have now got it but I didn't have it  
3 before.

4 SIR ROBIN AULD: Thank you.

5 (4.00 pm)

6 MR MILNE: This particular month with which we are dealing,  
7 the American Express bill runs to 14 pages. Many of  
8 which appear to be airline bookings. So it is not  
9 14 pages of close type. But, in any event, the bill --  
10 and I take this purely as an example -- on the previous  
11 balance -- we don't have the previous bill -- that is  
12 the month before we get the statements, had been some  
13 \$33,123. That is how we know what the sum was.

14 This particular month was \$92,808.33 that was spent  
15 in the course of the month. There would therefore be  
16 a debit and that would go through and appear on the  
17 following month's bill, \$92,808.33.

18 If we go back for a second, we may need two bundles  
19 open. The very last page of the third bundle is  
20 a simple spreadsheet which sets out the amounts that  
21 were paid, yes? Do you have that? It is no more than  
22 a list, with dates.

23 But it is extracted from the American Express  
24 statements in such a fashion that we know what came  
25 through each month; so March, April, May, June.

1           For clarification, for those who have the list, on  
2           some months there was a bill settled, but you, which you  
3           are obviously entitled to do, chose to pay more, perhaps  
4           to rack up a bit of credit on the card or defray some  
5           from the following months.

6           On two occasions there are actually double payments  
7           made into the account. June of 2006 and again in  
8           February of 2007, double payments or more than double  
9           payments were made.

10          If I follow your evidence correctly, Mr Premier,  
11          this list of figures would reflect very closely the sums  
12          that were being drawn from Arling Anstalt in  
13          Liechtenstein, who would be asked each month,  
14          presumably, to forward to Prague ♦33,123.32. Is that  
15          your evidence?

16   A. My evidence is that, based on your question, that this  
17          card -- some of the payment came from [Arlington] and  
18          some came from my Belize Bank and some --

19   Q. Well, when the Arling -- we should be clear it is not  
20          "Arlington", which is actually a place in the USA. It  
21          is Arling Anstalt. When they set up the loan, are you  
22          saying that the loan was only used to pay this card? Is  
23          that your evidence?

24   A. Yes.

25   Q. The Arling Anstalt loan was in fact established in

1 August of that year, 2006 and so could not possibly have  
2 been used for the early payments, would you agree?

3 A. I didn't say it was.

4 Q. So after it was set up, was it then used to make  
5 payments to this account?

6 A. What I did say is that there were payments from Arling,  
7 there was also statements from my Belize Bank. I would  
8 have to see what was from Belize Bank and what was from  
9 Arling.

10 Q. So there were payments from Arling that went directly  
11 from Liechtenstein to Prague to cover the bills on that  
12 account, that is your evidence? I just want to  
13 understand what you are saying.

14 A. I am sorry? Yes, I am saying that they were paying  
15 directly from Arling to the bank in Prague to pay off  
16 my --

17 Q. After the Arling Anstalt loan was set in place, did you  
18 need to make any payments from your Belize Bank account  
19 since the Arling Anstalt loan was considerable and would  
20 have been paying this?

21 A. I am sure that there were times that I probably did make  
22 payments from my Belize Bank account as well.

23 Q. Did you transfer any money out of the Arling Anstalt  
24 bank to any other bank?

25 A. No.

1 Q. You didn't?

2 A. No.

3 Q. You are sure of that?

4 A. I am sure of that.

5 Q. So if I were to see a list of the Arling Anstalt debits,  
6 they would reflect, at least in part, after August 2006,  
7 this list: August 2006 there is a bill of 77,360, 69,700  
8 in September, 105,931 in October and so on and so forth.  
9 Would that be correct?

10 A. As I said, the Arling loan was primarily, not solely,  
11 for -- it was a loan that I was able to draw down on,  
12 for me to assist with servicing.

13 SIR ROBIN AULD: I can't hear you, I am afraid.

14 A. I said Arling loan was done primarily, not solely, to  
15 drawn down on to assist me with paying --

16 SIR ROBIN AULD: I thought we got there, yes.

17 MR MILNE: So we won't find obviously any money from Arling  
18 Anstalt going into any of your other accounts?

19 SIR ROBIN AULD: I think he said that.

20 A. Not from my knowledge, no.

21 MR FITZGERALD: Sir, it is also referred to at appendix 3,  
22 page 48.

23 MR MILNE: The Arling Anstalt loan agreement was signed in  
24 the middle of 2006 and indeed you have provided us with  
25 papers from that. We see those papers. Agreement in

1           our bundle. I think the cover page on this, it is about  
2           389. It is the power of attorney, page 393. Can you go  
3           to that? That is in the second bundle.

4           Do you have that document, Mr Premier?

5   A. I am looking for it.

6   Q. 393. That is power of attorney. It appears to involve  
7       J&T Private Equity and it appears to be -- I am going to  
8       take a guess, it is in Slovakian for the most part,  
9       although there is some English in it as well.

10          Following on from that we have a document at 396.  
11         If you turn to page 396 in the bundle. I am going to  
12         read out what it says because this is the first of  
13         several and they all say very much the same thing. It  
14         is headed up: "Advice of Drawing".

15                 "The reference is made to the loan agreement  
16         concluded on 28th August 2006 [which is indeed the day  
17         you had signed an agreement with Arling Anstalt] between  
18         the company Arling Anstalt and Mr Michael Eugene Misick,  
19         hereinafter referred to as the debtor."

20                 "Terms defined in the loan agreement have the same  
21         meaning in this advice unless required otherwise.  
22         Pursuant to this paragraph the debtor herewith asks for  
23         the loan drawdown under the following conditions..."

24                 And it gives a figure and a date. This document and  
25         the documents that follow it are a series of drawdowns

1 on your loan.

2 The first of those, 29th August 2006, is for  
3 \$77,395.02. We have the American Express card for that  
4 number. It is close but there is a difference. 77,395  
5 as opposed to 77,360. So it is possible that that is  
6 the settlement of that particular bill.

7 The next bill, however, is on 20 July 2007.

8 The next drawdown is 20 July, \$260,106.78. Now, we  
9 don't have a bill for that period but there is nothing  
10 in between. We have only the advices of drawing which  
11 you have given us and that is 260,000. Was there ever  
12 a month where you spent a quarter of a million dollars  
13 on the American Express card?

14 A. Yes.

15 Q. Over the page, same month, 20 July 2007. Again we are  
16 missing the statement. A further \$351,972.22.

17 So on the same day there appears to be half  
18 a million dollars, in fact 600,000 plus. Was there ever  
19 an occasion when you spent \$600,000 on  
20 the American Express card?

21 A. Well, I think without seeing the statements, what it  
22 could have been because I remember, as a matter of fact,  
23 if I was late or I had two payments or whatever. What  
24 I can say is all of these payments were made to  
25 American Express, yes.



1 Q. You are telling us that, Mr Premier, but we are going to  
2 carry on through these. On that occasion, on  
3 20 July 2007, did you pay out \$600,000 to  
4 American Express?

5 A. All of the payments in relation to this advice went to  
6 American Express.

7 Q. We will carry on. Page 399. There is a drawdown there  
8 from Arling Anstalt, \$275,342. This is  
9 29th February 2008. Admittedly we do not have  
10 the American Express bill for February 2008. Are you  
11 saying you spent another quarter of a million that  
12 month?

13 A. All of the payments went to American Express.

14 Q. I will take it as a yes. Do you intend that to be  
15 a yes?

16 MR FITZGERALD: I do not think that is a fair question. He  
17 is saying what these payments went to defray, not what  
18 he is spending the money on and they are not monthly  
19 payments.

20 MR MILNE: Well, these are in fact monthly payments because  
21 they are going out on the 29th or 30th of each month.  
22 17th June 2008 is the next one. Now we do have  
23 the American Express card for that month. We do have  
24 the statement and we know from the schedule, which might  
25 make it a little easier, that in June of 2008

1 the American Express bill was a relatively modest  
2 \$57,354.29. However, the drawdown on your loan that  
3 month was \$274,731.81. More than a quarter of  
4 a million.

5 However, you had no bill from American Express that  
6 month and you had no outstanding monies. These accounts  
7 do not allow for you to carry forward as Mastercard or  
8 Visa may. You cannot have an unpaid balance because you  
9 are required to pay.

10 A. An explanation could be that, as you rightly said,  
11 the bank pays the American Express and it then bills me.  
12 So perhaps there were a number of outstanding payments  
13 owed to the bank and so these amounts were actually  
14 being paid to the bank.

15 Q. Mr Misick, let me take you to the bill that was being  
16 presented to you. It is a lot simpler that way. No  
17 doubt you would be receiving this bill at some stage.  
18 We are talking about 2008 here. That is at page 625.

19 A. Which bundle?

20 Q. In bundle 2. Do you have that?

21 In June 2008 you had been using the American Express  
22 card. It is fair to say the vast majority of the use  
23 was within the Turks & Caicos Islands. On the previous  
24 month you had a bill for \$102,052.70. That bill had  
25 been settled. In this particular month you racked up

1 a bill of \$57,354.29. If we turn forward to the July  
2 bill which is page 629.

3 We see that the bill is marked as settled, paid by  
4 your banker. You had no sum being rolled forward. You  
5 paid once in June of 2008. You settled the bill in  
6 full. You have told us that it was settled from Arling  
7 Anstalt, which is why Arling Anstalt was sending money  
8 out.

9 However, we know that you didn't send \$57,354. You  
10 sent a quarter of a million dollars, \$274,000 plus.  
11 Nearly \$275,000. So why would that sum of money --  
12 page 400 -- be going out if the bill was for only  
13 a fifth of that, only 20 per cent of it?

14 Because we know it is going to J&T Banka. We know  
15 that Arling Anstalt are transferring because on each of  
16 these advices of drawing they send the money to  
17 an account, 2010587 in J&T Banka.

18 So why would they be sending five times the amount  
19 needed on that occasion?

20 (4.15 pm)

21 A. I don't concede that it is five times of what's needed.  
22 What I have said is that the bank -- it might have been  
23 around two or three months or whatever -- has paid for  
24 my card and then in relation to the -- they paid  
25 the American Express. Then either I send money or money

1 is coming from Arling that paid it. So I think that  
2 your method of calculating is flawed.

3 Q. How is it flawed? Please tell me.

4 A. Because you are assuming that every payment, every  
5 month, has to match the payment that goes to the bank.

6 Q. Yes.

7 A. It could be that perhaps I had not paid in a couple of  
8 months.

9 Q. You have given us the statements. You didn't have  
10 a debt there.

11 A. Not as far as American Express is concerned.

12 Q. What other debts would you have incurred, sir?

13 A. Because the bank would have paid -- the bank would have  
14 paid the card on the due date. But then I would have  
15 owed the bank.

16 Q. So why would you not have sent the money earlier from  
17 Arling Anstalt? Do you have debts from the bank? Did  
18 you owe the bank money?

19 A. The J&T Banka?

20 Q. Yes.

21 A. You know I owe the bank money.

22 Q. You owe then on a separate loan altogether, but they  
23 were not taking the money out of that loan. They were  
24 taking the money from Arling Anstalt. You have not told  
25 us that you were paying it out of any loan from J&T

1 Banka.

2 A. No.

3 Q. You were using the Arling Anstalt money, which you had  
4 available to you from August 2006 onwards, to pay this  
5 account. You are sending money from Liechtenstein to  
6 Prague and you are sending five times the amount needed  
7 for the American Express bill. What I am asking is  
8 this: where is the rest of the money going?

9 A. All of the money is going to American Express.

10 Q. Well, it is not, sir, because American Express only  
11 wanted \$50,000.

12 A. That is why I tell you your calculation is flawed.

13 Q. What account is 2010587?

14 A. Where is that?

15 Q. It is on the advice of drawing. It is where every  
16 single month Arling Anstalt sent -- I beg your pardon,  
17 not every single month -- on the months they sent them,  
18 Arling Anstalt sent this money. Whose account is that?

19 A. Certainly not mine.

20 Q. I would suggest, sir, it must be because they are  
21 putting far more money into that account than is  
22 necessary for the American Express bill.

23 A. My understanding is it goes to the bank, for the bank to  
24 pay my American Express.

25 Q. Let's go over the page, that was June --

1 A. And I'm sure if you had evidence that this was my  
2 account, you would have brought it forward.

3 Q. 30th September 2008. Page 401. A further sum of  
4 \$230,337.31 was forwarded. The same day, page 402,  
5 an additional \$302,835.84 was sent. That makes a grand  
6 total of some \$532,000, probably \$33,000 on one day.

7 Did you have a further account at that bank that  
8 required that money to be put into?

9 A. All of the money that went into that bank was to pay my  
10 American Express.

11 Q. So you didn't have an account, you just sent money  
12 there? Did you get demands from the bank? Were you in  
13 arrears with that bank?

14 A. There were times when there had been arrears on the bank  
15 calculation on the American Express.

16 Q. Then why did you send the sum of \$230,337.71? Why that  
17 precise figure?

18 A. That is probably what the bank told me I had --

19 Q. You send that on 30th September but then on the same day  
20 you send again a very precise figure of \$302,835.84.  
21 The bank asked you for that as well?

22 A. What I can say is that all of the payments in relation  
23 to this went to American Express.

24 SIR ROBIN AULD: Simply repeating that mantra doesn't deal  
25 with the problem. I notice that the second of the 30th

1       September payment appears, doesn't it, to go to  
2       a different account number from that of the first of  
3       the payments of that date, or have I misunderstood that?  
4       Pages 401, 402, the two payments about which Mr Milne  
5       has just been asking you. Half a million in total; 230  
6       on one day, 302 on the next, but going to different  
7       accounts for J&T. Neither of which you appear to  
8       recognise?

9    A. No, I don't have an account with J&T. I have a loan  
10   with J&T. I had a loan from Arling that money went to  
11   paying off my credit card. Now whatever internal  
12   arrangements they have, I don't know.

13   Q. So the case you are putting forward appears to be this,  
14   Mr Premier, that you could go into debt with this bank,  
15   J&T Banka. They would make payments on your behalf.  
16   They would effectively rack up debt on your behalf and  
17   then demand that you pay it. But you didn't have  
18   an account. That is your evidence. You were in debt to  
19   the bank, but you didn't have an account. Is that what  
20   you are telling us?

21   A. My evidence is that I don't have an account with them.

22   Q. You see, sir, I am suggesting that it screams from these  
23   papers that you must have.

24   A. Well, show me.

25   Q. I have shown you. You don't accept it. You have seen

1 the account numbers you and you say they are nothing to  
2 do with you?

3 A. Show me an account with my name on it. Show me.  
4 I don't have an account with them.

5 Q. The difficulty is you see, Mr Premier, that the exercise  
6 we are constituting here involves you disclosing  
7 matters, not us disclosing matters to you. We should  
8 not have to go to Prague to discover your personal  
9 financial details. I would suggest that this is a prime  
10 example, a classic example, where you appear to have  
11 an account outside this jurisdiction, used for your own  
12 purposes, which you have failed to disclose to  
13 the Commission?

14 A. Absolutely not.

15 Q. One final matter in relation to credit cards that you  
16 may be able to assist me with is this, the four cards  
17 that we asked about -- indeed, the Belize Bank card that  
18 was not used very much -- the four cards were used  
19 regularly and here I am talking about the Horizon  
20 Mastercards, which were used on a regular basis.

21 These cards were in two cases in your name, in one  
22 case in Lisa-Raye Misick and in one case in the name of  
23 Mildred Rivas. Mildred Rivas, I believe, is a former  
24 partner of yours?

25 A. I am sorry?



1 Q. Mildred Rivas is a former partner of yours?

2 A. Yes, she is the mother of two of my kids.

3 Q. You have two children in the USA with Mildred Rivas. It  
4 is also the case, is it not, that you purchased  
5 a property in the USA, transferred it into your joint  
6 names with Mildred Rivas and then sold that property in  
7 about 2006? I can take you to the papers if you wish  
8 but I am sure you will remember that. Is that right?

9 A. Take me to the pages. But in 2000, before this relevant  
10 time, the time that we are talking about, I owned  
11 a property in the States with Mildred, the mother of my  
12 kids, and that property was sold in 2006.

13 Q. If we take the third bundle, the simplest way of doing  
14 this is at page 1001, which is the beginning of that  
15 third bundle. We see there a cheque which in fact  
16 reflects your HSBC Miami account, the one we made  
17 reference to.

18 It is a blank cheque but it has your name on it and  
19 it gives the address in Miami Florida, which was  
20 the address which you owned there at the time. Yes?

21 A. What page?

22 Q. That was a property that you bought --

23 A. What page?

24 Q. Page 1001.

25 SIR ROBIN AULD: Is this a Centurion card account?

1 MR MILNE: No, it is a bank account. 1001, the beginning of  
2 the third bundle. It will be HSEC, the very first page.  
3 SIR ROBIN AULD: I obviously have some funny numbering here.  
4 My first page in that bundle is 814. But it is  
5 a Horizon account, so maybe we are on the right page.  
6 MR MILNE: At page 1001 there is a jump because we  
7 deliberately made a distinction between the papers. It  
8 is simply a blank cheque.  
9 SIR ROBIN AULD: Don't let me hold it up. I think I have  
10 got it, yes. Thank you.  
11 MR MILNE: After you were married, and I don't seek to pry  
12 into your personal life, you chose to continue paying  
13 the credit card used by Mildred Rivas. Indeed, although  
14 she is based in Miami, the credit card was billed to  
15 the Turks & Caicos Islands. Bills were sent to the  
16 Turks & Caicos, is that not correct?  
17 A. Yes.  
18 Q. Therefore you were paying some cards -- well, two cards  
19 were in your name, plus your wife's, plus your former  
20 partner's and we were provided with credit card  
21 statements in relation to all of this within the last  
22 few days. We have examined them since then.  
23 What we have done, Mr Premier, is this, we have  
24 taken the payments into those cards, the payments that  
25 were made against them by yourself. They are in our

1 third bundle, pages 1138, 1139 and 1140. Do you have  
2 that?

3 A. Yes.

4 Q. This card is used quite a lot but some of the uses are  
5 rather more modest in scale compared to the Centurion  
6 American Express card. The period we are dealing with  
7 here is between November 2003 through until September of  
8 2008. So quite a considerable period.

9 If one takes all of the payments into those cards,  
10 they come to \$1.6 million.

11 A. Under which cards?

12 Q. Across five credit cards. They are the ones, the name  
13 of the Chief Minister, which ends 8685, Chief Minister  
14 ends 4030 which follows on from it. The Horizon card in  
15 the name of Michael Misick, the one in the name of  
16 Lisa-Raye, I think it's McCoy Misick, and the one in  
17 the name of Mildred Rivas. All of those cards were  
18 coming to your work address effectively. They were  
19 coming to you and presumably you were then paying them?

20 A. Yes.

21 Q. What we have done is we have taken the sums that are  
22 paid in each month and we have compared them to  
23 the disclosed accounts that we have been given. That is  
24 your bank accounts which you tell us are a complete and  
25 utter list of your banking.

1           On any occasion where we can identify the bank  
2           account being used to pay the credit card, we have put  
3           an entry. In one column from the right we have  
4           indicated the bank and when it is not entirely clear we  
5           have attempted to give you the benefit of the doubt. If  
6           the cheque doesn't quite tally to the day we have  
7           assumed that it is the appropriate cheque. However,  
8           the final column on the right-hand side reflects all of  
9           the sums paid in for which there appear to be no debits  
10          in your bank account. In other words, we don't know  
11          where you got this money from. Do you understand?

12    A. Go ahead.

13    (4.30 pm)

14    Q. That is \$1 million. So could you please explain to us,  
15          sir, if this money was not coming out of your bank  
16          account, where was it coming from?

17    A. In relation to the -- you have to put them in  
18          perspective. In relation to the Horizon card,  
19          the Horizon card which says office of the Premier or  
20          Chief Minister, a lot -- that card was used a lot in  
21          relation to me obviously when travelling using that card  
22          to pay expenses, official expenses and then monies that  
23          I would get for subsistence or allowances would pay  
24          the bill. So some of that is that. Also, some of the  
25          payments -- this is the first time I am seeing this,

1 the way it is. Some of the payments would have come  
2 from perhaps monies that --

3 Q. Mr Premier, would you be assisted, because we are now  
4 late in the day, would you wish to consider this  
5 overnight?

6 A. Yes.

7 Q. Can I ask one other question, and I don't invite your  
8 answer today. You may consider this overnight as well.  
9 With many of these payments, the unexplained payments,  
10 the payments in are large, sometimes very large round  
11 figures. \$10,000, \$20,000, \$25,000, \$30,000, \$50,000 at  
12 a time.

13 A. Yes.

14 Q. I would suggest to you, and I would invite your comment  
15 not today but tomorrow, that that is entirely consistent  
16 and would appear to suggest payments in cash?

17 A. No.

18 Q. Well I will leave that with you, sir. Sir, I don't know  
19 if that is an appropriate point?

20 Housekeeping

21 SIR ROBIN AULD: Yes, thank you, Mr Milne. Can we just  
22 consider the programme before we leave today. How much  
23 longer do you anticipate being in your examination of  
24 the Premier tomorrow, Mr Milne?

25 MR MILNE: I hope to finish by lunchtime, sir. I will do my

1 best. It may go beyond lunchtime.

2 SIR ROBIN AULD: Thank you. Mr Fitzgerald, how do you see  
3 your time with the Premier after that?

4 MR FITZGERALD: Sir, I think I will need at least half  
5 a day.

6 SIR ROBIN AULD: Are there --

7 MR FITZGERALD: It depends obviously what my learned friend  
8 asks.

9 SIR ROBIN AULD: Then Mr Milne may or may not want to come  
10 back and finally examine in the light of all  
11 the evidence. Are there any applications from the bar  
12 on behalf of any other party to examine the Premier on  
13 anything he has said which may affect any of their  
14 respective clients?

15 MR SMITH: I do have an application in relation -- I don't  
16 have an application in relation to any examination but  
17 I have a housekeeping question. I represent  
18 the Deputy Premier and I was trying to get  
19 an understanding from the Commission as to when, given  
20 the stage and the slow pace --

21 SIR ROBIN AULD: That is what we are about at the moment,  
22 and that is why I am asking these questions.

23 MR SMITH: Very well.

24 SIR ROBIN AULD: What are we today? We are Wednesday today.  
25 All of Thursday and probably well into Friday, by

1 the looks of it.

2 MR MILNE: Sir, can I mention one other matter which has  
3 been drawn to my attention and which I think in fairness  
4 should be raised. Mr Rigby, who appears on behalf of  
5 Chalmers Misick, has professional commitments which may  
6 make it difficult for him to represent his client on  
7 Friday of this week and perhaps Monday of next week.  
8 I make no criticism and indeed I am sympathetic because  
9 his client was due to give evidence, I believe as early  
10 as tomorrow, but that is obviously impossible. I and  
11 Mrs Duff are happy to assist as far as we can, and it  
12 may be that if the Commissioner is minded, Mr Chalmers  
13 may have to, as it were, shuffle down the list slightly  
14 and other witnesses come a little further forward.

15 SIR ROBIN AULD: It may be that the evidence of Mr Chalmers  
16 Misick will be rather longer than that for which we  
17 originally programmed --

18 MR MILNE: That is a possibility, sir.

19 SIR ROBIN AULD: -- the way things have turned out, so if  
20 that's convenient to you, Mr Rigby, we will take your  
21 lay client out of the programme for this week and try  
22 and re-programme it earlier next week.

23 MR RIGBY: That would be fine. If I could also have  
24 an advance on documents.

25 SIR ROBIN AULD: You will.

1 MR RIGBY: As well as perhaps --

2 SIR ROBIN AULD: You have in schedule 2 the species of  
3 documents that you are required to produce. We will let  
4 you have details of others which may be in their general  
5 species, but it is for your lay client to identify what  
6 documents he has as described in schedule 2 to  
7 the summons served.

8 MR RIGBY: We have also raised the issue of legal  
9 professional privilege in a letter to the Commission on  
10 9th January of this year.

11 SIR ROBIN AULD: I don't know whether you appreciate that  
12 Mr Misick, the Premier, indicated yesterday that he  
13 would not instruct your client to rely on any issue of  
14 professional privilege.

15 MR RIGBY: I noticed that last night reading the transcript,  
16 but certainly the privilege will apply to other  
17 clients --

18 SIR ROBIN AULD: No, the privilege which you are concerned  
19 with, as I understand it, is that of the Premier, not  
20 your client.

21 MR RIGBY: No, there are certainly other clients which may  
22 very well be implicated in some of the questions raised  
23 by the Commission in the summons.

24 SIR ROBIN AULD: If that is so, you can raise it when it  
25 arises.



1 MR RIGBY: I am much obliged.

2 SIR ROBIN AULD: But the Premier does not claim privilege,  
3 and it is for him to claim any such privilege of  
4 a professional nature in respect of matters concerning  
5 him.

6 MR RIGBY: We are fully aware that he has waived his  
7 privilege.

8 SIR ROBIN AULD: We will try and programme it for early next  
9 week. That would suit you, would it, Mr Rigby?

10 MR RIGBY: Thursday would suit me better.

11 SIR ROBIN AULD: We will see how we can accommodate you.

12 MR RIGBY: Or Wednesday afternoon.

13 SIR ROBIN AULD: Thank you very much for that indication.  
14 It looks then as if we may be able to make a start with  
15 Mr Floyd Hall on Friday. Does that seem how it appears  
16 to you, Mr Milne?

17 MR MILNE: It is possible, sir, there may be one or two  
18 other witnesses. Obviously there is the possibility of  
19 some of the permanent secretaries and maybe one other  
20 person may be appropriate between now and then.

21 SIR ROBIN AULD: It looks like a remote possibility for  
22 Friday for Mr Floyd Hall, but more likely start on  
23 Monday, if that's convenient to him and to you.

24 MR SMITH: Yes, it is.

25 SIR ROBIN AULD: Does that help?

1 MR SMITH: That helps tremendously.

2 SIR ROBIN AULD: Right. Thank you. There is one other  
3 matter -- does that cover all we need to do on programme  
4 for the moment? It is obviously a shifting scene.  
5 There is one other matter I would like to mention before  
6 we rise today. Mr Fitzgerald, it is really directed  
7 through you to your instructing attorney, Ms Akierra  
8 Misick. Today, on two occasions at least, the Premier  
9 has indicated that he gave instructions to those acting  
10 for him to do things which they didn't do or  
11 misunderstood.

12 MR FITZGERALD: Yes.

13 SIR ROBIN AULD: This morning and then more recently today  
14 in relation to the disclosure of the Centurion card  
15 accounts. This may or may not put those instructing you  
16 in a professional difficulty, but they may want to  
17 consider how to deal with the matter overnight, if  
18 there's any issue as to who was responsible for  
19 the failure to notify the Commission, particularly  
20 before he did.

21 MR FITZGERALD: Yes, there is a letter dealing with  
22 the Centurion card in the bundle and I think in relation  
23 to the -- the other matter is the one-month delay, is  
24 it?

25 SIR ROBIN AULD: Yes.

1 MR FITZGERALD: I think the witness has dealt with that.

2 SIR ROBIN AULD: If those instructing you are satisfied that  
3 there is no conflict, then no more need be said but if  
4 there's any possibility of that and where blame is being  
5 attributed to them by the Premier, then it ought to be  
6 dealt with. I don't quite know how at the moment but at  
7 least it ought to be considered overnight.

8 MR FITZGERALD: Right. I think in relation to the first  
9 thing, there is a letter from Akierra Misick dealing  
10 with the question of the Centurion card.

11 SIR ROBIN AULD: We will have a look at that.

12 MR FITZGERALD: Which is in the bundle of correspondence at  
13 B -- it is page 98. It is the letter dated  
14 24th December.

15 SIR ROBIN AULD: Thank you very much. I flagged that now  
16 and I will look at that overnight. 10.30 tomorrow.

17 (4.40 pm)

18 (The court adjourned until 10.30 am  
19 on Thursday, 15th January 2009)

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