

1

Monday, 2nd February 2009

2 (10.30 am)

3 HONOURABLE DEPUTY PREMIER FLOYD HALL (recalled)

4 Examination by MR MILNE

5 SIR ROBIN AULD: Good morning, everyone. I apologise for

6 keeping you waiting this morning. As you can see

7 the Honourable Floyd Hall has returned to give further

8 evidence. Mr Milne.

9 MR MILNE: May it please you, sir. Morning, Deputy Premier,

10 we are returning to questions that started last week.

11 I have a number of matters which I wish to raise with

12 you. Some of them reflect discussions we had last week;

13 some may to some extent go in new directions. Before we

14 proceed with that questioning, sir, I was going to

15 propose to the Commission that if I question at this

16 stage, if there are new matters, that counsel for

17 the witness and indeed other counsel might then wish to,

18 as it were, come back on those matters, with perhaps

19 re-examination at the end if necessary.

20 SIR ROBIN AULD: Yes, I would hope that we would be able to

21 conclude the evidence of the Honourable Floyd Hall today

22 with a suitable gap in between if necessary.

23 MR MILNE: Certainly, sir, yes. We are certainly hoping

24 that we will be able to complete the Deputy Premier's  
25 evidence.

1

1 Deputy Premier, very briefly, since you gave your  
2 evidence, further submissions have been received by  
3 the Commission in relation to the evidence of  
4 the Premier. No doubt you will in due course be asked  
5 on behalf of the Premier a number of questions. But one  
6 issue that arises from those statements which I wish to  
7 raise at this point is simply this: that in your earlier  
8 evidence you had told the Commission that you had on  
9 a number of occasions left the chequebooks for the PNP  
10 Belize Bank account with the Premier and that he had  
11 written out cheques that you knew nothing of?

12 A. Correct.

13 Q. The Premier, putting it bluntly, says that is not true.

14 A. He is not telling the truth.

15 Q. He is not telling the truth about that?

16 A. Yes, and I think you can find from evidence in  
17 the information that I have given you that there are  
18 situations where many cheques have been written by  
19 the Premier with only one signature on it, and also if  
20 you want to check with Belize Bank, you would be able to

21 ascertain that transactions were made by the Premier  
22 without my knowledge and without my signature.  
23 Q. As far as the assertion that he kept the chequebooks,  
24 again he says that is not true. Is he wrong about that?  
25 A. He is wrong about that.

2

1 Q. Not telling the truth about that?  
2 A. Not telling the truth about this.  
3 Q. He also asserts that the money paid out of the PNP, and  
4 you will recall the figure, it is a global figure  
5 covering some five years, \$900,000 in round sums, that  
6 that money was salary. Do you dispute that?  
7 A. I dispute that being salary.  
8 Q. You were, of course, throughout that entire period  
9 the Treasurer of the PNP. So presumably you would be in  
10 a position to say one way or the other?  
11 A. Correct.  
12 Q. I leave that aside for the moment because I am sure that  
13 it will be returned to. I would like to ask you about  
14 something that has also arisen at the intervening period  
15 which is this: we heard evidence in the last week, week  
16 and a half from a gentleman called Chal Misick whom you  
17 will no doubt know and he is the brother of the Premier.

18 A. Correct.

19 Q. Chal Misick was asked about a company called

20 Windsor Investment Group Limited.

21 Windsor Investment Group Limited, we are given to

22 understand, owns a 50 per cent share in a company called

23 Hydronox. The company, Hydronox Limited, in turn owns

24 the land upon which the Casablanca Casino stands.

25 The evidence of Mr Chal Misick is that you had a 10

3

1 per cent share in Windsor Investment Group Limited. Is

2 that true?

3 A. I only became aware of the details of this particular

4 transaction as a result of the evidence that was given

5 by Mr Misick, Chal Misick, that is. What I can confirm

6 is that sometime back in 2003, late 2003, early 2004,

7 I was invited to contribute towards purchasing of

8 the old dilapidated building called Casablanca where

9 the casino now stands. I was invited to contribute

10 together with other members to more or less renovate

11 that building, purchase that building, renovate it, and

12 have it to become a nightclub.

13 I made the contribution at that time. It was

14 \$40,000 that I made towards it. I didn't have --

15 I never got a share for that, never got any dividend  
16 with respect to that, never received any rent on it,  
17 never knew any of the details associated with that and  
18 so I never even knew the name of the company that  
19 actually held it.

20 Now, I asked about it and I was comfortable that my  
21 investment probably still remained intact but I never  
22 received anything from that since my contribution. So  
23 hence I was surprised when I learned that Windsor was  
24 the name of the company that actually held the interest  
25 and also that my stake in it was 10 per cent. I never

4

1 actually received a certificate on that.

2 SIR ROBIN AULD: Pause, please.

3 When you say you were invited to contribute to  
4 the purchase and renovation of the old Casablanca, who  
5 invited you?

6 A. I was invited by Chal Misick.

7 SIR ROBIN AULD: To whom did you make your cheque for  
8 \$40,000 payable?

9 A. I believe at that time it would have been payable to  
10 Misick & Stanbrook.

11 MR MILNE: What paperwork did you receive in response to

12 that?

13 A. To this day I have not received any paperwork on that.

14 Q. Which account did the money come out of, the \$40,000?

15 A. I do not recall at present but I know that I would have

16 to do some checking into that. It probably could have

17 come from one of my personal accounts or it could have

18 come from funds that I held in trust with a law firm at

19 the time.

20 Q. Which law firm would that be?

21 A. That would have been -- come to think of it, that law

22 firm was not in existence at that time so it would not

23 have been with them. So it would have had to have come

24 from my personal account.

25 Q. Why didn't you get some sort of receipt, some sort of

5

1 documentation. If this was a proper investment, surely

2 you would want a record of it, in case you ever wanted

3 to claim upon it later on?

4 A. Yes, well, I was comfortable with the situation.

5 I didn't believe that Chal at the time would have taken

6 my money and still I don't believe up to this time that

7 he would have taken my money and not provided me with

8 adequate proof of my investment. As I stated, up to

9 this point, I still haven't received anything to verify  
10 that I have made that investment. I didn't know at the  
11 time that the company's name was the Windsor  
12 Group Limited. I only found that out from his evidence  
13 that was given, but I spoke to him from time to time  
14 about it and he told me that it was being dealt with but  
15 never once did he give me any documentation. Never  
16 was I part of any negotiation with respect to that  
17 situation.

18 As I sit here, this is the first time that in  
19 reading the evidence that I realised that the Windsor  
20 Group Limited own 50 per cent of their operation.

21 Q. If you had an investment, why didn't you mention that  
22 investment in your returns to the Registrar of  
23 Interests?

24 A. At the time, as I told you, sir, I did not have any  
25 documentation of which I could have recorded that

1 particular investment. If you were to look through my  
2 declarations, I think I have been pretty good in  
3 recording all properties that I held. I didn't have  
4 the details. I didn't know what the \$40,000 purchase  
5 meant. I knew that it purchased me an interest.

6 I never got the information that I needed from Mr Misick  
7 to do that.

8 SIR ROBIN AULD: Why did you need the written confirmation  
9 in setting out your interests? You knew you had  
10 the interests. You were comfortable with  
11 Mr Chal Misick's arrangements. Want of documentation  
12 shouldn't have been a reason for not returning  
13 the matter in your annual return.

14 A. I truly agree with you, sir. With that. But as  
15 I indicated, I wanted to have some sort of documentation  
16 to record it. At that time I saw it as a contribution  
17 towards the purchase of the building.

18 MR MILNE: But you knew that you were contributing to the  
19 renovation of that building and Casablanca Casino is  
20 fairly central in Providenciales. It is on a road that  
21 people pass on a regular basis. Casablanca Casino is in  
22 the press when parties are held there. So having put  
23 the money into it, you would have been aware that your  
24 investment had been utilised because the building was  
25 renovated.

7

1 A. That is correct.

2 Q. Why did you never go back, and we are talking, if



3 I follow you correctly, five years since you put  
4 the money in. Why did you never go back to Chal Misick  
5 and say: how is my \$40,000 doing, is it worth a great  
6 deal more now.

7 A. I indicated to you that I did that but still today  
8 I have not received any documentation on it. Now, in  
9 his evidence, he indicated that I owned 10 per cent of  
10 50 per cent of that operation, which in essence is 5  
11 per cent of the entire land that the building sits on.

12 I indicated to you that I asked him about it but  
13 I never got any information on it. So I never knew  
14 until his evidence was actually provided that I actually  
15 owned 10 per cent of the 50 per cent interest that he  
16 spoke about.

17 Q. If you take volume 6, the red volumes, to your left-hand  
18 side. If you please open it at page 109. You will find  
19 a Cabinet minute. Do you have that, sir?

20 (10.45 am)

21 A. Yes, I am getting to it. Yes.

22 Q. That is a Cabinet minute of 18th April 2007.

23 A. Yes.

24 Q. This deals with the Casablanca Casino.

25 It is an oral mention, it says that the

1 Deputy Premier circulated correspondence, received from  
2 the attorneys representing the Casablanca Casino, which  
3 was self explanatory.

4 Unfortunately it doesn't say what that  
5 correspondence was, but apparently within it they were  
6 seeking the government's approval for Belongers to be  
7 able to participate in gaming and also for a waiver of  
8 taxes payable on the gaming yield of the casino for  
9 a 12-month period. It says:

10 "The government was not minded to assist  
11 the operation. The Cabinet advised that it approved in  
12 principle a gaming fee of 5 per cent of the gross take  
13 for five years with a review after three years. It  
14 approved Belongers over the age of 21 with an annual  
15 income over \$50,000 to be allowed to gamble, provided  
16 they become members, and it approved for PRC holders to  
17 participate in gambling as well."

18 Clearly decisions are being made, you were leading  
19 the decisions. You were, it would appear, circulating  
20 the correspondence and participating in  
21 the conversation, the discussion around the Cabinet  
22 table. You knew you had invested money at least in  
23 the land, at least in the building that  
24 Casablanca Casino operated.

25 Would it not be your duty to disclose that interest?

1 A. I don't think so at the time. I had invested in  
2 the land. I had nothing to do with the casino licence  
3 for Casablanca.

4 Q. But the Casablanca Casino was effectively, albeit in  
5 a partial share, was your tenant?

6 A. I had no knowledge of that, sir.

7 Q. You knew you had invested in the building. You knew  
8 that you had invested in the renovation?

9 A. Yes, I knew that I had made a contribution towards  
10 the purchase of the property --

11 Q. So you knew you owned part of it effectively, didn't  
12 you?

13 A. No, but I did not own any part of this casino licence.  
14 The fact that they were going to utilise the building as  
15 a tenant, I didn't think that gave me a positive  
16 obligation to state that I had an interest in the land.  
17 And I was not the substantial holder of any interest.  
18 Indeed, I didn't know what percentage of interest that  
19 I held. But whatever interest that was, I knew it had  
20 to be a very minority interest.

21 Q. Did you know who the other investors were?

22 A. No. I believed that some other colleagues of mine at

23 the time were involved, but I didn't know the true

24 extent to all of them.

25 Q. You never asked them?

10

1 A. Never asked them about what?

2 Q. Have you received a return on your investment in

3 the Casablanca Casino renovation?

4 A. No.

5 Q. Never raised?

6 A. No.

7 Q. Because according to Mr Chal Misick, your colleague,

8 the Honourable McAllister Hanchell, owned a further

9 share, your colleague, the Premier, owned a further

10 share?

11 A. Correct.

12 Q. But you never discussed this with them at any stage?

13 A. No.

14 Q. So the five years that have passed, you have sat in

15 Cabinet with them week after week, never been a

16 discussion at all about this, even when

17 Casablanca Casino came up as a topic for the Cabinet to

18 discuss?

19 A. If you were to recall what I stated, sir. I made that

20 investment in 2004. Early 2004. When this matter came  
21 up it was 2007, some three years subsequent to that.  
22 The fact that I had made the investment in the casino  
23 building property was far to the back of my mind because  
24 I knew that there were several participants in that, and  
25 I knew that at the end of the day the small investment

11

1 that I made held a very insignificant interest in that  
2 property. So it was not that important to me that  
3 the building or whatever the case may be was being  
4 utilised in that manner.

5 Q. Forgive me, sir, how did you know you had a small part  
6 in it, if you didn't know who the other partners were,  
7 what they were investing?

8 A. Because I remember at the time the building was  
9 purchased, I was told that the purchase price for  
10 the building was in the vicinity of \$500,000, I believe.

11 At least that is what I thought it was on the market  
12 for. So I know that \$40,000 didn't buy very much.

13 Q. If it was \$500,000, simply to purchase, one must assume  
14 there would be considerably more to purchase and  
15 renovate?

16 A. Correct.

17 Q. You say that your investment was only 40,000, which is

18 less than 10 per cent even of the purchase price, isn't

19 it?

20 A. Yes.

21 Q. So would you agree that we are not, for whatever reason,

22 being given the full picture here?

23 A. By whom?

24 Q. By somebody.

25 A. Well, I am telling you the extent of the picture as

12

1 I see it.

2 Q. You would agree --

3 A. Or as I know it.

4 Q. You would agree, no doubt, that your evidence is at odds

5 with that of Mr Chal Misick?

6 A. Perhaps it is.

7 Q. Can you just take your main bundle, bundle 1 --

8 SIR ROBIN AULD: Are you moving from this?

9 MR MILNE: I am not, sir. There is one question arising

10 from it.

11 I am going to ask you, if you would, please -- it

12 would be behind divider 12, towards the back. Do you

13 have dividers?

14 A. I don't think I have dividers. I don't see a divider

15 12.

16 Q. The numbers are in the thousands at the back. I am

17 going to ask you to turn, if you would, to page 1011.

18 A. Yes.

19 Q. There is a cheque on the top of that page --

20 SIR ROBIN AULD: Can we just identify what we are looking

21 at.

22 MR MILNE: It is a cheque, sir.

23 SIR ROBIN AULD: From what account?

24 MR MILNE: It is drawn on the Paradigm Corporate Management

25 account, which is the management company owned and run

13

1 by the Deputy Premier. The cheque is dated

2 6th August 2007. It is a cheque for \$12,000 made

3 payable to Casablanca Casino.

4 Can you tell us why that cheque is drawn on

5 Paradigm Corporate Management?

6 A. Okay. That cheque was drawn on

7 Paradigm Corporate Management because I had some funds

8 in my account that related to a client and I was asked

9 to make a payment to the casino in respect of him.

10 Q. Who was the client?

11 A. The client was Delroy Howell.

12 Q. Delroy Howell asked you to pay 12,000 to the casino?

13 A. Correct.

14 Q. Did you ask why he would want 12,000 paid to the casino?

15 A. He was at the casino and he ran up a bill there and he

16 asked me to pay it.

17 Q. He was a client of yours?

18 A. When I say a client, basically a friend. And I had some

19 funds in the account related to him.

20 SIR ROBIN AULD: When you say he ran up a bill, it was

21 a gambling bill?

22 A. I would imagine it was related to casino activity.

23 MR MILNE: Client was your expression and you say basically

24 a friend, but \$12,000 is a significant amount of money

25 for most people, maybe not in the context of this

14

1 Inquiry, but why was \$12,000 being paid by you to

2 Delroy Howell?

3 A. It was his funds that were in my company's account.

4 Q. Why was he putting his funds into your company account?

5 A. The funds were in his -- my company's account to

6 facilitate some payments that had to be made in respect

7 of Harbour House in Grand Turk and some payments with



8 respect to him whenever he comes to the Turks & Caicos.

9 Q. What role did you have in facilitating payments for

10 Harbour House? Why did he need you to do it? Why can't

11 he simply do it himself?

12 A. Because I was on the island. I am a trusted friend of

13 his. He was involved with Harbour House, with

14 a development, with my brother, Quinton Hall. Quinton

15 worked at Harbour House at the time. Repairs needed to

16 be effected and indeed you will see that there were

17 further payments that ended up coming from my account in

18 respect of building materials that were purchased for

19 repairs to Harbour House as well as payments in respect

20 of Quinton for salary.

21 Q. Let's deal with Harbour House now in that case whilst we

22 are doing this. You gave evidence a few days ago that

23 Harbour House was never rented to the government; do you

24 recall that?

25 A. Correct.

15

1 Q. Do you still stand by that evidence?

2 A. I still stand by that evidence.

3 Q. So we --

4 SIR ROBIN AULD: Just before you move to Harbour House, we

5 are leaving, are we, this Cabinet minute, page 109?

6 MR MILNE: We are sir.

7 SIR ROBIN AULD: May I ask one or two questions for

8 information about that.

9 You introduced correspondence received from

10 attorneys. Who were the attorneys?

11 A. Correspondence received from the attorneys?

12 SIR ROBIN AULD: In the Cabinet meeting at page 109.

13 A. Okay. Page 105?

14 SIR ROBIN AULD: 109. Of the red bundle.

15 A. I don't know who the attorneys would have been at that

16 time, sir.

17 SIR ROBIN AULD: You say they were representing

18 the Casablanca Casino. Was that the name of their

19 client or was it a group of people who were interested

20 in establishing or re-establishing the casino?

21 A. I think in this case it would be establishing a casino,

22 because this would be the first casino that went there.

23 SIR ROBIN AULD: Who were the persons for whom the attorneys

24 were acting?

25 A. I don't know exactly but I believe at that time it would

1 have been Washington Misick and a gentleman by the name

2 of Andy Stevens.

3 SIR ROBIN AULD: Just the two of them.

4 A. Just the two of them.

5 SIR ROBIN AULD: What happened to that correspondence?

6 A. I believe --

7 SIR ROBIN AULD: Was it filed with the Cabinet papers?

8 A. It should be filed with Cabinet papers.

9 SIR ROBIN AULD: At the bottom of the minute, paragraph 4,

10 it reads:

11 "It authorised the Attorney General to have prepared

12 an amending bill as may be necessary to the casino

13 ordinance to reflect the above decision for

14 consideration by the house."

15 That's set out in paragraphs 1-3. Did that happen?

16 A. I believe that happened, yes, that has happened.

17 Q. Was the casino ordinance amended accordingly?

18 A. Yes.

19 SIR ROBIN AULD: Thank you.

20 MR MILNE: Since the topic has led us to the question of

21 Harbour House, can I remind you of what you told

22 the Commission on Day 5. I suggested to you that

23 Harbour House is a building that was rented out to

24 government. Your answers were and this is at page 62 of

25 the transcript:

1 "Answer: The government does not have space in that  
2 building.

3 "Question: It does not?"

4 "Answer: No."

5 You later said:

6 "Answer: ... it is not rented out to government."

7 Could you please turn in the red bundle that we have  
8 just been looking at, 6, to page 92, which is Cabinet  
9 minutes.

10 The heading, "Subject, Ministry of Health".

11 SIR ROBIN AULD: Can we have the date of this meeting and  
12 the minute number, please.

13 MR MILNE: The minute number is 06-857, which was a minute  
14 of 8th November 2006.

15 The subject was the "Ministry of Health lease  
16 contract with Harbour House".

17 It says:

18 "The Acting Premier [we have checked, sir, and that  
19 was you] advised Cabinet that due to the shortage of  
20 space within the building presently occupied by the  
21 ministry of health, they should lease space in  
22 Harbour House on Front Street and he sought Cabinet's  
23 approval for the Permanent Secretary to negotiate  
24 a contract agreement with the proprietors of

25 Harbour House to lease up to a maximum of 4,000 square

18

1 feet at \$2.40 per square foot. Cabinet granted approval  
2 for the Permanent Secretary to do that. It agreed that  
3 funding for the procurement of furniture will be  
4 considered and it authorised the clerk to inform  
5 the Permanent Secretary of Cabinet's decision within  
6 24 hours."

7 A. This never materialised.

8 MR MILNE: Right.

9 SIR ROBIN AULD: What did that amount to at \$2.40 per square  
10 foot?

11 A. I don't -- you are asking me?

12 SIR ROBIN AULD: Yes. What was the --

13 A. What would the rent end up being?

14 SIR ROBIN AULD: What was the rental to be, whether it came  
15 about or not?

16 A. It would have been, I think, \$9,600.

17 SIR ROBIN AULD: A what?

18 A. Per month.

19 MR MILNE: We find that minute but so far anyway, we have  
20 not identified any minute saying: this never went  
21 anywhere, this never happened.

22 A. But I am telling you it never materialised.

23 (11.00 am)

24 Q. Why did it not materialise?

25 A. It didn't materialise because other government offices,

19

1 other government departments wanted the space and there  
2 was a dispute as to which group would end up going into  
3 it. After some wrangling backwards and forwards with  
4 respect to this, it was decided that the ministry of  
5 finance was going to get space in the building  
6 because -- just a moment -- because rental office space  
7 in Grand Turk at the time was severely limited.

8 That also never materialised and I know that  
9 the developers incurred quite a bit of cost in making  
10 preparation for this to take place but it never  
11 materialised because basically they could not get  
12 the situation sorted out. Following that the hurricane  
13 came in and the building got completely damaged. So  
14 nothing ever materialised with this.

15 Q. So the hurricane was nearly two years later --

16 A. No, sir, the hurricane was only last year.

17 Q. Yes, the hurricane was in 2008. This was a minute in  
18 2006. So there was wrangling over office space for two

19 years?

20 A. Yes. As I said, it couldn't get sorted out. If

21 I wanted to, I could have exercised my powers as

22 minister of finance and made sure that it happened, but

23 I didn't want to get involved to that degree.

24 Q. You were already involved insofar as you were putting

25 this forward for approval and you knew that your brother

20

1 had a share in this building?

2 A. But also if you look at the ministerial code of conduct,

3 you would appreciate that I had no obligation to state

4 that to Cabinet. Because I am only required to state

5 that or declare any interests to Cabinet if it relates

6 to my wife or my children.

7 Q. So there would only be an obligation to withdraw if it

8 relates to wife or children?

9 A. Correct.

10 Q. And that is your clear understanding of the obligation?

11 A. That is the clear understanding of the obligation.

12 Q. And your clear understanding no doubt is shared by your

13 colleagues in Cabinet?

14 A. I would believe so.

15 Q. You would believe so?

16 A. Yes.

17 Q. I am not going to take you to them now individually. We  
18 have seen many occasions where individuals declared that  
19 a brother or a sister had an interest in something and  
20 they, having declared that interest, left the room.

21 A. Yes, sometimes if I figured it would have been  
22 a contentious situation, I certainly would have left  
23 the room. But this situation was clearly a situation in  
24 Grand Turk which obtained at the time. We didn't have  
25 no rental space available. The only building that was

21

1 available for rental space in Grand Turk at the time was  
2 Harbour House. If you were to check the situation in  
3 Grand Turk as it exists now, that is probably still  
4 the case. But I had no interest in getting myself  
5 deeply involved with this because at the end of the day,  
6 I didn't want to appear to be driving the process.  
7 I left it up to the Permanent Secretary.

8 SIR ROBIN AULD: So what happened to this building  
9 physically for two years? Did it lie empty?

10 A. It remained empty.

11 SIR ROBIN AULD: Was it furnished still?

12 A. No, it was not furnished, because the space was



13 available. It was awaiting government to enter into  
14 a lease agreement to improve the leasehold space so that  
15 they can take occupancy of it.  
16 SIR ROBIN AULD: So it remained totally unused then for two  
17 years?  
18 A. Totally unused.  
19 MR MILNE: And therefore generating no profit for two years  
20 either?  
21 A. Correct.  
22 Q. You have told us that you paid money to  
23 Delroy Howell's -- did you understand that it was his  
24 gambling account when you paid the money into  
25 Casablanca Casino?

22

1 A. I don't want to -- I don't know whether it was  
2 a gambling account. He indicated to me that he incurred  
3 a bill there and out of the funds that I had holding for  
4 him, I should make that payment.  
5 Q. That was the cheque that we have already looked at that  
6 you paid over on 6th August 2007. So that is after this  
7 has gone on. Forgive me, I am not sure I followed  
8 entirely. He had placed money with you, with Paradigm,  
9 for debts to be paid and you were paying a bill to

10 Casablanca Casino out of that?

11 A. Correct.

12 Q. Rather than him simply writing his own cheque because he

13 was not on the island?

14 A. Correct.

15 Q. Where was he?

16 A. He was in the country before and then he left.

17 Evidently he probably didn't have his chequebook or

18 the funds to do so and I was instructed to do that.

19 SIR ROBIN AULD: Can you tell me, was this casino a fairly

20 sophisticated one where credit was allowed to well-known

21 clientele?

22 A. I guess --

23 SIR ROBIN AULD: They ran a line of credit to whatever level

24 the casino operators considered was appropriate?

25 A. I believed at the casino there, if they knew someone to

23

1 be credible and reliable, and was good for the payment,

2 they would have allowed it to happen.

3 SIR ROBIN AULD: So did they render monthly accounts?

4 A. I believe so.

5 MR MILNE: On the same subject, if we turn in your volume 2

6 to page -- it is the back section of this, it will have

7 a page 71.

8 SIR ROBIN AULD: One of the rules of life, Mr Floyd Hall, is  
9 the document is always at the back of the big file.

10 A. Page 71?

11 MR MILNE: If you go to page 71, I think it is best

12 I clarify the nature of these documents and I am going  
13 to take you to two pages on from there.

14 The Commission produced schedules, those schedules  
15 being headed "Unexplained Credits to Both Credit Cards  
16 and to Bank Accounts".

17 We have been provided with annotated versions of  
18 those where you have filled in, typed in your comments  
19 so that you can explain some of my items that we found  
20 unexplained. Yes?

21 A. Correct.

22 Q. Therefore, sir, if we look at this. These documents  
23 will be to some degree familiar because we have seen  
24 them elsewhere, but if we look to the top left-hand  
25 corner, in each case -- I am afraid the hole punch has

24

1 gone through it -- but it says "annotated by witness"?

2 A. Yes.

3 Q. The comment column --

4 SIR ROBIN AULD: Namely Floyd Hall.

5 MR MILNE: Namely the Deputy Premier. The comment column,  
6 that is the notations that you have put in. So when we  
7 are looking at these, we can understand what it is we  
8 are seeing.

9 If you turn over, please, from there to page 73.

10 Do you have those?

11 A. Yes.

12 Q. 73, these are the unexplained bank credits. There was  
13 a bank credit towards the bottom of that schedule on  
14 page 73. On 11th October 2006 you received into your  
15 Paradigm account the sum of \$49,950, just short of  
16 \$50,000, which you described as proceeds from  
17 Delroy Howell for Whale Watchers. That would be  
18 Whale Watchers Limited, the company that owns  
19 Harbour House?

20 A. Correct.

21 Q. Is this the sum that you were discussing earlier?

22 A. Yes, it is.

23 Q. So why in October 2006 did he need to give you \$50,000?

24 A. I thought I explained that and I can go over it again.

25 Q. You see, the sum we have seen being paid out is August

1 of the following year.

2 A. Yes. August of the following year?

3 Q. August of 2007. This is money received from

4 Delroy Howell in October 2006. According to this, it

5 says -- the notation you have added is \$28,000 was

6 returned to Howell?

7 A. Yes.

8 Q. How was that returned, in bits and pieces?

9 A. No, if you will follow my explanation, there is

10 a payment to Casablanca, as I indicated, for the \$12,000

11 a month.

12 Q. That is the following August?

13 A. Yes. Then there's a payment of 16,000 to him that was

14 returned to him.

15 Q. When was that returned?

16 A. That was -- on that same page where you had a copy of

17 the Casablanca cheque, you will see the cheque that is

18 payable to him on 14th May 2007.

19 Q. We have that.

20 A. Also if you want to look in the narrative, the comments

21 as it relates to the payment coming in, you would see

22 where disbursements were made out to building materials

23 by cheque number 105513 for \$5,655, in respect of

24 Harbour House. There is another cheque that was made

25 payable in the amount of -- cheque number 105529, 5,000

1 to Quinton Hall again. That was for some building  
2 materials in respect of the same Harbour House.  
3 A further \$5,000 was made to Quinton in respect of his  
4 work on Harbour House. Other payments of \$3,000 and  
5 the like, that will show the complete disbursement of  
6 those funds.

7 Now, after that, after those disbursements were  
8 made, no other activity took place in respect of  
9 Harbour House, so the balance of the funds were returned  
10 to Mr Howell.

11 Q. So there is effectively \$18,500 goes elsewhere in round  
12 figures roughly and \$28,000 goes to Mr Howell. Yes?

13 A. Yes.

14 Q. That makes \$46,000. They don't add to a total of  
15 49,950?

16 A. They don't add precisely but I am certain that there are  
17 other smaller payments that would disburse them in that  
18 respect.

19 Q. Did you receive commission out of this?

20 A. Probably a small commission. It couldn't have been --  
21 from fees, probably less than \$1,000.

22 Q. Essentially Mr Howell is a client?

23 A. In this particular arrangement I was working on doing

24 that work for him.

25 Q. You are paying bills?

27

1 A. Yes.

2 Q. Your brother works on the island?

3 A. In Grand Turk, yes.

4 Q. Presumably the bills for Harbour House would have to be  
5 paid on Grand Turk?

6 A. Yes.

7 Q. I am led to understand that you have a house yourself on  
8 Grand Turk?

9 A. I rented premises over there, yes.

10 Q. I am at something of a loss to understand why you would  
11 be drawn into Harbour House and work for Harbour House,  
12 work for Delroy Howell, even if it is only paying bills,  
13 if your brother who is a shareholder is available and  
14 can do this on behalf of himself.

15 A. I guess. You don't know my brother.

16 Q. I don't know your brother. Why would he not be --

17 A. If you knew my brother, sometimes I think he can be very  
18 generous with his funds, and before you know it, it  
19 wouldn't have been discharged for the purpose for which  
20 it was intended. So I was required to monitor it for

21 him.

22 Q. Why was your brother a shareholder with Delroy Howell,  
23 if, not to put too fine a point on it, he could not be  
24 trusted with money?

25 A. Not that he could not be trusted with money, but if you

28

1 would also recall, and I think much has been made of  
2 this situation, but I would refer you to it in any  
3 event, with the property that was sold in which he  
4 received \$1 million. A large sum of that amount went  
5 into purchasing Harbour House, and that is what  
6 I indicated; the funds that he received from that  
7 particular sale of whatever land he had went into making  
8 an investment for himself. I have been trying to help  
9 and keep him on the straight and narrow as bigger  
10 brothers would do in getting him involved with business  
11 opportunities that he can see the return of his  
12 investment and his funds being secured. That is all I  
13 was doing.

14 .

15 Q. So he used the money from that investment to purchase  
16 his share in Harbour House?

17 A. Correct. Some of it.



18 SIR ROBIN AULD: You say that investment, what investment?

19 Used the money from that investment?

20 MR MILNE: I beg your pardon, sir. The sale of land with

21 which we have already been dealing with the Honourable

22 Jeffrey Hall. He was one of the four who bought that

23 and received \$1 million cheque.

24 SIR ROBIN AULD: That is the Northwest Point investment?

25 MR MILNE: It is, sir, yes.

29

1 When did he invest in Whale Watchers Limited?

2 A. He invested in Whale Watchers Limited, I believe, from

3 2006.

4 MR MILNE: 2006, which is when the money would have come in?

5 A. Yes, I don't know, I don't want to seem to know too much

6 about that because it was his business undertaking.

7 SIR ROBIN AULD: Just a small point on your answer a few

8 answers ago, you said you would probably have received

9 some small commission.

10 A. Yes.

11 Q. Why would that be?

12 A. Because of managing the funds.

13 SIR ROBIN AULD: Commission from whom?

14 A. From Delroy Howell, from managing the disbursement of

15 the funds that had he sent in.

16 SIR ROBIN AULD: Who was doing the work?

17 A. The work was being done by Quinton Hall in Grand Turk.

18 MR MILNE: Deputy Premier, Whale Watchers Limited does

19 nothing but manage Harbour House, correct?

20 A. Correct.

21 (11.15 am)

22 Q. Whale Watchers Limited was set up as a company on the --

23 essentially in December 2005. On 1st December 2005 it

24 was registered.

25 You, on 31st December 2005, a matter of days later,

30

1 in your form to the Register of Interests, inserted that

2 you owned 30 per cent of Whale Watchers Limited, but you

3 struck that out although it still made its way on to

4 the register and doesn't appear to have been challenged

5 when the formal printed register came out?

6 A. It was challenged, and I spoke with the Registrar of

7 Interests about it, and I think in the evidence that

8 I gave you last week or thereabouts indicated that.

9 Q. You were clearly, at least at the end of December 2005,

10 under the impression or potentially under the impression

11 that you owned 30 per cent of Whale Watchers Limited?

12 MR SMITH: I think this was dealt with quite exhaustively  
13 when he was here before unless there is a new angle to  
14 his question.  
15 SIR ROBIN AULD: If it is a new angle, it ought to be  
16 explored. If it is an old angle and been thoroughly  
17 explored, it ought not.  
18 MR SMITH: That is what I am trying to find out.  
19 SIR ROBIN AULD: Let's see how it goes.  
20 MR MILNE: You told us that initially you thought you were  
21 going to be involved in this, but instead your brother  
22 got involved in it.  
23 A. Correct.  
24 Q. But your brother wouldn't have had the money until  
25 the following May?

31

1 A. Yes.  
2 Q. Is your brother a wealthy man?  
3 A. No, he is not a wealthy man.  
4 Q. So how would he have had the money to get involved,  
5 except if that property transaction went through? Would  
6 he have any other means to put money into --  
7 A. Certainly not. He didn't have any other means at that  
8 time. What I can say to you, as I indicated, Delroy

9 Howell was the man that was involved in the transaction,  
10 together with another gentleman.

11 He, Delroy Howell, made all the funds available for  
12 the acquisition of the property, with the intention of  
13 being reimbursed either by way of a bank loan or by way  
14 of the investors making their contribution.

15 Now, the bank loan never materialised until I think  
16 a number of years hence and so for the longest time he  
17 had total investment in that. That is Mr Howell.

18 SIR ROBIN AULD: You say total. You spoke about another  
19 gentleman.

20 A. Yes, another gentleman by the name of Francesco Morello  
21 and the building was supposed to be managed and operated  
22 by the three of them. Francesco Morello was going to be  
23 the one who would actually do the work and  
24 the maintenance on the building.

25 SIR ROBIN AULD: Did he contribute to the funding, because

32

1 you just said that Howell funded the whole of the --

2 A. Howell funded the large percentage of it. Contributions  
3 came in from Morello and smaller contributions came in  
4 from Earl.

5 After Earl -- Quinton, that is -- after he ended up

6 getting his interests from the Northwest Point land

7 sale, he was able to invest that amount into

8 Whale Watchers, thereby procuring his interests in that

9 particular building.

10 MR MILNE: But if he had the monies put in straightaway, why

11 is it he only became a shareholder formally in March of

12 2008?

13 A. A shareholder formally in March 2008?

14 Q. That is my understanding, yes. He became a director on

15 3rd March 2008.

16 A. I think because at that time -- well, the shares were

17 actually -- in my opinion I believe it was held in trust

18 by the attorney at that time, and when they needed to

19 get the loan drawn down, I think they decided when they

20 went to the bank to allocate the shares in the manner in

21 order to procure the loan.

22 Q. Francesco Morello, would he be the same gentleman who

23 used to work for Carnival Corporation?

24 A. Yes, he did.

25 Q. Your brother had the money from 2006 but only invested

1 it in -- did he invest in 2006? Am I following you

2 correctly?

3 A. I believe it was 2006.

4 Q. But didn't get any shares for his money until two years  
5 later?

6 A. I don't know the details of that. I mean, that would  
7 have been sorted out by his attorney.

8 Q. You have done business with Delroy Howell. You have  
9 clearly been a friend of Delroy Howell. Your brother is  
10 a co-shareholder with Delroy Howell. We are going to  
11 come back to Southern Health Network in a few minutes  
12 but there is no trace that we can find of any of that  
13 being mentioned when Mr Howell's Southern Health Network  
14 is put before Cabinet. Did you not regard that as being  
15 something which you should declare?

16 A. No, I don't think the code required me to declare it.

17 Q. So your friendship, your business dealings, your money  
18 handling, your brother's involvement, none of that needs  
19 to trouble your colleagues?

20 A. I think they all knew that I had a good relationship  
21 with Delroy.

22 Q. But nothing that needs to go on the record?

23 A. No. As I said, the code did not require me to do that  
24 and I think you are trying to impose a requirement on me  
25 that the ministerial code clearly did not require of me.

1 Q. Let's go back to the declarations that have been made.

2 I am going to take you again to volume 2, if we could,

3 please. Again to the annotated documents that you

4 provided, which are at the back of the bundle starting

5 at page 71. Do you have that?

6 A. Yes.

7 Q. Indeed I am going to take you forward slightly. Within

8 that section I would like you to look, please -- these

9 are the credit cards -- turn over the page to 73.

10 We touched upon this the other day but I have some

11 additional questions in relation to it. Halfway down

12 that page, there are two payments into your bank

13 account. These both go into the Paradigm Management

14 account and they were dated 9th February and

15 15th February 2006. The total sum between them is \$20

16 short of 400,000. I am going to call it 400,000 for

17 round figures.

18 A. I think you are adding that up incorrectly, sir.

19 Q. I beg your pardon, you are right. It is 375,000, short

20 of \$20, isn't it. 250 and 125. Yes?

21 A. Yes.

22 Q. 375,000. So 375,000, each of which is described as

23 "proceeds from Oceanpoint (finder's fee)".

24 We touched upon this the other day, because I asked

25 you about those two payments and you said at the time

1 that it was a finder's fee.

2 Sir, there is a request from Mr Fitzgerald to see  
3 these documents. I have no objection to that but  
4 I mention it in open Tribunal so that if there is  
5 a problem it can be raised now. I think  
6 Mr Fitzgerald -- generally the only problem may be now  
7 in providing them now.

8 MR MILNE: Unless Mr Smith has any objections.

9 MR SMITH: I am trying to ascertain why Mr Fitzgerald would  
10 need these documents.

11 SIR ROBIN AULD: Well, ask him.

12 MR FITZGERALD: It is simply so I can follow it. As you  
13 know, sir, we are interested in the question of the  
14 level of disclosure that is generally made, and we have  
15 been asking questions about that of the various  
16 witnesses. It is not to be critical of this witness but  
17 to establish what is common practice.

18 SIR ROBIN AULD: How do you feel about that, Mr Smith?

19 MR SMITH: These are my client's personal bank account  
20 information. I never had access to the Premier's  
21 personal bank account information.

22 SIR ROBIN AULD: There is no necessary mutuality in all



23 this. The point Mr Fitzgerald is interested in is  
24 the pattern. Is there any reason why he should not see  
25 these documents?

36

1 MR SMITH: For my client's right to confidentiality, that is  
2 the reason I would urge --

3 SIR ROBIN AULD: We had better hear from Mr Fitzgerald on  
4 that. Do you rely on your client's confidentiality of  
5 his accounts, yes?

6 MR FITZGERALD: Sorry, sir, I understood that this was  
7 a question of what he should have declared and now has  
8 declared.

9 SIR ROBIN AULD: Yes.

10 MR FITZGERALD: That is what we are interested in seeing.

11 As you know, sir, our submission is that there is  
12 a pattern of non-disclosure and we want to establish  
13 the extent of it generally.

14 MR SMITH: What this is, I don't think that is anything to  
15 do with declarations. He was asked to make comments on  
16 all the credits and debits that went into all his bank  
17 accounts and this is what it is, in relation to his bank  
18 account and his credit cards. It has nothing to do with  
19 what is required under the ordinance. It is something

20 that he did pursuant to a request made by  
21 this Commission.  
22 SIR ROBIN AULD: You are talking about these pages 71 to 73  
23 in the black bundle, are you?  
24 MR SMITH: I am talking about pages 71 through to --  
25 SIR ROBIN AULD: Wherever.

37

1 MR SMITH: Yes. These are details -- what occurred is we  
2 provided information to Mr Milne. Mr Milne went through  
3 it and he said there were some unexplained credits and  
4 he asked us to append our notation to these. So these  
5 are personal information in relation to his credit cards  
6 and bank accounts. I don't think it is anything to do  
7 with --  
8 SIR ROBIN AULD: If you don't want Mr Fitzgerald to know  
9 what was in Mr Floyd Hall's bank account, I shall ask Mr  
10 Milne to cross-examine to the extent that he needs this  
11 information and to do it item by item and to  
12 particularise it very carefully for the record.  
13 MR SMITH: Very well.  
14 MR MILNE: The two payments that we see are \$249,990 paid on  
15 9th February 2006. The second payment, some six days  
16 later on 15th February 2006, was an additional \$124,990.

17 SIR ROBIN AULD: Do you agree with that?

18 A. Yes, I do.

19 SIR ROBIN AULD: We will take it step by step.

20 MR MILNE: The total is therefore, like I said, I think we

21 agreed a moment ago, in round figures \$375,000, it is

22 \$20 short of that. You have annotated in each case that

23 these are proceeds from Oceanpoint (finder's fee).

24 There are two payments.

25 SIR ROBIN AULD: Do you agree with that?

38

1 A. I do agree.

2 MR MILNE: Oceanpoint Limited is a company operated and run

3 by Mr Richard Padgett, is that correct?

4 A. That is correct.

5 Q. Therefore these are finder's fees, \$375,000, from

6 Mr Padgett?

7 A. Correct.

8 Q. You told us the other day this was a windfall. Why was

9 it a windfall?

10 A. Because at the end of the day, as I indicated I have

11 known Mr Padgett since 2002 when he first came to

12 Providenciales. We were discussing the ocean --

13 the Third Turtle Resort site. I had considerable input

14 at the time in influencing him to purchase the site to  
15 build a hotel on that site.  
16 He eventually ended up doing that and from that day  
17 he came to the Turks & Caicos, he relied on me very  
18 heavily for advice with respect to how he should proceed  
19 with the whole development. I must admit some of the  
20 advice he took and some he didn't. But this payment  
21 ended up being the result of that advice and the fact  
22 that I have referred him to the site.

23 Q. Why were there two payments?

24 A. There were two payments -- I don't know, I mean, it was  
25 supposed to be one bulk payment but this is the manner

39

1 in which the funds came in.

2 Q. This payment was billed to him, was it not?

3 A. Yes, it was.

4 Q. So you issued a bill?

5 A. Yes.

6 Q. He paid it?

7 A. And he paid it, yes.

8 Q. So it was a clear business arrangement?

9 A. Correct.

10 Q. So why would you say windfall? Windfall suggests, I was

11 not expecting that?  
12 A. Well, in the context in which I stated a windfall was  
13 that in 2002, when we had discussions about that, it was  
14 some time before Mr Padgett ended up proceeding with  
15 the project and so I was not expecting it but after  
16 the project -- as with many real estate sales that you  
17 get involved with in the country. Sometimes you would  
18 have referred a client to a particular property or  
19 a particular dwelling and not knowing whether you are  
20 going to end up with a sale today or probably some years  
21 later.

22 This is the result of it. That is the reason why  
23 I probably mentioned it in that context.

24 SIR ROBIN AULD: So this was buyer's commission really?

25 A. Yes.

40

1 SIR ROBIN AULD: You were acting as agent for the buyer.

2 A. I was acting as agent for the buyer.

3 SIR ROBIN AULD: You had some influence in that role when  
4 you were dealing with him?

5 A. I had some influence in getting him to purchase this  
6 site.

7 (11.30 am)

8 MR MILNE: So did you put in a considerable amount of work?

9 A. Sir, commissions, as it relates to real estate, is

10 basically you take the person to the site, you talk

11 eloquently or colourfully about the site and

12 the potential of the country and at that time the Turks

13 & Caicos Islands was enjoying considerable buoyancy with

14 its real estate market.

15 Basically all you had to do at one stage in the

16 Turks & Caicos was to build a condominium development

17 and the sale would go through.

18 So when you ask about if I put in a considerable

19 amount of work, it all depends on -- that can be very

20 subjective.

21 SIR ROBIN AULD: So how was your bill assessed?

22 A. My bill was assessed on the basis that I referred him to

23 the site. He ended up purchasing the site and I ended

24 up with a commission of 6 per cent on the sale, which

25 was \$5 million he paid at the time, resulting in about

41

1 300,000, and then I provided further advice to

2 Mr Padgett with respect to how he could proceed with

3 the actual building of the property.

4 I must add here right now, because I know that this

5 particular situation has happened to have been a very  
6 contentious situation with planning as well, which you  
7 perhaps may be getting to. What I can say straight to  
8 you was that I always encouraged Mr Padgett to proceed  
9 with a five-storey development on that site. He ignored  
10 my advice and he ended up coming right back to the  
11 situation where he is at today in having a five-storey  
12 building built there as opposed to a seven-storey  
13 building, and had he taken my advice from back in  
14 the day, he probably would have had his development  
15 completed.

16 Q. Was permission not given for seven storeys and that  
17 position had to be legally challenged?

18 A. I think the permission was challenged and as a result of  
19 how strongly it was challenged, Mr Padgett wanted to  
20 have a harmonious relationship with his neighbours.  
21 I think he, on his own volition decided not to go with  
22 the seven-storey; he decided to go back to the five  
23 storeys which I advised him to do from day one.

24 Q. But who granted him the planning permission for seven  
25 storeys?

1 A. The planning permission for seven storeys would have had

2 to have been granted by the Minister of Planning at that  
3 time.

4 Q. Was that not granted by yourself?

5 A. No, it was not granted by myself. I was Acting Premier  
6 at the time. The Minister of Planning had agreed to --

7 SIR ROBIN AULD: Who was that at the time? Mr Hanchell?

8 A. No, the Minister of Planning would have been  
9 the Premier. Had agreed for the seven storeys to take  
10 place. He was out of the country at the time the letter  
11 needed to be signed, and I signed it off as  
12 Acting Premier.

13 MR MILNE: So you, having assisted Mr Padgett from  
14 the outset, having been a friend and indeed a business  
15 associate of him through Paradigm Management, it came  
16 back when you were Acting Premier to make the decision  
17 as to whether or not planning permission would be  
18 granted?

19 A. It came back, no. It didn't come back as it were. This  
20 was the first time that I think that the decision had  
21 been made to overrule the planning decision for seven  
22 storeys.

23 Q. Am I not right in thinking that you granted  
24 the permission and eventually that decision was struck  
25 down because it was judged to be what is known as



1 ultra vires, outside your power?

2 A. Correct.

3 SIR ROBIN AULD: When you say you, you mean you personally,

4 Mr Floyd Hall?

5 A. I mean me acting in the capacity as Premier, it was

6 deemed to be ultra vires because -- and it was

7 the situation under the law that, even though I was

8 acting as Premier, I in turn didn't act as Minister of

9 Planning. I didn't take on his other portfolio.

10 MR MILNE: So legally at least you were judged by a court to

11 have overstepped the mark. You had done something which

12 you were not legally entitled to do. Leaving aside

13 the court decision. You had taken it upon yourself in

14 the absence of the Premier to make that decision, yes?

15 A. No. It was not taken by myself in the absence of the

16 Premier. As I indicated to you, that this was agreed to

17 have been done. I was merely signing on as minister

18 of -- Acting Premier at the time because the Premier was

19 absent from the country. The approval had already been

20 given to overturn the planning's decision and hence

21 I was signing in my capacity as Acting Premier in the

22 absence of the Premier.

23 SIR ROBIN AULD: These payments were made in February of

24 2006. When was the permission granted?

25 A. I don't recall.

44

1 Q. Certainly by October 2006 the Cabinet was discussing  
2 the judicial review, were they not? So it was some time  
3 in the months following that?

4 A. Probably.

5 Q. We will get a precise date. You say that there is no  
6 connection between the payment that you received and any  
7 decision that was subsequently taken?

8 A. Absolutely not.

9 Q. Did you declare that you had received \$375,000 finder's  
10 fee from this gentleman?

11 A. Have I declared it in my declarations?

12 Q. Did you declare it before the decision was taken?  
13 Before you stepped in and acted on behalf of  
14 the Premier?

15 A. Declared it to whom, sorry?

16 Q. Did you put it on record?

17 A. No.

18 Q. Is it in the Cabinet minutes?

19 A. No.

20 SIR ROBIN AULD: Or on your return?

21 A. No, it is clearly evident that I did not.

22 SIR ROBIN AULD: Did you declare it in your responses to  
23 the Commission when they were seeking full particulars  
24 from you?  
25 A. As I indicated to you, sir, before the Commission asked

45

1 me for information, that dated to 2007 and these matters  
2 that we are discussing now go back to 2006. Had I known  
3 that these matters would have been discussed, of course  
4 I would have provided that information.

5 MR MILNE: You see, apart from the finder's fee -- let's not  
6 move on too quickly. The finder's fee of 375,000. It  
7 represented what you had done, yes.

8 A. Yes.

9 Q. Partly by being -- I am not being flippant about this.  
10 Being at the right place at the right time, you made  
11 the introduction and you were charging a percentage?

12 A. Correct.

13 Q. Partly by virtue of work you had done, time put in upon  
14 it, maybe not on a hourly basis but you had done some  
15 work towards getting this together. Had anybody  
16 assisted you in that?

17 A. No.

18 Q. Nobody?

19 A. No.

20 Q. Why then did you feel it appropriate to give half of  
21 that commission to the Premier?

22 A. Well, as I indicated to you and I think we all know  
23 right now, the situation with respect to the Premier's  
24 wedding and how expensive it was, the Premier and  
25 I always had a very close relationship. He had asked me

46

1 for assistance and I assisted him at the time because

2 I had it to do with.

3 Q. So what was the purpose of the money that you gave him  
4 when this all occurred?

5 A. What was the purpose of the money?

6 Q. Was it designed to be a gift, was it designed to be  
7 a loan? What was it for?

8 A. I don't think it was clear at that particular time.

9 I mean, I had a good relationship with the Premier. He  
10 had asked me to assist and I did that.

11 Q. Was it widely known or at least within the Cabinet that  
12 the Premier was going round asking for money from  
13 everybody? Did you know that?

14 A. I knew he asked me.

15 SIR ROBIN AULD: You say you don't think he asked you?

16 A. I said I knew he asked me but I don't know if it is

17 widely going around that he went and asked a whole lot

18 of people.

19 SIR ROBIN AULD: Did he know that you had just earned this

20 finder's fee of 300,000 plus?

21 A. Yes, I told him.

22 SIR ROBIN AULD: That was before he asked you for the help,

23 was it?

24 A. That would have been before, yes.

25 MR MILNE: You see, the figure that you quoted for

47

1 the payment to him, which is \$160,000 odd, essentially

2 half of this, roughly half of this, I am having troubles

3 identifying that in the payments in for the Premier. He

4 identified a loan which he said was from you, we touched

5 on this the other day, of \$150,000. Your evidence to us

6 was that was not a loan from me. That was a loan from

7 my brother.

8 A. That is correct.

9 Q. But you say that in addition and quite separate from

10 that, you paid over to him in excess of \$160,000?

11 A. Mmm hmm.

12 Q. Which might have been a loan or might have been a gift

13 or might just never have been defined either way, is  
14 that right?  
15 A. I don't think it was defined either way.  
16 Q. It is a lot of money to be woolly about, would you not  
17 agree?  
18 A. Well, I agree but at the end of the day, as I stated, he  
19 was in a bind and I assisted. I was glad to help.  
20 Q. You see, we need to be quite clear, there is  
21 a suggestion, a very strong suggestion indeed that  
22 the Premier is effectively receiving kickbacks.  
23 A. I don't know about that.  
24 Q. You don't know about that?  
25 A. No.

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1 Q. Is this not by way of kickback as well?  
2 A. Sir, I don't know anything about any kickback.  
3 SIR ROBIN AULD: Why do you say you don't know? You would  
4 know if there was a kickback here and you would know if  
5 there was not.  
6 A. I am saying that this clearly was not a kickback.  
7 MR MILNE: Do you know how the money was paid? Was it  
8 cheque, cash, wire transfer?  
9 A. It would have been a cheque payable to Chalmers & Co.

10 Q. So it would have gone to Chalmers rather than  
11 the Premier?  
12 A. Right.  
13 Q. Did you at any stage say: well, it is your wedding,  
14 Chalmers isn't getting married, why don't I make it  
15 payable to you?  
16 A. That was none of my business. He indicated that he  
17 wanted it to go to Chal, I did it that way.  
18 Q. So \$160,000-odd goes to Chalmers and you never ask about  
19 it again.  
20 A. No.  
21 Q. Did you ever ask about the \$150,000 that you say he  
22 borrowed from your brother?  
23 A. Yes, I have.  
24 Q. What has been the response?  
25 A. He indicated that at some stage my brother will get it.

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1 Q. You see, again, this is some -- this is a point where  
2 the Premier differs very strongly from you because  
3 the submissions that we have received -- the written  
4 submissions on his behalf are put in the starkest terms  
5 that he asked you for the the 150,000 and he borrowed it  
6 from you and that you provided it. But you say that is

7 wholly untrue.

8 A. Sir, with all due respect, there were persons I believe  
9 who were in the presence of the Premier when he asked me  
10 for that money, and I told him I had no such money  
11 because I didn't have any money at all. I am talking  
12 about the \$150,000 at that stage.

13 SIR ROBIN AULD: Who were those persons?

14 A. There would have been, I believe that the Honourable  
15 Jeffrey Hall and Honourable Lillian Boyce would have  
16 been there and they can vouch for the fact that I told  
17 him that those funds were not mine, never in my hands to  
18 deal with. They were always in my brother's hands or  
19 with his attorneys. At the end of the day, when he got  
20 the money, he got it indeed from my brother's attorney.  
21 I think it was made clear to him at that time too that  
22 those funds came from Quinton. I never had access to  
23 Quinton's funds. Indeed, I never even spent any money  
24 out of it. Merely a small sum of anything I ever got  
25 out of those funds.

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1 So it was clearly Quinton's money and he knew that.

2 SIR ROBIN AULD: So the Premier, when he was asking for this  
3 assistance, was clearly relating it to what he knew had



4 recently become available to whoever he was asking?

5 A. Exactly.

6 MR MILNE: Where were you when that question was asked?

7 A. I could have been at a pre-Cabinet meeting or something,

8 I can't recall fully but I know there was a group of us

9 ministers that were there.

10 Q. And he asked you in front of them to lend him \$150,000?

11 A. Yes, because he always made silly comments with respect

12 to that, and I told him that at the end of the day my

13 brother is equally entitled to whatever Crown land that

14 was allocated to Turks & Caicos Islanders at the time,

15 and not because my brother got something necessarily

16 meant that it was for me. As in this particular case,

17 it was not mine and I must make that categorically

18 clear. I never had any dealings with that.

19 Q. It is not entirely clear to us why from your brother he

20 would have borrowed 150 --

21 A. Because I guess he assumed I had some influence over

22 him.

23 Q. The other two loans, as they have been called, were only

24 100,000 each?

25 A. Well I guess he figured I had the influence to extract

1 that amount.

2 Q. Were you present when he asked the others for those  
3 other sums of money?

4 A. I am aware of his request to them.

5 Q. No, I am sorry, I must press you on this. Were you  
6 present when he asked them?

7 A. I certainly was present when I heard him asking  
8 Honourable Boyce. Because I know that she was reluctant  
9 to give it.

10 (11.45 am)

11 Q. So he was asking her rather than her relative?

12 A. Yes.

13 Q. What was her response?

14 A. Her response, I recall, was that it was Earlsong's money  
15 and she didn't have that control over it to give. But  
16 I think he was persistent in his request to her.

17 Q. You see, if the Premier knew about this, he could have  
18 gone directly to the individuals, couldn't he, but he  
19 seems to have thought it more appropriate to come to  
20 you, to the Honourable Jeffrey Hall and the Honourable  
21 Lillian Boyce?

22 A. Yes. I can speak for myself and I think at the end of  
23 the day it probably applies to Honourable Boyce as well,  
24 but obviously he knows the relationship that I have with  
25 all my family members. He certainly knows that

1 I probably would have been influential in getting it  
2 done, but also I think he probably wanted to believe  
3 that I had control over my brother's money. Which at  
4 the time I did not.

5 Q. But shortly after that, you give/loan, whatever, more  
6 than that in the sum of 160,000 plus?

7 A. And those were my funds and that is a different matter.

8 SIR ROBIN AULD: Mr Milne, it is 11.45 now. Don't break in  
9 the middle of something but --

10 MR MILNE: That is an appropriate point. Thank you, sir.

11 SIR ROBIN AULD: Mr Smith, don't let me forget to just raise  
12 the point that you raised a little while ago as to  
13 whether Mr Fitzgerald feels he has got all he needs or  
14 not and there remains an issue over that, or perhaps you  
15 and he can talk over the short adjournment.

16 (11.46 am)

17 (A short break)

18 (12.01 pm)

19 MR MILNE: Deputy Premier, before the short break we were  
20 discussing the monies that had come to you from  
21 Mr Padgett as finder's fee, those being \$375,000 in  
22 February 2006. There are further donations from  
23 Mr Padgett to you through that year, are there not?

24 A. Donations?

25 Q. Yes. Either donations to you or to the PNP.

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1 A. Probably to the PNP. Not to me.

2 SIR ROBIN AULD: You say that year, you are talking of the

3 year 2006?

4 MR MILNE: 2006, sir, yes. If we take your volume, your

5 volume 2, we have in that in the first section

6 the ledger which is the ledger for

7 the First Caribbean International Bank. Yes?

8 A. Yes.

9 MR SMITH: What page are we?

10 MR MILNE: I beg your pardon?

11 MR SMITH: What page are we?

12 MR MILNE: I am going to go first of all to page 20. On

13 page 20, on 11th December 2006 --

14 SIR ROBIN AULD: Just identify this.

15 MR MILNE: This is the ledger for the PNP account at the

16 First Caribbean International Bank.

17 SIR ROBIN AULD: This is the reconstructed ledger, is it?

18 MR MILNE: It is the record that is kept by

19 the Deputy Premier. It is not reconstructed in

20 the sense of done ex post facto. At least that is not

21 what we have been told so far. This was being kept at  
22 the time, I think, and therefore it is a contemporaneous  
23 record to keep a log on the account. We see about  
24 two-thirds of the way down the page, Mr Padgett  
25 contributed to the PNP a sum just under \$100,000, that

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1 being December 2006.

2 If we turn over to page 28, 23rd January, a further  
3 \$125,000. That being 24th January 2007, shortly before  
4 the election. On page 33 of that ledger, that being on  
5 2nd March 2007, quite close to the bottom of the page,  
6 another \$100,000. So he, unlike some others, was giving  
7 money after you won the election.

8 If we turn past the next divider, this is  
9 the Belize Bank account.

10 Within those pages, if we go to page 62. This is  
11 a paying-in slip, again a payment to the PNP. Again,  
12 Mr Padgett, I think with his wife in fact on this  
13 occasion, just short of \$75,000. That in fact dated  
14 back to March of 2006. 27th March 2006.

15 SIR ROBIN AULD: What was the date of this cheque here?

16 MR MILNE: 27th March, sir.

17 SIR ROBIN AULD: So would it have been effective, backdated?

18 MR MILNE: It was not being backdated. We believe it was --  
19 in fact that cheque was paid in in March 2006 and what  
20 we can do, if it assists, sir, is if we go to the actual  
21 accounts of the PNP at that time -- forgive me, these  
22 are slightly out of order. Page 26 shows a credit memo.  
23 It is slightly chopped off but it is 7th March or 17th  
24 or 27th March of 2006. \$74,960 paid in, which is  
25 the same as the memo.

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1 Any particular reason why that payment would go into  
2 the Belize Bank account and all the others would go into  
3 the First Caribbean Bank account?

4 A. No, I just believe that it probably would have been  
5 convenient to get it done so. It probably was wired in  
6 and if you were to recall from my previous testimony,  
7 I indicated that the processing of inward transfers were  
8 more expeditiously handled at Belize Bank than at the  
9 other banks.

10 Q. In fairness, if we look at page 62, I think the credit  
11 that we see there, the credit actually appears to say --  
12 it looks like the symbol "pi". It is not. It is TT, is  
13 it not?

14 A. Yes.

15 Q. Which stands for telegraphic transfer?

16 A. Yes.

17 SIR ROBIN AULD: Have you reached the end of this? Can you

18 give us a total now, Mr Milne?

19 MR MILNE: The total runs to this, sir. Apart from

20 the money received personally by the Deputy Premier,

21 the party, across four payments, received a further

22 \$400,000. I am rounding that figure. There were slight

23 deductions for bank charges but nothing more than that.

24 SIR ROBIN AULD: Before and after the February 2007

25 election?

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1 MR MILNE: Those were after February of 2006. The payments

2 that we are dealing with there are March 2006, December

3 of that year, January of 2007 and March again of 2007.

4 So the 400,000 over the space of several months,

5 followed by a loan to Mr Hall, to the Deputy Premier, of

6 a further \$200,000. Do you recall that?

7 A. Yes, I did. I provided you with that.

8 Q. Which actually fell due yesterday. It expired on

9 1st February 2009.

10 A. Correct.

11 Q. Has that been paid back, sir?

12 A. No, and I indicated to you how it was going to be paid  
13 back. If you recall from my last testimony, I indicated  
14 that I have considerable interest in a condo development  
15 project that we are working on. I have entered into  
16 an agreement for the sale of that and some of the  
17 proceeds from that will go towards retiring that back.  
18 SIR ROBIN AULD: I have forgotten the name of that  
19 development, Mr Floyd Hall.  
20 A. GBL Holdings Limited.  
21 SIR ROBIN AULD: Where is the condo apartment?  
22 A. It is near the Somerset.  
23 SIR ROBIN AULD: Has it got a name?  
24 A. The Somerset -- resort.  
25 MR MILNE: The Somerset resort is, if my directions are

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1 right, there, next door, correct? Is that the same one  
2 we are talking about?  
3 A. Yes.  
4 Q. So it is the next door building to this one that we are  
5 standing in now?  
6 A. Yes.  
7 SIR ROBIN AULD: Which is about to be sold, is it? Or is  
8 for sale?



9 MR MILNE: I am not going to cross-examine you about  
10 the direction.

11 SIR ROBIN AULD: It is for sale, is it?

12 MR MILNE: This is a condominium, I think, that is being  
13 built, if I follow the evidence correctly.

14 SIR ROBIN AULD: Mr Smith?

15 MR SMITH: I think my client never understood the question  
16 when you asked him, has he got the name. I think  
17 the name he gave you was the name of the hotel that  
18 the development is close to.

19 SIR ROBIN AULD: What I have written down is: I have  
20 an interest in a condominium, presumably being developed  
21 by GBL Holdings Limited near the Somerset Hotel, is that  
22 right?

23 A. That is correct:

24 MR MILNE: You see, Deputy Premier, you have known  
25 throughout that you had a good relationship and indeed

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1 a financial relationship with Mr Padgett insofar as you  
2 had done work for him and been paid for that work.

3 You had provided a service. Because you were  
4 Treasurer of your party, you would also have known that  
5 he had contributed handsomely to your party; and indeed

6 subsequently that he provided you with a substantial  
7 loan. On its own, no problem with any of that.

8 But there are a series of mentions in the Cabinet of  
9 Oceanpoint. On 20th July 2006 the question of the  
10 judicial review arose.

11 Now, clearly, sometime in the months prior to that,  
12 you had made the decision that was being judicially  
13 reviewed.

14 That period, of course, is very close to the payment  
15 into the Belize Bank account of the \$75,000.

16 You may disagree with this characterisation, but  
17 I am putting it to you so you can comment upon it. Of  
18 the two bank accounts run by the PNP, the Belize Bank  
19 account was the more secretive of the two because there  
20 is no ledger, it was not declared to the membership;  
21 indeed it only emerged during the course of  
22 the Commission that this second account existed.

23 Was there more than simply convenience involved in  
24 putting that money into the Belize Bank account?

25 A. Absolutely not.

1 Q. Was it being hidden?

2 A. No, absolutely not.

3 Q. In July 2006, when the judicial review arises, you  
4 appear to be present at the Cabinet meeting and you  
5 don't mention at that stage any conflict?

6 A. No, because as I indicated, under our ministerial code  
7 of conduct, I didn't see that as being conflicted.

8 Q. Subsequently in Cabinet meetings, and I can take you to  
9 the pages if you wish, but I can deal with this, I hope  
10 shortly, Oceanpoint comes up in March 2007. It is  
11 a minor mention because he is actually seeking  
12 permission for a sign to go up outside and a licence to  
13 allow for the provision of a sign but again you don't  
14 withdraw from that Cabinet discussion.

15 A. I must say that you are making quite bit of reference to  
16 me not withdrawing from Cabinet in the discussion of  
17 these matters as if I had an obligation to do so under  
18 the ministerial code.

19 What I put to you, sir, is that I had no obligation  
20 to do that. In my mind I didn't believe I was  
21 conflicted, so I did not do so.

22 SIR ROBIN AULD: I think when it pops up again, if you are  
23 asked whether you withdrew, you simply say yes or no and  
24 we know why you didn't if you didn't.

25 A. Okay.

1 MR MILNE: For the record, sir, that mention on 21st March  
2 we have in the Cabinet minutes at page 107. Oceanpoint  
3 also came up as a topic in the Cabinet on 8th May 2008,  
4 and this is at Cabinet minutes, pages 154 to 155.

5 Again, this was actually quite a substantial matter  
6 because --

7 SIR ROBIN AULD: You mean volume 6.

8 MR MILNE: Volume 6, Cabinet minutes, 154 to 155 where  
9 Oceanpoint Development are seeking a dredging licence  
10 which is granted to them.

11 Whenever we have raised the issue of ministerial  
12 code of conduct, we have had a fairly concerted response  
13 from at least the Premier, to some extent from  
14 the Honourable McAllister Hanchell, that wasn't in force  
15 anyway so it doesn't count.

16 What I would suggest to you is that the principle  
17 behind it, and I suggest with respect that you would  
18 know this, sir, is that if you have any financial  
19 interest or financial connection with an individual who  
20 is dependent upon Cabinet decisions, then it is proper  
21 and appropriate for you to declare that interest or  
22 connection.

23 It doesn't follow that one would necessarily  
24 withdraw. Cabinet may say the interest is minor or  
25 minimal. They may say that now we are aware of it, we

1 are happy for you to continue. But if you don't mention  
2 it, they won't know. Do you follow?

3 A. I follow.

4 Q. The world does not necessarily know your business, nor  
5 should it. The Cabinet may or may not be aware that you  
6 have a financial connection with Mr Padgett. You can't  
7 assume they do if you don't tell them though, would you  
8 agree?

9 A. I agree.

10 Q. There doesn't appear to be any mention in any of these  
11 instances that you have previously done business with  
12 him, that you have had a connection with him or indeed  
13 that the party, and you are the Treasurer, so you would  
14 know about these payments, or that the party has  
15 benefited handsomely from his generosity.

16 Did you not think that that ought to be raised, even  
17 if simply for the record?

18 MR SMITH: I think he answered that question as best as he  
19 could like ten times.

20 SIR ROBIN AULD: Let him answer it one more time. At the  
21 end of the day, I have got to decide what sort of  
22 standard of duty is required of these ministers in this

23 context, given the circumstances of which we know; and  
24 whether or not the code of conduct came into force,  
25 whether it was the only basis upon which they should

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1 have modelled their approach to these problems will be  
2 a matter for me.

3 A. In answering Mr Milne's question, I don't think at the  
4 time I had an obligation to do so. I didn't see my  
5 interest with Mr Padgett at that time conflicting  
6 because they were arm's length agreements. Also I am  
7 not in agreement with everything that Mr Padgett had to  
8 do and I told him that.

9 (12.15 pm)

10 MR MILNE: I am going to move on and I would invite you to  
11 return to volume 2.

12 Do you have that in front of you?

13 A. Yes.

14 Q. It is the section right at the back. This is  
15 the annotated schedule at page 73. In fact we will turn  
16 over and take it from page 74. It is a point about half  
17 way down page 74. You have an entry -- there are two  
18 entries, in fact, on 8th February. The second of those  
19 two is a sum of \$150,000, campaign donation from Jak

20 Civre?

21 A. Correct.

22 Q. Who is a gentleman who previously employed your wife, am

23 I correct?

24 A. Yes.

25 Q. He is the man who was, I believe, the developer of the

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1 Seven Stars resort?

2 A. Correct.

3 Q. You have been given there \$150,000 campaign donation.

4 Can we take it that was never declared to the Register

5 of Interests?

6 A. No.

7 Q. That is coming in -- it is literally the day before

8 the election?

9 A. Yes.

10 SIR ROBIN AULD: That is 8th February?

11 MR MILNE: 8th February. So bit late in the day really for

12 a political donation. You probably would have needed it

13 for your campaign months before. What would that have

14 gone towards?

15 A. As I -- well, I don't think it is late. Any donation

16 that can come in whatever time it can come in is timely

17 but after you finished with your campaigns, you usually  
18 have huge bills to deal with after campaigns. So  
19 certainly the funds would have assisted with some of  
20 that.

21 Q. It goes into your business account, it goes into  
22 Paradigm?

23 A. Yes.

24 Q. Why put it in there?

25 A. That is the way I sought to handle it at that time.

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1 SIR ROBIN AULD: That is not an answer.

2 A. I put it --

3 SIR ROBIN AULD: We want to know why you thought that.

4 A. It was for no particular reason at the time. I just  
5 figured that I could have put it in that account.

6 Q. You see that account is used for business purposes,  
7 isn't it?

8 A. Yes.

9 Q. Is this another example of political donations  
10 overlapping with personal money?

11 A. Certainly I told you earlier that my political donations  
12 overlapped.

13 Q. If we go back one page to page 73. You received what is



14 called a political contribution on 20th May 2005?

15 A. Yes.

16 Q. When you put your comments and clearly you identified it

17 as a political contribution, from whom did that come?

18 A. I don't recall. I tried to get that information from

19 the bank but I did not obtain it at that time but I know

20 that back then, I probably would have had bills that

21 were mounting up and persons would have assisted me with

22 political contributions, and I believe that was in

23 respect to a political contribution.

24 SIR ROBIN AULD: That is political contribution of 25,000,

25 is it?

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1 A. Correct.

2 MR MILNE: But I am a little at a loss as to how you would

3 know it is a political contribution. It doesn't go into

4 your Paradigm account, it goes into your Belize Bank

5 account?

6 A. Yes.

7 Q. And you have nothing except the payment in?

8 A. Yes.

9 Q. But you are confident that it is a -- you term it

10 a political contribution?

11 A. I am confident because it only would have come from one  
12 or two sources.

13 Q. What were those sources?

14 A. When I say one or two sources, it would either have come  
15 from a loan that I would have drawn down or a political  
16 contribution. I can vaguely recall that back then,  
17 I was doing a lot of social things in Grand Turk like,  
18 for example, having a music festival that I was  
19 planning -- a sort of concert over in Grand Turk.

20 I know I was soliciting donations and funds were paid  
21 out of my personal account for that. So it could have  
22 been a contribution that came in in that way.

23 Q. You see on 31st October, some months later, you get  
24 reimbursement for payments to secure entertainers and  
25 light and sound and stage. Page 73, four lines down,

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1 31st October.

2 A. I do see that.

3 SIR ROBIN AULD: Not on my page 73.

4 A. It was a very expensive --

5 SIR ROBIN AULD: Let me find it first. I end up on  
6 19th October on my page 73.

7 MR MILNE: Sir, the schedule that you are looking at now

8 should say "annotated by witness" in the top left-hand

9 corner.

10 SIR ROBIN AULD: Yes.

11 MR MILNE: And I was looking previously at page 73,

12 20th May 2005.

13 SIR ROBIN AULD: That I have found.

14 MR MILNE: The following entries, going down the date list,

15 should be 7th June, 12th August --

16 SIR ROBIN AULD: I am sorry, we have jumped a year, I have

17 it now.

18 MR MILNE: Then 31st October 2005.

19 SIR ROBIN AULD: I have it. I am sorry.

20 MR MILNE: That on the right-hand side is described as

21 reimbursement.

22 So political contribution, round sum, suggesting it

23 is an individual, a one-off payment, not a collection of

24 smaller payments, which would presumably come to a less

25 round figure.

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1 A. Yes.

2 Q. But no name.

3 A. No name. This could have very conceivably come from

4 the same gentleman, Jak Civre, because he has been

5 an individual who has assisted me with my political  
6 career. So I believe I would have gotten that payment  
7 from him around that time to assist with the concert.

8 SIR ROBIN AULD: This is a figure of 31,200 --

9 A. No, that would have been 25,000.

10 MR MILNE: Finally, going over to page 75 at the top,  
11 the second entry from the top was 1st June 2007. Again,  
12 cash from political contribution, it says. \$10,000,  
13 1st June 2007.

14 Can you enlighten us as to who that would have been?

15 A. No. I don't recall that. But the deposit slip had it  
16 notated as cash, but I don't know who it came from.

17 Q. Mr Deputy Premier, can I say that with the time that we  
18 have had available, having gone through the entries that  
19 are here, a number of references are made to bank  
20 transfers. I accept the bank subtotal argument that has  
21 been put forward. Clearly those figures do not apply.  
22 They can be struck out.

23 But there are a number of claimed transfers between  
24 accounts where we cannot find the outgoing figure.

25 I am not going to trouble you standing here with

1 each and every one of those or we would be here the rest

2 of the week, but if further information can be provided,  
3 then the Commission would be obliged for that.

4 A. Certainly. I have some of the information here that  
5 I can give you.

6 SIR ROBIN AULD: You brought some this morning, have you?

7 You have brought some more this morning?

8 A. I have brought some more this morning.

9 MR MILNE: I think there are two statements that have been  
10 handed to me, literally two pages, but these fill in  
11 gaps that were previously missing.

12 Can I just take one element of this, though. Again,  
13 I hope to do so relatively shortly because it is a topic  
14 that we have touched upon. But I would seek just  
15 a little further clarification.

16 You told us that a very large loan was taken out --  
17 it was referred to as the Palm Ridge loan?

18 A. Yes.

19 Q. You were a guarantor, so was Mr Charles. The loan in  
20 total had a potential availability of, I think, up to  
21 \$19 million. One element of that loan which we have  
22 looked at already was \$1.5 million for the purposes of  
23 paying existing debt?

24 A. Yes.

25 Q. I can take you line by line but perhaps you would accept

1 from me that over the period, September, October,  
2 November, December 2007, and a final payment in  
3 January 2008, the entries that you have put in here  
4 total over \$1 million.

5 A. Yes.

6 Q. \$1,114,443.42?

7 A. How much?

8 Q. 1,114,000 in round figures. Are we to understand it  
9 that all of those are repayments to you in respect of  
10 money that you had previously laid out?

11 A. No.

12 Q. How much of it had you previously laid out?

13 A. If you are talking about the payment, I think 353 --

14 SIR ROBIN AULD: Which page are you looking at, please?

15 A. I am looking at page 75. I think you are looking at  
16 353, 300,000, then another 300,000 and 116. These are  
17 in fact proceeds coming to me from that loan, which I am  
18 indebted to the company for.

19 MR MILNE: So you have essentially over \$1 million worth of  
20 loan from the company?

21 A. Correct.

22 Q. You, of course, are a guarantor?

23 A. Yes.

24 Q. Of that loan.

25 So none of this, the 1.1 million, 1.114, none of

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1 that is reimbursement to you, it is simply money that

2 you have --

3 A. Borrowed, yes.

4 (12.30 pm)

5 Q. So although it is a very big loan indeed for

6 the purposes of development, big developments need big

7 money.

8 A. Yes.

9 Q. You have drawn 1 million off for other purposes.

10 A. Correct.

11 Q. Doesn't that rather undermine the purpose of the loan?

12 A. No, it does not. Because the purpose of the loan as it

13 was run down, it was clearly indicated that I would get

14 access to that amount on the basis that sometime in

15 the future, within the three-year period, we would work

16 out the arrangement for the repayment.

17 SIR ROBIN AULD: I don't understand. You will have to --

18 why were you drawing at all from it, I think is the

19 question?

20 A. The reason why I drew from it was because I had entered

21 into the arrangement to draw that amount. And I drew

22 that amount to make personal investments of which, at  
23 the end of the day, personal real estate investments  
24 which at the end of the day I would turn over and be  
25 able to make a capital gain on it and repay it.

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1 Q. Taking if you would, please, the schedules we have been  
2 looking at. Go back a few pages to the credit cards.  
3 We have rather skimmed over these but I would like to  
4 deal briefly with a couple of the payments. There are  
5 comments put into our pages 71 and 72, these being your  
6 credit card repayments, only a portion of these of  
7 explanations being given, where there was no previous  
8 explanation. But if I can just pick up on one or two of  
9 the payments that we identify here.

10 On 18th October 2007, which we see four lines from  
11 the bottom of the schedule on page 71, some \$20,000 was  
12 paid towards your Horizon credit card and you have  
13 described that as PNP contribution, cheque 513. Is that  
14 right?

15 A. That is correct.

16 Q. So the Progressive National Party bank account, this is  
17 the First Caribbean International Bank account, the main  
18 party bank account, paid off 20,000 of your credit card



19 that month?

20 A. Yes.

21 Q. Similarly, over the page on 17th June 2008, again a few

22 lines up from the bottom, \$20,000 paid off again by

23 the PNP.

24 A. Yes.

25 Q. So that is \$40,000 of credit card payments paid off,

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1 just a lump sum, not reimbursement for a specific amount

2 you have laid out?

3 A. Correct.

4 Q. But just a round figure?

5 A. And I can explain. As I indicated to you before,

6 I undertake various events within Grand Turk. This

7 \$20,000 would have related to Christmas parties,

8 Christmas gifts that I would have purchased for

9 the community in Grand Turk and that amount would have

10 probably been made available to me from the party to do,

11 undertake shopping for those gifts. It would have

12 included air travel, it would have included toys and

13 other stuff for -- in excess of 600 children.

14 The other payment would have been in respect of --

15 would have been around June, that would have resulted

16 from undertakings that would have taken for Mother's Day  
17 gifts for persons in the community. I have done that  
18 every year, and every year, if the party has funds to  
19 assist, or if I am able to solicit donations to assist,  
20 then I would be reimbursed on my credit card to  
21 undertake those undertakings.

22 Q. If we take the first bundle, the first big bundle, to  
23 page 73.

24 Do you have that?

25 In fact page 75.

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1 A. Yes.

2 Q. Now page 75, we see the payment on 18th October 2007

3 there, which is credited one line up from the bottom?

4 SIR ROBIN AULD: Can we just identify the document, please?

5 MR MILNE: This is a credit card statement, sir. This is --

6 this particular credit card is -- it is certainly

7 the Deputy Premier's.

8 SIR ROBIN AULD: Card member Floyd Hall.

9 MR MILNE: Yes. It says card member Floyd Hall. We see

10 the credit going through on 18th October for

11 the previous month.

12 A. Yes.

13 Q. If we look back to the previous month, you say this is  
14 party-related activity, but the big ticket items on  
15 there don't appear to be buying toys for children's  
16 parties, do they?

17 A. Which date?

18 Q. I am looking at page 73, which is the month leading up  
19 to it?

20 A. If you are looking for a direct correlation with that,  
21 sir, you probably would not find it. Some of the  
22 payments would have -- as I indicated is commingled.  
23 I can show you -- as I showed you from a sample of  
24 the payments that I made out of my checking account for  
25 a very short period of time, I have had in excess of

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1 \$100,000 being paid in respect to direct party-related  
2 activity.

3 Q. But why would they be paying your credit card? Why not  
4 give you a cheque simply against the expenditure  
5 incurred? I mean, you have been using the credit card  
6 for shopping in New York, Louis Vuitton, Gucci. If it  
7 is your money, sir, that is not a problem, but you go on  
8 to spend in Las Vegas, Ballys Paris, Las Vegas. Unless  
9 you are handing out Louis Vuitton and Gucci presents to

10 the children in the streets, I suggest --

11 MR SMITH: I do not think that is a fair question because

12 I don't think at any time my client testified that the

13 purchases were made from credit cards. He never

14 testified to that and if you are to make that inference,

15 it is unfair --

16 SIR ROBIN AULD: Would you address me, please.

17 MR SMITH: He basically said the funds were directed to his

18 credit card. He had expended those funds previously,

19 but he never indicated to Mr Milne that those funds were

20 expended from his credit card, but he directed the PNP

21 to pay to his credit card.

22 SIR ROBIN AULD: I had assumed, perhaps wrongly, that

23 Mr Milne was referring to debits on his credit card

24 showing those sort of expenses. What is the position,

25 Mr Milne?

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1 MR MILNE: There don't appear to be any debits on the credit

2 cards, certainly not totalling 20,000 which would be in

3 the sort of area that the Deputy Premier has been

4 describing. I think he said buying presents before

5 Christmas for the purposes of constituents presumably.

6 SIR ROBIN AULD: But what about Las Vegas, and that is

7 the sort of thing Mr Smith is objecting to. Are there  
8 entries in his credit card statements showing payments  
9 to establishments in Las Vegas?  
10 MR MILNE: Yes, sir, at page 73.  
11 SIR ROBIN AULD: Miami and that sort of thing.  
12 MR MILNE: They appear to be shoe shops, Louis Vuitton which  
13 sells luggage --  
14 SIR ROBIN AULD: Where are you looking?  
15 MR MILNE: I am looking at page 73.  
16 MR SMITH: I do not think you understand the point I am  
17 making. If my client's testimony was he used those  
18 credit cards to purchase Christmas gifts, then  
19 Mr Milne's point can be taken because then Mr Milne  
20 would be looking to the credit card to see those gifts.  
21 That is not his testimony. Mr Milne is making a mockery  
22 and almost ridiculing my client, because he never said  
23 that he used the credit cards to make these payments.  
24 He said that he made these purchases using cash or other  
25 means. He indicated to Mr Milne that he provided him

1 with a list as to how this money was spent. He gave  
2 that this morning and in fact all that was done in this  
3 situation is that instead of giving him the money and he

4 placed it in his account for reimbursement, he directed  
5 that the PNP -- credit his credit card.

6 SIR ROBIN AULD: I am not sure that is necessarily what he  
7 said. As I understood it, it is all a great muddle.

8 Cash is given to him, cash is used for meeting credit  
9 card monthly accounts or otherwise and he spends from  
10 those accounts in various ways, some for his own  
11 purposes, some for political purposes. I think that is  
12 the general burden of what you are saying, isn't it,  
13 Mr Floyd Hall?

14 A. I think you sum it up well together with my attorney.

15 My attorney is correct in his statements as well. That  
16 what I wanted to make categorically clear: I think  
17 Mr Milne is deliberately mischaracterising what I am  
18 saying to him.

19 I told him over a period of time expenditures are  
20 made by me, long before I am able to get funds back from  
21 the party in respect of political activity. And indeed  
22 I can illustrate to him, and I have, where I have made  
23 payments on behalf of the party when I have not been  
24 reimbursed. I have situations of that throughout my  
25 career as a politician.

1 Now, it is not clear, I agree, it is not clear and  
2 you cannot draw a link that if \$20,000 went into my  
3 credit card, you would see a list of payments related  
4 to --

5 SIR ROBIN AULD: I don't think Mr Milne is attempting to  
6 show that. It would be a task for a mathematician of  
7 some high order. What I think he is trying to do, and  
8 he will correct me if I am wrong, is he is saying: here  
9 is your credit card account, you clearly use it for all  
10 sorts of personal things, Las Vegas and this, that and  
11 the other, and you also pay into it from time to time  
12 monies which are clearly destined for political  
13 purposes. You say to that: well, there was  
14 a commingling, that was the word you used.

15 A. Yes.

16 SIR ROBIN AULD: I think Mr Milne is entitled to test that.  
17 You are after all -- are you a chartered accountant or  
18 a certified --

19 A. I am a certified public accountant.

20 SIR ROBIN AULD: I think he is entitled to test why you, in  
21 the position you held and the profession you hold, were  
22 commingling in this sort of way. That is all he is  
23 doing.

24 A. But I think he is doing it with the suggestion that  
25 something very inappropriate would have taken place here

1 as a result of my doing that, and I am saying to you,  
2 sir, clearly people know me in this country, they know  
3 the extent that I have assisted people in my political  
4 endeavours.

5 I have done so prior to my political life and I have  
6 certainly done so throughout the time I have been in  
7 politics, far and beyond whatever means the party could  
8 have assisted me in terms of reimbursement, and I think  
9 I need to make that categorically clear.

10 SIR ROBIN AULD: I think you have made it clear but I think

11 Mr Milne is entitled to test it. Carry on, Mr Milne.

12 MR MILNE: Mr Deputy Premier, with respect, you are  
13 a professional man, trained in accountancy. If your web  
14 CV is accurate, as far as the government is concerned,  
15 you have experience working in the banking sector,  
16 working in accountancy. You understand the accountant's  
17 need for precision. You understand the idea of  
18 balancing the books. You understand the idea of  
19 accountability within accounts.

20 You keep a record, you keep a ledger, a detailed  
21 computerised ledger for  
22 the First Caribbean International Bank account run by  
23 the PNP.



24 It is perfectly possible to keep a record of  
25 the payments out made, of the payments in, to reimburse.

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1 You at least some of the time have control of the  
2 chequebooks.

3 But instead we see money being handed out in great  
4 swathes, I would suggest, \$20,000, \$30,000, paid into  
5 a credit card account to settle unrelated bills on  
6 the basis no more -- nothing more than trust that you  
7 must have spent that money elsewhere at some time. No  
8 reconciliation at all on here. Why is that?

9 A. I agree, sir. As I indicated, and you keep harping on  
10 this situation, there is no requirement under  
11 the Turks & Caicos laws to have it documented in  
12 the fashion in which you have just described.

13 Also, there is no requirement that I know of in  
14 the UK prior to about ten years ago to do that as well.

15 This is a situation that I had ran in a manner as  
16 a day-to-day sort of situation where I constantly had  
17 commingled party funds with my personal funds. I think  
18 it is symptomatic throughout the political process here.

19 If you want to ask me the question as to whether or  
20 not something ought to be done about it, whether it

21 ought to be regulated, I would agree with you, yes. But  
22 up to this time as we are speaking about the situation,  
23 there was no requirement for me to do that.  
24 Q. But whether or not the law required it, it lay easily  
25 within your capabilities as a Treasurer, as

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1 an accountant to keep a record and thereby it would  
2 enable you to present a true record to the party, to  
3 your electors as to how their money had been spent?  
4 A. Sir, I stated, as I stated in my previous evidence,  
5 the party never required that. It has been the practice  
6 of the parties and I believe both parties to give  
7 campaign contributions to their candidates. This is  
8 nothing different from what obtains in most of the  
9 Caribbean countries.

10 Now, if it is of this Commission that this process  
11 ought to be improved, I strongly agree with you. Let us  
12 improve it. But to try to suggest that something  
13 inappropriate may have taken place as a result of that,  
14 I think is unfounded.

15 (12.45 pm)

16 SIR ROBIN AULD: Let's put aside what the law required in  
17 terms of ordinance and so on. When did you qualify as

18 a certified public accountant?

19 A. I qualified in 1996.

20 SIR ROBIN AULD: Where did you qualify?

21 A. Rutgers University, New Jersey.

22 SIR ROBIN AULD: That is a very good university.

23 A. Yes.

24 SIR ROBIN AULD: Do you belong then as a result of your

25 qualification to some professional body of certified

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1 public accountants?

2 A. I never took up full membership. Only if I practice

3 public accounting. I never took up full membership.

4 SIR ROBIN AULD: But you are a qualified certified

5 accountant, are you?

6 A. Yes, I am.

7 SIR ROBIN AULD: You passed your exams?

8 A. Yes, I did.

9 SIR ROBIN AULD: Is there no body of association to which

10 certified public accountants can belong?

11 A. Yes, there is. In the Turks & Caicos?

12 SIR ROBIN AULD: Yes.

13 A. No, there is not --

14 SIR ROBIN AULD: There is an international body?

15 A. Yes, there is.

16 SIR ROBIN AULD: Accounting is above all things

17 an international discipline. What is that body called?

18 A. It is not an accounting association -- you have NASBA

19 and you also have --

20 SIR ROBIN AULD: I don't know these abbreviations.

21 A. The National Association of Black Accountants.

22 SIR ROBIN AULD: I am talking about public accountants.

23 A. No, I don't know of that professional --

24 SIR ROBIN AULD: There must be some professional association

25 to which you, as a certified public accountant, belong.

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1 After all, who certified you?

2 A. I was certified by the state board of Illinois. It is

3 the state board of Illinois certified public accountants

4 that would be the certification.

5 SIR ROBIN AULD: Do they have regulations and rules for

6 the conduct of their members?

7 A. Yes, they do.

8 SIR ROBIN AULD: But you --

9 A. But you have to subscribe to them.

10 SIR ROBIN AULD: You have not subscribed?

11 A. No, I have not.

12 SIR ROBIN AULD: If you had subscribed, would they have  
13 helped you on the importance of keeping separate  
14 accounts, those personal, keeping them personal and  
15 those professional, keeping them professional?

16 A. Yes, and that would be the situation. Yes. I agree.

17 SIR ROBIN AULD: This is a canon of accounting the world  
18 over that you keep your accounts distinct when they  
19 relate to different interests?

20 A. I agree that it is the case.

21 SIR ROBIN AULD: But it is not the law here, you say?

22 A. It is not the law here and I didn't feel that I was  
23 under a positive obligation to do that because I used my  
24 personal funds as well as funds that came to me from  
25 the party to assist with my personal political

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1 endeavours.

2 SIR ROBIN AULD: Yes, we have your explanation on it. Just  
3 remind me why didn't you subscribe to the accounting  
4 body?

5 A. Because I didn't practice in the US and I never took up  
6 public accounting in the Turks & Caicos.

7 SIR ROBIN AULD: But it is a body to which you could belong  
8 in the Turks & Caicos? Do they have an association?

9 A. They have an inactive association.

10 SIR ROBIN AULD: Which is, I suppose, affiliated to the

11 wider international associations?

12 A. No, it is a local organisation.

13 SIR ROBIN AULD: So you get no help from your professional

14 involvement at all in this you say?

15 A. No.

16 SIR ROBIN AULD: Thank you.

17 A. But also I think, as I indicated, the funds that

18 the party makes available to the candidate are treated

19 as personal funds. So the fact that they were

20 commingled with my personal income, it was no

21 requirement to do so and I saw them as personal funds.

22 SIR ROBIN AULD: Yes, sir, I think I understand your

23 evidence on that.

24 MR MILNE: That of course is the

25 First Caribbean International Bank, which is the main

1 party account. But we have also behind the next divider

2 in that file the Belize Bank account.

3 SIR ROBIN AULD: File 1?

4 MR MILNE: It is section 2 in this file. I am going to take

5 one example, page 38 in that section.

6        Within this account, of course, there is no ledger  
7        which records where the money went.

8        SIR ROBIN AULD: What is this account?

9        MR MILNE: The PNP Belize Bank account. The sheet we are  
10       looking at reflects the period for January 2007. I am  
11       just going to pick two examples, sir.

12       The third entry down: BBL clearing \$25,000; and  
13       the fifth entry down: BBL clearing cheque \$30,000.

14       I can take you to the page should you wish but would  
15       you accept from me that sums of precisely that amount  
16       appear in your account or your accounts around this  
17       time? So these would appear to be, at least possibly,  
18       payments from the Belize Bank account to you?

19       A. Which date is that?

20       Q. These are in January of 2007.

21       A. Yes.

22       Q. No doubt, we will bear mind, as we have throughout this,  
23       this is shortly before the election, which might explain  
24       perhaps the higher than usual level of activity on the  
25       account in these months.

1        Do you accept -- and I can take you to the pages if  
2        you wish -- but there are a series of payments from this

3 account, the Belize Bank account, which are, on the face

4 of it, likely to be payments to you?

5 A. I accept that.

6 Q. But you didn't log those or keep a register or a record

7 of those payments out?

8 A. I believe -- no, I did not. I indicated in my evidence

9 that I did not because it was impossible to reconcile.

10 Q. Let's draw a distinction and I think it is a distinction

11 to be drawn. The evidence, as I understood you to say

12 last week, was that there were payments being made out

13 of this account by others for which you did not receive

14 full account?

15 A. Yes.

16 Q. Did not receive receipts, you did not receive basically

17 an explanation.

18 A. Correct.

19 Q. Which rendered it difficult if not impossible to keep

20 a full ledger. But of course any payments out for

21 yourself you could have kept a record of those, you knew

22 where those were going?

23 A. I think a record was kept of this. I made a record of

24 this.

25 Q. Where is that record?



1 A. It is in that same sheet. You probably may have that  
2 list of the 303,000?

3 MR SMITH: You have those because you are about to refer to  
4 where they are from.

5 A. Yes, that same total and you would see on that same day.

6 SIR ROBIN AULD: Will you address me, please.

7 MR SMITH: He has those -- Mr Milne was about to refer to  
8 bring him to the pages --

9 SIR ROBIN AULD: These are pages brought today, are they?

10 MR SMITH: No.

11 SIR ROBIN AULD: What is the problem?

12 MR SMITH: Because the implication Mr Milne is giving is  
13 that there is something improper that Mr Hall has done.

14 SIR ROBIN AULD: Mr Milne is simply trying to get  
15 information. Do not be so sensitive to implication.

16 MR SMITH: I have to be, because even in his questions, he  
17 indicates that he could draw Mr Hall to a particular  
18 page.

19 SIR ROBIN AULD: He is going to.

20 MR SMITH: So he knows he turned it over. He knows that he  
21 could pay anything and turn it over --

22 SIR ROBIN AULD: Maybe he is. Maybe we are looking at them  
23 again.

24 MR MILNE: No, sir --

25 A. But Mr Milne, if you were to look at -- I think you have

1 to -- here it is. The register -- the Quickzoom report  
2 that you referred to.

3 SIR ROBIN AULD: Will somebody tell me what we are looking  
4 at, please. What are we looking at, Mr Milne, which  
5 Mr Smith says you already have?

6 MR MILNE: The Quickzoom report follows on from  
7 the First Caribbean Bank account.

8 SIR ROBIN AULD: Page?

9 MR MILNE: The reason I don't have this turned up, sir, is  
10 because the evidence last week was that the Quickzoom  
11 report related purely to the First Caribbean  
12 International.

13 SIR ROBIN AULD: Mr Smith seems to think that you are  
14 referring to this as if you are going to take  
15 the Honourable Floyd Hall by surprise. Well, you are  
16 clearly not but we just want to find the document.

17 MR MILNE: Sir, let me draw a distinction and if we are at  
18 odds with one another, you can put me right.

19 The Quickzoom report you are looking at page 53 in  
20 the first section, yes?

21 A. Yes.

22 Q. That is derived from the ledger for

23 the First Caribbean International Bank?

24 A. Right, correct.

25 Q. Therefore payments out of the Belize Bank account, which

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1 I was asking you about, would not appear on that?

2 A. Yes, but I was aware of the fact that I had gotten these

3 monies out of the Belize Bank account, because as

4 I said, if I had gotten it, I must know about it. So in

5 that whole ledger -- that is really the ledger because

6 the ledger will -- the Belize Bank ledger -- not the

7 Belize Bank ledger,

8 the First Caribbean International Bank ledger would not

9 reflect this, but this would have come through

10 the balance sheet by way of a suspense entry crediting

11 my account on the Quickzoom report, and you would see

12 two payments that went there, the 20,000 and the 30,000,

13 dated 24/1/07.

14 MR MILNE: Are you saying the money would have gone out of

15 the Belize Bank account into the First Caribbean Bank

16 account?

17 A. No. What I am saying to you, that it would have gone --

18 because of my knowledge of myself receiving those funds,

19 it would have gone from the Belize Bank account, but in

20 order for me to have a proper record of this coming into  
21 my account, I would have had to treat it as a suspense  
22 item and balance sheet of the party showing the credit  
23 to -- the payment out to me on the expense report.

24 This Quickzoom report is an expense item, you have  
25 to appreciate. It won't necessarily have all

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1 the information in it from  
2 the First Caribbean International Bank ledger. It can  
3 have other transactions from other balance sheet  
4 accounts or indeed income statement accounts coming to  
5 it.

6 So I don't want you to be of the opinion that this  
7 exclusively deals with  
8 the First Caribbean International Bank account. In most  
9 cases, I would say 99 per cent of the cases, it does.

10 MR MILNE: That was the understanding that we had of your  
11 evidence, that it dealt exclusively with that. You now  
12 say that we should look at it in a wider context and  
13 there is more information.

14 A. I am saying that the first -- the ledger deals  
15 exclusively with the First Caribbean International Bank  
16 account.

17 SIR ROBIN AULD: That I thought we knew.  
18 A. The ledger deals exclusively, but the payments or  
19 the expenditures that you may see in the income  
20 statement -- because this is an income statement  
21 account. This is not a balance sheet account. It  
22 doesn't necessarily reflect only First Caribbean Banking  
23 activity. What I am saying to you, sir, is that I could  
24 not reconcile properly the Belize Bank account simply  
25 because I didn't have all the information and every time

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1 I tried to do it, it presented a serious problem for me  
2 because I didn't have the information in which to do  
3 that.  
4 MR MILNE: But for the payments out that you were aware of,  
5 even if that was partial, even if it was limited, did  
6 you keep a record? Do you make any sort of attempt  
7 to --  
8 A. I made an attempt but it is very loose and it is  
9 something that I don't think would serve any purpose  
10 right now because -- we can't make much out of it.  
11 Q. From the Belize Bank account also, if we turn towards  
12 the back, we touched upon this last week. It is one  
13 extra item I would draw to your attention.

14 We find this at page 66. You will recall,

15 Deputy Premier, we touched upon payments to

16 Youlanda Scott.

17 There was also a payment on page 66, we see, to

18 Caretti Turner Associates(?) of \$100,000.

19 Do you recognise that?

20 A. I recognise it because I put it in the bundle, but in

21 terms of me recognising it from being a party to

22 effecting the transfer, no.

23 Up to now I don't even know that name.

24 Q. The Commission does know the name because it has cropped

25 up in a different context. They were the people doing

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1 the interior design on the Premier's house.

2 A. I would have no way of knowing that.

3 Q. You would presumably have no part in paying out PNP

4 funds to the tune of \$100,000 for that?

5 A. No, I did not.

6 Q. Just going back two pages to page 64: at the top of that

7 page we see a debit sheet, debit slip and it is \$40,000.

8 The top line of that:

9 "Debited to Prestigious Properties Limited".

10 Again, are you aware of why Prestigious Properties

11 would be taking \$40,000 from the PNP?

12 A. No, I am not aware.

13 MR MILNE: Sir, I am turning to a new topic.

14 SIR ROBIN AULD: Can you give me the reference to the

15 previous page again, please?

16 MR MILNE: Yes. Page 66.

17 SIR ROBIN AULD: Just before we look at some housekeeping

18 and break, you said that you qualified at

19 Rutgers University in 1996. Was that in the school of

20 accounting there? What was the school in which you

21 qualified?

22 A. Okay, let me clarify completely. I graduated from

23 Rutgers University in 1994.

24 SIR ROBIN AULD: What was your degree?

25 A. With a Bachelors degree in business administration.

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1 I sat the CPA examinations in 1994 and fully passed them

2 in 1995.

3 SIR ROBIN AULD: Did what in 1995?

4 A. Certified public accounting examination. I got my CPA

5 certification from the state of Illinois.

6 SIR ROBIN AULD: When was that?

7 A. I believe it was 1996.

8 SIR ROBIN AULD: Illinois what?

9 A. Illinois state board of certified public accountants.

10 SIR ROBIN AULD: You say you chose not to take up membership

11 of any association of certified public accountants?

12 A. No, because I did not get involved with public

13 accounting.

14 SIR ROBIN AULD: Presumably such a body, if you were

15 a member of it, has a continuing system of education for

16 its professionals.

17 A. Yes, they got what you call --

18 SIR ROBIN AULD: Bulletins, regulations and guidelines and

19 so on.

20 A. -- CPE, Continuing Professional Education.

21 You have to take that if you sign up as a member.

22 SIR ROBIN AULD: Mr Floyd Hall, I had hoped not to see you

23 still sitting there by lunchtime today, but it looks as

24 if you are still there and may be there for a little

25 longer. How much do you think you will need to be,

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1 Mr Milne?

2 MR MILNE: I hope no more than half an hour with me, sir.

3 SIR ROBIN AULD: Then, of course, Mr Smith may have some

4 questions.



5 MR FITZGERALD: Sir, I have a few questions.

6 SIR ROBIN AULD: Yes.

7 The next proposed witness is the Honourable

8 Jeffrey Hall. Then I think the Honourable Lillian Boyce

9 was marked not before 2.00.

10 MR MILNE: I think realistically we will not get beyond

11 the Honourable Jeffrey Hall this afternoon. I will say

12 that straightaway rather than keeping anybody hanging

13 around unnecessarily.

14 SIR ROBIN AULD: With my apologies to the Honourable

15 Lillian Boyce, we will take her out of the not before

16 list today and I hope to put her in the list tomorrow

17 morning. I am so sorry that we are running behind but

18 you see the way it is going. 2 o'clock.

19 (1.00 pm)

20 (The short adjournment)

21 (2.00 pm)

22 MR MILNE: May it please you, sir. Mr Deputy Premier, when

23 you gave evidence a few days ago you were asked

24 a question on behalf of the Premier. At the time it was

25 being asked by Mr Gomez, who was with us at that stage.

1 You were asked whether in relation to the land deal

2 which led to your brother receiving \$1 million, you had

3 received anything from that deal. Do you recall that?

4 A. Yes.

5 Q. You said you thought you had received something and you

6 commented that you had been generous to your brother in

7 the past and anything you received would have come from

8 Stanfield Greene.

9 A. Yes.

10 Q. Can you tell us now how much you received?

11 A. I don't believe that I received anything more than about

12 25,000 maybe 50,000 at most from that.

13 SIR ROBIN AULD: From?

14 A. From that arrangement.

15 MR MILNE: So only \$25,000 to \$50,000.

16 A. Yes.

17 Q. Why would you have been given \$25,000 to \$50,000?

18 A. I don't think it is a situation whereby he had come into

19 the money and then he decided to give me \$25,000 or

20 \$50,000. I think it would be a situation whereby over

21 a period of time, if I needed assistance with something,

22 he would have helped. But it was not specifically

23 related to the fact that he had gotten these monies and

24 that I knew of it.

25 Q. Do you approve of Crown land being sold off undercover

1 to foreign investors?

2 A. When you use the term "undercover", could you clarify

3 what you mean by that?

4 Q. Yes, somebody putting together a company, pretending

5 that Crown land is going to Belongers, and in fact it is

6 going directly through the Belongers into the hands of

7 overseas developers; is that a proper application of the

8 Crown land policy as far as you know?

9 A. I don't understand your characterisation of it. What

10 I can say is that the government has made Crown land

11 available to all Turks & Caicos Islanders.

12 SIR ROBIN AULD: That is not an answer to the question. You

13 have been as aware as just about everybody else over

14 the last two or three weeks of evidence given about

15 the sort of transaction that Mr Milne has put to you.

16 We have had recently one of the most open examples of it

17 in the evidence of Mr Jeffrey Hall. Now you are asked

18 what you think of that, what your view is of it.

19 A. I still don't know all the details of that transaction.

20 I hear talk about it. I never read Honourable

21 Jeffrey Hall's evidence, but what I can say, all right,

22 Crown land is made available to Turks & Caicos Islanders

23 under specific conditions.

24 As has obtained in the Turks & Caicos Islands over

25 the years, you have had developers coming to

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1 the Turks & Caicos, striking an arrangement with  
2 government for Crown land, putting a deal together and  
3 getting substantial payment for it.

4 Our government took the position that any  
5 transactions involving Crown land in the Turks & Caicos  
6 Islands as a policy initiative ought to have Turks &  
7 Caicos Islanders participating and benefiting from any  
8 considerable appreciation in the value as opposed to  
9 foreigners coming here and benefiting from it.

10 The situation as has been described that my brother  
11 has been associated with, the Honourable Jeffrey Hall,  
12 is a situation which I think would have been supported  
13 by our government policy. Under that arrangement it  
14 would state that Crown land would have been made  
15 available to the individuals at an specific price. That  
16 is the custom. They can get freehold title for that  
17 land at a particular price. Now in the absence of  
18 getting a freehold title, they could pay a lease payment  
19 on an annual basis for that land.

20 MR MILNE: Can I stop you there a moment, Deputy Premier,  
21 because that is not the issue here. Leasehold payments

22 are not in issue. Let me outline the scenario in case  
23 you have managed to miss some elements of it.  
24 What has happened here is that four people have put  
25 their heads together, they have formed a company called

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1 Urban Development Limited, and that company has signed  
2 what purports to be a development agreement with  
3 the Turks & Caicos Islands government.

4 Urban Development, it turns out, doesn't have a bank  
5 account. It doesn't own so much as a shovel, so it was  
6 not going to develop anything.

7 Urban Development having signed that agreement,  
8 the money is put forward not by Urban Development, not  
9 by the four individuals but by a Canadian developer who  
10 channelled that money, we would submit to you, through  
11 Mr Melbourne Wilson. That money has paid for  
12 the government and then it has paid \$1 million to each  
13 of the four participants who walked away with their  
14 money. Is that an appropriate application of Crown land  
15 policy, profiteering at the expense of the government?

16 A. It is no different than what foreigners benefited from  
17 with Crown land prior to our government coming to  
18 office.

19 SIR ROBIN AULD: Who did?  
20 A. Foreigners, expatriates who come to the Turks & Caicos  
21 Islands and got involved with Club Med, I believe was  
22 under a similar arrangement. Some of the -- I believe  
23 Parrot Cay was a similar arrangement, so it is no  
24 different from one-off paying. The only difference --  
25 SIR ROBIN AULD: Maybe that was bad too. You are just being

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1 asked your view about the system that has just been  
2 described to you by Mr Milne. Flipping, I think it is  
3 called, sometimes fronting. We all know what it means.  
4 A. No. What I am saying to you is that as it relates to  
5 our Crown land policy, nothing would have been wrong  
6 with that arrangement, provided the government got its  
7 market rate for the leasehold or the freehold interest  
8 in that property. If the freehold interest in that  
9 property was \$750,000, if that were the case and I am  
10 speaking hypothetically here now, if the government was  
11 paid that, then the government's interest would have  
12 been satisfied. Now if the participants in it ended up  
13 getting a premium on top of that, then it is to their  
14 gain, that they ended up with a capital gain.  
15 MR MILNE: So there is nothing wrong with it?

16 A. There was nothing wrong with it as it relates to our  
17 government policy at the time.  
18 Q. You would be happy to lend your name to it?  
19 A. That is the policy that obtained.  
20 Q. So you see nothing wrong in the idea of people fronting,  
21 signing a document which says that they will return --  
22 MR SMITH: I think he answered that.  
23 MR MILNE: I have not finished yet.  
24 You see nothing wrong with people fronting for this,  
25 signing a document that says that they will return any

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1 discount to the government and then failing to pay  
2 the discount?  
3 A. You put -- that is a different question.  
4 Q. It is a different question. I am asking you to --  
5 A. That is a different question. Now, if the benefit in  
6 government policy clearly says that at the end of the  
7 day if a discount was awarded and the land was sold,  
8 then at the end of the day if it was sold to foreign  
9 hands or what have you, then the discount would  
10 otherwise be payable unless they had specific exemption  
11 to that because the economic situation could change from  
12 time to time and government policy can change and

13 therefore you can have some exceptions to the rules.

14 But as it relates to government policy, the matter

15 that you described beforehand was nothing wrong with

16 that.

17 MR MILNE: What stops the government from simply selling

18 the land direct to foreigners for the best value they

19 can get?

20 A. There is nothing that stops the government from doing

21 that. Also, I put in here the same situation that

22 I stated to you the last time I gave evidence. There

23 ought to be nothing wrong either with government putting

24 up Crown land as collateral and going to a bank and

25 getting a loan secured by government land. In that way

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1 the asset stays with the government and government could

2 further benefit from whatever they are able to leverage

3 that property for. But under the borrowing

4 guidelines -- and it is borrowing and not borrowing

5 guidelines -- under the borrowing guidelines of the

6 Turks & Caicos Islands, the UK prohibits that and

7 I think that would be a far better utilisation of

8 government Crown land than government selling it to

9 a foreigner or anybody else. It would always stay with



10 government and government can then benefit from being in  
11 a position to leverage it.

12 Q. Did you know that your brother had flipped Crown land in  
13 order to make \$1 million?

14 A. I don't -- the situation is this: my brother was  
15 involved with a party to the transaction with  
16 Urban Development as you are now stating. If at the end  
17 of the day he had an arrangement with the group and  
18 the group were able to secure an arrangement with  
19 whomever the developer is, and government gets paid its  
20 required rate, then he is quite at liberty to do so. In  
21 economics they get fair gains for fair exchange.

22 SIR ROBIN AULD: But the trouble here is, that is only one  
23 example we are looking at at the moment, but there may  
24 be many others, it is not at the end of the day  
25 an arrangement was made with the developer for the final

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1 sum, it was at the beginning of the day.

2 MR SMITH: We don't know that.

3 SIR ROBIN AULD: That is the situation that is being put to  
4 you, whether the arrangement is made at the beginning of  
5 the day and Belongers are just interposed briefly, their  
6 feet hardly touching the ground before the developer has

7 paid a much larger sum to them and a portion of it to

8 the government.

9 A. I don't believe --

10 MR SMITH: With respect, I am assuming that is

11 a hypothetical question being put by the Commission.

12 SIR ROBIN AULD: I made plain it was hypothetical.

13 MR SMITH: Very well.

14 A. Also what I want to state to you, Sir Robin, my

15 recollection of the situation is that my brother had

16 the lease to this property a long time before this

17 arrangement was engaged into.

18 So it was not like this was conveniently done on

19 the eve of the gentleman coming to the Turks & Caicos

20 Islands with some money and paying off for the property.

21 My brother had access to that parcel of Crown land in

22 excess of a year before any arrangement was entered

23 into.

24 SIR ROBIN AULD: Mr Floyd Hall, it is probably my fault for

25 turning to the example of your brother's transaction

1 with Northwest Point. I think what Mr Milne is

2 interested in, and so am I, is whether you see anything

3 wrong with the system as it is in the scope for abuse

4 that it gives: apart from your radical suggestion which  
5 may be very good for mortgaging Crown land, do you see  
6 no scope for improvement in the present system so that  
7 it gives everybody who is a Belonger a fair chance and  
8 gives the government the best return for the disposal of  
9 its Crown land?

10 A. That is a very good question and I agree with you fully,  
11 that there is considerable improvement -- scope for  
12 improvement in that respect. I think that Crown land  
13 ought to be more equitably accessible by Turks & Caicos  
14 Islanders, and I think that government ought to put in  
15 a regime to ensure that it maximises on its return. But  
16 also I believe that Turks & Caicos Islanders, that it is  
17 incumbent on government to empower Turks & Caicos  
18 Islanders as well. Where that opportunity presents  
19 itself, I think that government ought to do so.

20 I would draw an example. Turks & Caicos Islanders  
21 ought to be able to get property from the Crown at  
22 an better discount than a foreign entity. I think that  
23 is the only way we can empower our citizens.

24 That is the only resource that we have. But I think  
25 that opportunity ought to be made available to people

1 across the island, whether they be PDMs, PNPs or  
2 whoever. Once they are Turks & Caicos Islanders, they  
3 ought to know that if they have an opportunity for  
4 the utilisation of Crown land and a plausible  
5 opportunity that they can get it.

6 (2.15 pm)

7 SIR ROBIN AULD: Do you see any advantage in the -- I think  
8 it is called the Crown land management manual which was  
9 prepared in the audit in February of 2008 and put to  
10 Cabinet for approval, in April of last year, which goes  
11 to equality in allocation, safeguards as to fair  
12 allocation of Crown land, but which has never been put  
13 into effect?

14 A. I think there is considerable advantage to the new Crown  
15 land policy. I think it ought to be adopted. In my  
16 recollection of the policy, it provides an opportunity  
17 whereby persons or Turks & Caicos Islanders can have  
18 equal access or fair chance of getting Crown land. It  
19 also states that large tracts of Crown land ought to be  
20 dealt with in the House of Parliament as opposed to in  
21 Cabinet. I think that is a good process and it ought to  
22 be adopted.

23 SIR ROBIN AULD: It took the form of a manual, didn't it, in  
24 one of the appendices to the February 2002 report in  
25 the audit of Crown land?

1 A. Yes.

2 SIR ROBIN AULD: Do you know why Cabinet deferred discussion  
3 of it in its meeting in April and doesn't seem to have  
4 gone back to looking at it since?

5 A. My memory doesn't serve me fully on this, but I believe  
6 that it was stated that they wanted wider circulation in  
7 the public about it.

8 SIR ROBIN AULD: Has it been given that?

9 A. I think it has.

10 SIR ROBIN AULD: But you saw good points in that manual  
11 which could address at least some of your concerns?

12 A. Yes.

13 MR MILNE: The whole approach to allocation of Crown land  
14 should be a fair and open one with no advantages to  
15 those who have an inside track, would you agree?

16 A. I do agree.

17 Q. Would you please have a look at these documents. These  
18 are going to be added to the back of your bundle 2, at  
19 the start of page 140. What you have in front of you is  
20 a response to a requirement, a letter that was sent by  
21 the Commission to the Permanent Secretary, the ministry  
22 of natural resources, requiring disclosure of  
23 correspondence in relation to allocation of Crown land.

24 What accompanied that were a series of requests that you  
25 made directly to the minister. We have at page 142 your

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1 letter to Minister Hanchell of 16th April 2007.

2 Do you have that? It is the third page in.

3 A. Yes.

4 Q. "Dear Minister Hanchell, below is the list of companies  
5 with attached shareholders that I would like to have  
6 the following parcels on West Caicos issued to."

7 You give a list, including, of course, companies  
8 that you have an interest in?

9 A. Yes.

10 Q. Palm Ridge Limited, Cedar Palms Limited, Quadrid  
11 Investors, The Amoire Limited, Villa Rejuvia and Paula  
12 Stewart, I think Paula Stewart being an individual's  
13 name, with names of persons attached on the following  
14 pages connected as shareholders to a number of those  
15 companies.

16 Indeed, the covering sheet here is an e-mail that  
17 you sent to the Permanent Secretary:

18 "Further to my phone conversation with you..."

19 This being, it would appear, the date is not clear  
20 from this but I am sure we will be able to establish

21 that:

22 "Further to my phone conversation with you this  
23 afternoon I shall be grateful if you [it is chopped off  
24 slightly] issuing the plots of land in accordance with  
25 the attachments I am sending with this e-mail."

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1 You go on to say:

2 "Kindly be advised that the certificates of  
3 incorporation for the respective companies [something]  
4 your office tomorrow together with the application for  
5 Paula Stewart, and once Minister Hanchell has finished  
6 signing the letters to the various parcels, kindly  
7 notify and arrange to have them collected. The letters  
8 may be addressed to the secretary of the companies."

9 Is this not a case of you going through the back  
10 route and using your position to have allocation of land  
11 to your companies?

12 A. That is possible.

13 Q. Is that not in complete contradiction to what you said  
14 a few minutes ago, that this should not be the way that  
15 it is done?

16 A. I agree, but as I stated to you a while ago, I think  
17 the Crown land policy ought to be enacted to ensure that

18 it is not done in that fashion.

19 Q. You were asked a question a few minutes ago concerning

20 Urban Development and with respect, sir, I am still

21 waiting for an answer for it. Did you know your brother

22 flipped this land?

23 A. I know that he sold his land, yes.

24 Q. Did you know it at the time?

25 A. When?

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1 Q. Did you know in May of 2006 that your brother was

2 arranging to sell a parcel of land which he was

3 obtaining freehold technically straight on to another

4 party to make \$1 million profit?

5 A. No. What I knew at that time was that he was selling

6 his land. I didn't know the amount of money that he was

7 going to make off of it, but what I did know was that he

8 was going to be party to that group that was purchasing

9 the land and it was the intention for them to be

10 involved in a development.

11 Q. Has your brother done development before?

12 A. No.

13 Q. His company doesn't seem to have even had a bank

14 account. So his company doesn't appear to have done any



15 development either. What was it that led you to believe  
16 that he was going to be actively involved in  
17 a development?

18 A. I don't know too much about that transaction, sir. All  
19 I said, it was his parcel of land, he was involved with  
20 the negotiations or the arrangements with that, I don't  
21 know how he was going to go forward with it.

22 Q. Did you know who the other parties were to this  
23 arrangement?

24 A. I did know. I knew that Samuel, Jeffrey and Earlson  
25 were involved with it.

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1 Q. What was your involvement in it?

2 A. I didn't have any involvement in it.

3 Q. If you turn please to the red volume, core bundle 6 --

4 SIR ROBIN AULD: Are you leaving the clip you put to him?

5 MR MILNE: I am leave that for the moment.

6 SIR ROBIN AULD: Do you mind if I just --

7 MR MILNE: Please do.

8 SIR ROBIN AULD: Mr Milne put to you that you were directing

9 the allocation of these pieces of Crown land going by

10 the back route, and you said that is possible.

11 A. Yes.

12 SIR ROBIN AULD: Why were you going by the back route in  
13 directing allocation of a large number of pieces of  
14 Crown land in this way?

15 A. Well I don't know if it is the back route. I was in  
16 government and at the end of the day the applications  
17 came my way and I put it forward in that fashion.

18 SIR ROBIN AULD: But how could the application come your  
19 way?

20 A. These were persons who expressed interest in me.

21 SIR ROBIN AULD: They came to you direct?

22 A. Yes, these were persons I knew of who wanted to have --

23 SIR ROBIN AULD: You didn't put them into the review process  
24 that Mr Hanchell described to us in his evidence?

25 A. If it came by way of a company, they didn't have to go

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1 through that sort of process.

2 SIR ROBIN AULD: So they could come to you and you could  
3 then simply direct what parcel should go to whom?

4 A. Well, as has been indicated, for example, if you wanted  
5 to undertake a particular development in  
6 the Turks & Caicos, let's say it is a vacant parcel of  
7 Crown land that has not been subdivided. You can go and  
8 target a location, say, that you want to do

9 a development on that particular parcel.

10 SIR ROBIN AULD: You want to do a development on that  
11 particular part of it?

12 A. Yes.

13 SIR ROBIN AULD: What happens to the Belongers who may  
14 have interests in having a small piece of land on that  
15 particular part of it?

16 A. If they were involved in the whole company operation,  
17 then they will benefit from the development.

18 SIR ROBIN AULD: If they were not and if they were queuing  
19 up to have their application considered, where do they  
20 fit into this back route that you have acknowledged you  
21 --

22 A. If they were interested in that particular parcel -- but  
23 there was nobody queuing up for that area. As  
24 I indicated, this is not a prime area, it was not  
25 beachfront and it was an opportunity to try to assist.

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1 SIR ROBIN AULD: You see, in this case the applications were  
2 effectively by companies, to whom a number of names of  
3 Belongers had been appended.

4 A. Yes.

5 SIR ROBIN AULD: So the developer was already there.

6 A. No, which developer are you talking about?

7 SIR ROBIN AULD: Were these not developers, Palm Ridge  
8 Limited, Cedar Palms Limited.

9 A. These were companies that would pursue a development.

10 SIR ROBIN AULD: So you were approached by companies formed  
11 for the purpose of pursuing a development.

12 A. Yes, they were not already there.

13 SIR ROBIN AULD: To each of whose names were appended  
14 selected Belongers by you?

15 A. Yes. Or through the other partner.

16 MR MILNE: On the strength of those companies getting  
17 the land allocated, you were then able to borrow  
18 \$1.1 million.

19 A. Yes, I was able to borrow 1.1.

20 Q. Because it was those very same companies whose land  
21 ownership or land holdings was effectively the security,  
22 wasn't it?

23 A. That was security in addition to myself providing  
24 a guarantee and using my other assets.

25 Q. But you got that \$1 million loan, more than -- it is

1 \$19 million loan but you had \$1 million of it, and that  
2 was linked directly to the fact that you had managed to

3 persuade, I would suggest, the ministry of natural  
4 resources to allocate these parcels to these companies.  
5 A. I don't deny that.  
6 Q. So you enriched yourself on the strength of this?  
7 A. I got a loan which I have to service.  
8 Q. It is a very useful loan, \$1 million, isn't it?  
9 A. What are you implying?  
10 Q. I am suggesting, sir, that you have done well out of it?  
11 A. I have to pay the loan back.  
12 Q. No doubt.  
13 A. And my neck is on the line for it as you clearly  
14 indicated from the outset.  
15 Q. You have told us you had no personal interest in  
16 Urban Development Limited.  
17 A. No.  
18 Q. Would you please turn to the red volume. Volume 6,  
19 page 55. Do you have that?  
20 A. Yes.  
21 Q. This is a minute -- the date of it is 24th March 2006.  
22 The subject is Urban Development. It is minute 06/183:  
23 "The Honourable Floyd Hall issued correspondence  
24 received from Mr Clayton Been of TC Invest in reference  
25 to Urban Development which was self-explanatory. Both

1 the Honourable Floyd Hall and the Honourable  
2 Jeffrey Hall declared their interest and left the room."

3 As I understand it, you have said on a number of  
4 occasions that you would only need to leave the room if  
5 it affected you or your spouse.

6 So why would you leave the room on this occasion?

7 A. I began -- after this Urban Development matter came up  
8 to Cabinet and I knew for sure that my brother was  
9 intricately involved with it, I decided that matters  
10 relating to him with this, that I would leave the room  
11 on that basis. But this is not because of any personal  
12 interests. This is because of the fact that he was my  
13 brother and I didn't want to sit in on having matters  
14 discussed about him and being in Cabinet.

15 SIR ROBIN AULD: But I thought that he didn't come within  
16 the code of behaviour.

17 A. No, he did not come within the code, but as I stated,  
18 Sir Robin, I don't want anything to be further read into  
19 this, into thinking that because I declared an interest  
20 on behalf of my brother and left, to mean -- be anything  
21 other than that. I just left on that basis.

22 MR MILNE: When did you discover your brother was intimately  
23 involved in it?

24 A. I don't know. It could have been around this time when  
25 I learned of the fact that Urban Development was formed

1 and he was supposed to be a part of that situation.

2 SIR ROBIN AULD: Could we have the date for this Cabinet  
3 meeting?

4 MR MILNE: That was 24th March 2006.

5 (2.30 pm)

6 SIR ROBIN AULD: By this time you think you knew your  
7 brother was intimately involved in it?

8 A. Right.

9 MR MILNE: In fact the Honourable Lillian Boyce's brother  
10 was also intimately involved but she doesn't appear to  
11 have left the meeting. Can you comment on that at the  
12 time?

13 A. That is her prerogative. I don't know why she didn't.

14 As I said, because this matter was constantly popping  
15 up, I decided that I ought to excuse myself from  
16 the meeting.

17 Q. If we go back a few pages to page 49. Do you have that?

18 SIR ROBIN AULD: This was the 9th March 2006 Cabinet  
19 meeting.

20 MR MILNE: That is the 9th March meeting, sir.

21 This is only a couple of weeks before but it would  
22 appear that the meeting there, although it is raised,

23 Urban Development, you don't withdraw on that occasion.

24 Do you see that?

25 A. Probably I didn't, but as I indicated, the fact that

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1 I excused myself from that meeting or whatever meetings

2 I excused myself from, I was under no obligation to do

3 so, and I did so because with the subsequent meetings,

4 because I figured that his name was popping up too often

5 with the situation and I didn't want to be involved in

6 having any decisions on the matter.

7 Q. Right. So at least as far as this one is concerned,

8 the involvement of your brother is sufficient for you to

9 withdraw?

10 A. Yes.

11 Q. You feel under an obligation to withdraw because it is

12 your brother?

13 A. Yes.

14 Q. Subsequently you receive, as you have told us, some

15 money from it but you say not in anticipation. You did

16 not expect to get money, is that correct?

17 A. No, I didn't expect to get money from this. As I said,

18 if I got anything from it, it was purely insignificant

19 in the normal scheme of being brothers. Nothing that he



20 was obligated to pay me for.

21 Q. So it was just a gift?

22 A. It would have been that. As I said, I have given my

23 brothers money over the years as well.

24 Q. If I follow correctly, this was a new departure for your

25 brother. This was not something he had been involved

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1 with before?

2 A. I am sorry?

3 SIR ROBIN AULD: I think he said that his brother wasn't

4 a developer. I think you said that, didn't you?

5 A. I did say that. He had not been --

6 MR MILNE: Had he been in business? Was he a successful man

7 in other spheres at all?

8 A. He had an excursion business which was relatively

9 successful.

10 Q. I am going to leave that and move to a different

11 subject. It relates back to something that we dealt

12 with before. I am sure you will appreciate the link in

13 a moment.

14 We discussed the other day the question of Southern

15 Health Network and the provision of services by Southern

16 Health Network to the Turks & Caicos Islands government.

17 You should have in your number 2 bundle now, towards  
18 the back of that bundle, a series of documents.  
19 I am going to ask you to look at these with me.  
20 These begin at page 88. This is volume 2 of your  
21 documents, page 88. During the course of your evidence  
22 on Day 5 of our proceedings here, which is the week  
23 before last, you stated that when it came to  
24 the arrangement for Southern Health Network, there was  
25 no formal tendering process, but that three separate

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1 companies had been considered and that the final choice  
2 as to which company should be used was made by  
3 the Cabinet. Do you recall that?

4 A. Yes.

5 Q. I am going to seek to put this into some sort of  
6 historical context.

7 Canadian Medical Network Health Management Services,  
8 CMN, Canadian Medical Network had up to April of 2006  
9 been providing overseas health care management to TCIG,  
10 is that correct?

11 A. That is correct.

12 Q. In April of 2006 they were invited to put in a proposal  
13 to continue providing that service, is that right?

14 A. That is correct.

15 Q. The document that we see at page 88, indeed

16 the following pages through to page 95, is their

17 proposal. Do you recognise it?

18 A. I do.

19 Q. It is in one sense a tender. It is a proposal setting

20 out the terms that they are suggesting that they should

21 continue to work on. Yes?

22 A. Yes.

23 Q. As I say, that runs through to page 95. We need not, as

24 it were, step through every single page of it, but if we

25 turn to page 96, we see a snapshot of their last year of

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1 operation because in that last year of operation they

2 had dealt with health care provision totalling some

3 \$4.2 million.

4 A. Correct.

5 Q. They had received in fees for the arrangement of that

6 \$443,519. So about 10 per cent.

7 A. Yes.

8 Q. That system appears to have been working reasonably well

9 up to that point, but obviously it is good practice to

10 invite further tenders, further proposals so that

11 a proper comparison can be done to make sure that you

12 are getting best value for money, yes?

13 A. Yes.

14 Q. A further submission was put in and we have that in

15 the following pages, which is a submission from

16 a company called Trinity Air Ambulance International,

17 based I think in Fort Lauderdale, an American company

18 and again they are putting in proposals for a service

19 that they would potentially provide.

20 Those documents run from page 98, we see, through to

21 page 106.

22 Do you agree?

23 A. I agree.

24 Q. So the CMN proposal had come in April,

25 Trinity Air Ambulance submitted theirs in July of 2006,

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1 so within a couple of months you have two possibilities.

2 Page 107, we have an internal document from the

3 ministry of finance, health and national insurance.

4 This is coming from the Permanent Secretary going to

5 the Chairman of the tender board.

6 This memo in fact is dated 11th August. Essentially

7 it is based upon a previous Cabinet paper --

8 SIR ROBIN AULD: This is a ministry of finance memorandum.

9 MR MILNE: The ministry of finance are sending this. It

10 says, I am reading from the second paragraph:

11 "The Canadian Medical Network is currently providing

12 TPA services..."

13 TPA stands for third party administrator?

14 A. Yes.

15 Q. "... to the Turks & Caicos Islands government. However,

16 management fees are currently based on 25 per cent of

17 the discounts on real or inflated prices that they

18 negotiate."

19 What that means in essence is it is a percentage of

20 the saving that they receive, yes?

21 A. Yes.

22 Q. By virtue, one presumes, of block purchasing -- bulk

23 purchasing?

24 A. Correct.

25 Q. "In an effort to better predict this course, in

1 an attempt to reduce or slow the growth of medical

2 treatment overseas, CMN was asked to submit a proposal

3 to be considered along with a similar proposal submitted

4 by Trinity Air Ambulance, medical overseas specialists.

5 Since the TCIG has worked with both companies and they  
6 have both demonstrated their ability to negotiate for  
7 significant discounts, we are requesting permission to  
8 proceed with limited tender, with CMN and TAA/MOS for  
9 the third party administrator services."

10 So this is a formal request essentially to limit  
11 the tender process, not to abandon it but essentially to  
12 have a tender between two parties, both of which have  
13 demonstrated a good track record? Yes in?

14 A. Yes.

15 SIR ROBIN AULD: From the PS -- "health", is that?

16 Q. Permanent Secretary of the health -- this was a big  
17 ministry. I think it has probably been subdivided since  
18 then but at the time the ministry covered finance,  
19 health and national insurance. Is it still as wide as  
20 that?

21 A. No, it is not.

22 SIR ROBIN AULD: Anyway, it comes from  
23 the Permanent Secretary to the Chairman of the tender  
24 board.

25 MR MILNE: She was clearly the Permanent Secretary dealing

1 specifically with health matters.

2 At the time, of course, you were the minister of  
3 finance, health and national insurance, weren't you?

4 A. Correct.

5 Q. That memo of 11th August is coupled with a letter behind  
6 it, page 108.

7 This is to the chief economist, budget director, and  
8 it is from the Permanent Secretary of finance.

9 The Permanent Secretary of finance says:

10 "I offer no objectives to the paper going  
11 forward..."

12 This is the executive commitment paper.

13 "... especially if it would result in reduced costs  
14 and more efficient management of the overseas medical  
15 programme."

16 I think in fact what is meant by that letter is  
17 rather than "objectives", he offers no "objections". Do  
18 you agree that that is how it should be read? He was  
19 not going to stand in the way of the limited tender? He  
20 goes on to say:

21 "However, the Permanent Secretary of health has not  
22 made a firm recommendation on the preferred company and  
23 the sum involved will require a waiver of tendering  
24 procedures and the cost of providing the services should  
25 be met from the existing budget."

1 Best value approach, obviously, is to take a tender  
2 from a number of different parties. But in this case we  
3 had two good parties, both of whom with a good track  
4 record, and the competition essentially was between  
5 the two of them, yes? At that stage.

6 A. At that stage, yes.

7 Q. Page 109 --

8 SIR ROBIN AULD: Is that the paper? It is called a memo.

9 I am looking at 107:

10 "See attached Exco/Cabinet paper that was prepared".

11 Is this that?

12 MR MILNE: It is not, sir. We do not have the memo as such.

13 We will see if we can obtain that. We don't have

14 the minute from that, but I am sure we can get it.

15 SIR ROBIN AULD: The paper is the important matter, as well

16 as the minute, of course, but this memorandum comes out

17 of --

18 MR MILNE: The memorandum is based upon Cabinet discussions

19 which presumably took place shortly before 11th August,

20 and those Cabinet discussions appeared to endorse

21 the idea that there should be limited tender between

22 the two bodies.

23 There had been a Cabinet meeting a couple of days

24 before that. I will just check because it may be --



25 SIR ROBIN AULD: I think we should obtain the ExCo paper.

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1 MR MILNE: We will seek to get that, sir.

2 The memo at page 109 is essentially a record of the  
3 tender board's meeting. This memo is dated 15th August.

4 It says:

5 "The tender board recently met to consider a request  
6 for waiver of tender procedures to allow the ministry of  
7 health to undertake a limited tendering process."

8 Quite simply, it is an agreement. If we look at the  
9 last sentence:

10 "The board approved the waiver of financial  
11 instructions to allow the ministry to undertake  
12 a limited tendering process amongst the two named  
13 providers."

14 SIR ROBIN AULD: That was signed by Mr Neville Adams, the  
15 Chairman of the tender board. Is he still the Chairman  
16 of the tender board?

17 A. No, he has since been retired.

18 SIR ROBIN AULD: He is retired?

19 A. Yes.

20 (2.45 pm)

21 MR MILNE: On 23rd August, a paper was provided to

22 the ExCo as it was at the time, the Cabinet as we now  
23 call it --  
24 SIR ROBIN AULD: Where do we find the date for that, at the  
25 end of it?

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1 MR MILNE: Page 110. We understand this --

2 SIR ROBIN AULD: What is the date? The tradition seems to  
3 be not only in this country but in the UK as well for  
4 public documents not to be dated. That is typical of  
5 many Cabinet papers. Is this the Cabinet paper that was  
6 referred to in the previous page, page 109?

7 MR MILNE: I understand this is a subsequent one -- it is  
8 the same one. My learned friend has gone through this.

9 SIR ROBIN AULD: So we are talking 11th August.

10 MR MILNE: We have that over the following four pages. That  
11 is the discussion that took place, the memorandum. For  
12 ease, what followed was an oral mention in Cabinet,  
13 which took place on 23rd August 2006. We are going to  
14 turn just for a minute to another bundle. It is the red  
15 bundle 6, the core bundle. Page 75. Do you have that?

16 SIR ROBIN AULD: The date?

17 MR MILNE: This one is 23rd August 2006.

18 This is simply an oral mention. There is no paper.

19 A. Oral mentions, as I indicated earlier, doesn't  
20 necessarily mean that there is no paper.  
21 Q. There is no reference to any paper in this certainly.  
22 It is recorded as an oral mention. What it says is  
23 this:  
24 "The Deputy Premier raised this matter [the subject  
25 being the Southern Health Network] informing Cabinet

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1 that the contract..."  
2 It says "with CHM". That should really be "CMN",  
3 should it not?  
4 A. Yes.  
5 Q. "... recently expired. A proposal was received from  
6 Southern Health Network which was offering the same  
7 services at much better prices. He advised that he was  
8 more inclined to enter into an agreement with Southern  
9 Health Network as they are a US-based company which  
10 would be able to oversee the medical care that patients  
11 which were referred to Miami were receiving. They would  
12 receive 50 per cent of the savings they achieved.  
13 Cabinet advised that it granted approval for  
14 the Deputy Premier to enter into an agreement with the  
15 Southern Health Network effective 1st September 2006,

16 subject to a suitable contract being negotiated by  
17 the Attorney General's chambers and the director of  
18 medical services and Southern Health Network."

19 What happened to the two proposals from CMN and  
20 Trinity Air Ambulance?

21 A. This ended up superseding them.

22 Q. Was this put back to the tender board?

23 A. I don't know.

24 Q. There is no record that it was.

25 A. No.

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1 Q. So it appears that the efforts that had been put in  
2 previously getting quotes from CMN and  
3 Trinity Air Ambulance have simply been swept aside.

4 A. I may explain with this.

5 Q. Please do.

6 A. At the time we were negotiating the contract for  
7 the construction of the two new hospitals, one in  
8 Grand Turk and one in Providenciales. We had  
9 a consultant down here from California. His name was  
10 Dr Anderson.

11 We were discussing the whole system of health care  
12 provision in the Turks & Caicos Islands and what needed

13 to be done in order to improve the process and improve  
14 the cost the government was being charged for these  
15 services.

16 Key to that was that we needed to get reinsurance in  
17 place to deal with catastrophic cases that  
18 the government was experiencing. Catastrophic cases in  
19 this case means that we had several patients going off  
20 incurring medical bills in excess of \$1 million. These  
21 cases range from either heart treatment -- various organ  
22 failure to cancer as well as other acute cases.

23 We needed to get a provision in place to cap  
24 the cost of those type of cases. It was decided that  
25 an insurance company -- for an insurance company to take

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1 on that burden, they need to have some historical record  
2 of the various cases that the country was experiencing.

3 The hospital at that time didn't keep proper records  
4 of that, and what was needed was a document from  
5 an insurance -- that an insurance company needed called  
6 a claims history.

7 Neither CMN nor Trinity was in a position to provide  
8 the claims history. Claims history report is a very  
9 complex report. It needed to take into account all

10 the cases that the country was dealing with, preferably  
11 for a period of two or three years, and then you can  
12 take that claims history and give it to an insurance  
13 company and then they would have been able to provide  
14 you with an appropriate premium for that reinsurance.

15 Q. Did you ever ask CMN for a claims history of that sort?

16 A. I know that they could not have done it because if they  
17 could have provided it, I had discussions with  
18 the medical director of health care for the longest time  
19 because we were all discussing this and he had intimate  
20 knowledge with CMN and we didn't get that information.

21 SIR ROBIN AULD: Now, look, on 11th August Cabinet was  
22 considering as an oral mention an unsigned and undated  
23 paper which we have seen starting at pages -- I have  
24 forgotten where, 110 onwards. That is what was  
25 happening on 11th August. That paper, albeit not put

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1 before Cabinet formally and unsigned, was recommending  
2 that you should go ahead with the existing arrangements  
3 pretty well. The same people.

4 A. Two options.

5 SIR ROBIN AULD: We are now only, what, a fortnight or so  
6 later on 30th August and there is the decision to go

7 quite the other way. So all these discussions must have  
8 been occurring somewhere and between some people. Where  
9 would there be any records of the discussions leading to  
10 the change of mind?

11 A. I don't know.

12 SIR ROBIN AULD: In the space of a fortnight.

13 A. I think there must be other information that is  
14 conveniently left out of this because there would have  
15 been a proposal from Southern Health Network.

16 MR MILNE: Yes, we have that.

17 A. Okay. It would have outlined, I believe, information  
18 about the claims history. Also in that proposal it  
19 would have shown -- it should have shown the comparative  
20 rates that they were dealing with and as the minutes  
21 with CMN make a correct reference to, the services were  
22 going to South Miami and Baptist Hospital which happens  
23 to be the two -- two of the most expensive hospitals in  
24 South Florida. SHN was making the case to have the bulk  
25 of the treatment done at Jackson Memorial Hospital.

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1 SIR ROBIN AULD: I am not challenging the reason for  
2 the decision. I am just puzzled that there is no  
3 indication in the papers before me, so far as I have

4 read, of the various meetings and conversations taking  
5 place which led to this quite dramatic change within  
6 the space of a fortnight.

7 A. Yes, well, as I stated I don't -- I didn't provide that  
8 information.

9 MR MILNE: With respect, Mr Deputy Premier, there are two  
10 issues here. We need to be clear about them.

11 Insurance for catastrophic cases is difficult to get  
12 and that falls back on the government. Essentially  
13 the government has to cover that itself. But for  
14 the smaller cases, that is why you have a third party  
15 administrator, so that with the bulk cases, not  
16 the individual one-off expensive ones, but with the bulk  
17 cases, you can achieve economy of scale.

18 A. Yes.

19 Q. You are telling us that CMN could not provide a record  
20 for the purposes of the insurance for the catastrophic  
21 cases and that Trinity Air Ambulance couldn't provide  
22 that either. We see with respect, and we will provide  
23 you with a copy of this for assistance, it doesn't  
24 appear to be a major topic for Southern Health Network  
25 or a major issue at this stage. Are you saying that



1 Southern Health Network could provide a claims history  
2 that would enable them to get that sort of insurance  
3 where CMN could not?

4 A. Yes, because Southern Health Network was also affiliated  
5 with an insurance company that would have been able to  
6 provide the reinsurance coverage for the Turks & Caicos  
7 government.

8 Q. Southern Health Network, though, couldn't provide that  
9 record, could it? An insurance company might but  
10 Southern Health Network could not?

11 A. Southern Health Network would have had to generate that  
12 record and they would need the experience of a insurance  
13 company to generate that.

14 SIR ROBIN AULD: What does that mean? You can't generate  
15 a record that you have not got unless you are doing it  
16 for the purposes of an insurance application.

17 A. Yes, this is the whole purpose of it, sir. You had to  
18 run the activity through the treatment of abroad  
19 provider and for them to get the information over  
20 a period of two to three years, and then that  
21 information with the claims history, with the cases that  
22 the government was experiencing would have then been  
23 presented to an insurance company where they can  
24 adequately and suitably price the insurance premium for  
25 the country.

1 SIR ROBIN AULD: I understand the mechanics but I don't  
2 understand if there was no mention of it, or little  
3 mention of it, in the document to which Mr Milne was  
4 referring, how you can at the drop of a hat generate  
5 a history which may satisfy an insurance company but  
6 which is nevertheless not a history.

7 A. The case, sir, is that you would not have been able to  
8 get the reinsurance coverage immediately. It would have  
9 had to wait for a period of two or three years in order  
10 for that to happen.

11 SIR ROBIN AULD: That is precisely my point.

12 MR MILNE: What was the name of the insurance company with  
13 which they had the arrangements?

14 A. I can't remember the name of the insurance company, but  
15 I am certain that there is an insurance company.

16 Q. Apart from this document which is dated 16th August, and  
17 again I am happy to get a copy so we can look at it, if  
18 we can do that over the short break, did you have any  
19 other documentation from the Southern Health Network?

20 A. I don't recall having anything else.

21 Q. Did you ask them how long they had been in operation?

22 A. I think I would have asked them that.

23 Q. What did they tell you?

24 A. They told me that they had an operation that dealt with  
25 their claims processing for the insurance company in

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1 Cayman.

2 Q. I can find no reference to any insurance company here.

3 A. I know that there is an insurance company that will deal  
4 with it.

5 Q. But it is just not mentioned in the submission. They  
6 would have told you if they had an operation that dealt  
7 with their claims processing for the insurance company  
8 in Cayman.

9 So can I ask the same question again. How long had  
10 they been in operation?

11 A. I am not aware of that, sir. I know -- I do know that  
12 a group from the medical department and myself visited  
13 Cayman. We had meetings with them, we had meetings with  
14 Sineco(?) and we had meetings with the Cayman government  
15 about this treatment of broad process because it is  
16 a situation that has incurred considerable problems for  
17 countries in our region.

18 Q. They were not based in Cayman though. They were based  
19 in Miami?

20 A. This SHN would have been based in Miami.

21 Their insurance company would have been based in Cayman.

22 Q. The person based in Cayman was Mr Delroy Howell who was  
23 the Chairman of Southern Health Network?

24 A. Correct.

25 Q. The same Mr Delroy Howell who is a friend of yours and

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1 for whom you have held money in the past?

2 A. Yes.

3 Q. Southern Health Network did not provide you with  
4 a history of their operations because this was being  
5 considered by Cabinet on 23rd August 2006. They had  
6 written to you a few days before on 16th August 2006.

7 Is it not the case that the company, Southern Health  
8 Network, was only formed on 8th August 2006, so about  
9 two weeks before they were endorsed for this  
10 multimillion dollar operation?

11 SIR ROBIN AULD: And two days before the Cabinet was being  
12 invited to consider the earlier proposals on  
13 11th August.

14 A. I am not aware of when the company got incorporated.

15 Q. Did you not do due diligence on this company, sir?

16 A. I believe that due diligence was done, because it was  
17 handed over to the Attorney General's chambers to deal

18 with it.

19 Q. The Attorney General's chambers were following  
20 the directions given by Cabinet and your suggestion,  
21 I would submit to you?

22 A. Yes.

23 Q. But when it is discussed in Cabinet, when this Southern  
24 Health Network is being raised by you, not a word, not  
25 a whisper, not a suggestion that you might have some

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1 personal link to the man who is about to become very,  
2 very rich on the strength of it, Mr Delroy Howell?

3 A. Sir, I take offence to that statement. Mr Howell is  
4 a man of means and wasn't relying on this to sustain his  
5 lifestyle. Also, what I want to say to you as well is  
6 that if you want to check all the information relating  
7 to this, we had ambulance costs from Trinity Air  
8 Services that costs \$24,000 a pop. They were able to  
9 get the ambulatory services from the Turks & Caicos down  
10 to as low as \$12,000 a pop -- an event.

11 When you look at the health care cost that they were  
12 able to reduce, with Jackson Memorial providing the  
13 services as compared with Baptist or  
14 South Miami Hospital, it was reduced by more than 50

15 per cent of the cost. I had an obligation at that time  
16 to contain costs for government. Now, the fact that the  
17 health care costs in the Turks & Caicos Islands has  
18 risen through the roof is by no means a result of the  
19 costs per episode. It is the result of the frequency of  
20 cases that have been referred to -- by  
21 the Turks & Caicos government to the hospitals in Miami.  
22 When CMN dealt with this, CMN had less than 400 people  
23 per annum they dealt with. Once Southern Health Network  
24 took over, in excess of 1,200 people per year had been  
25 referred to overseas by the caretakers here in Turks &

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1 Caicos Islands. They had no hand in referring  
2 the patients from the Turks & Caicos Islands. They only  
3 deal with the cases that are sent out to them.  
4 SIR ROBIN AULD: We are not talking about the way it has  
5 worked out. We are talking about your deciding to give  
6 this contract to a company that had no record  
7 whatsoever, it was only formed a few days before, and on  
8 which, if any due diligence performed must have been of  
9 the scantiest. So that its offered prices at that stage  
10 stood on their own without any indication of whether  
11 they could meet the targets that were being set for

12 them.

13 A. I don't think he has the complete file on this.

14 SIR ROBIN AULD: You were waiting two to three years for an

15 insurance company to be satisfied that their record

16 would meet their requirements.

17 A. What I am saying to you, sir, I am not satisfied that

18 this information that is presented here is the complete

19 file on this. What I can say to you and for

20 the clarification of the record, right, is that when CMN

21 was dealing with this, they had bills from southern --

22 South Miami Hospital and Baptist Hospital which happened

23 to have been astronomical.

24 The fact that the cost in the Turks & Caicos Islands

25 is through the roof now does not relate to the treatment

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1 per episode.

2 SIR ROBIN AULD: We are not talking about that. That is

3 another very big but different issue from this.

4 The issue that Mr Milne is examining you about is how it

5 was you came to switch in the way you did to a wholly

6 unknown entity which had only just been formed and on

7 which we have yet to see if any due diligence was

8 performed at all. It couldn't have told you much if you

9 had embarked on due diligence at that stage.

10 A. I don't think it was a situation that we didn't know

11 the entity. As I said, Mr Howell is a man who has

12 a company operating here in the Turks & Caicos. He was

13 known to members of Cabinet. He was also an individual

14 who ran operations in the Cayman Islands. He has

15 an insurance company in the Cayman Islands that had

16 a very good claims ratio. He was willing to provide

17 the reinsurance coverage for us on the basis that we

18 could have gotten the claims history, and indeed

19 approaches have been made to other insurance companies

20 to provide reinsurance coverage for the Turks & Caicos

21 government at the time which we could not get; simply

22 because we didn't have the information to generate

23 the claims history and to generate the claims ratio that

24 we will need to obtain that reinsurance coverage.

25 (3.00 pm)

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1 SIR ROBIN AULD: Is it fair to say that Delroy Howell was

2 key to your change of mind?

3 A. The information that I was able to obtain from him and

4 the comparative rates that he was able to provide was

5 key to that decision; and also the fact that he was able



6 to bring that cost from \$24,000 to \$12,000, a 50  
7 per cent reduction in that cost, and also open up  
8 avenues for us to obtain services at Jackson Memorial  
9 and Miami Children's Hospital was a key savings to our  
10 government and that is the reason why we went with it.

11 MR MILNE: With respect, Mr Deputy Premier, why is none of  
12 this mentioned when the tender process is being put  
13 before the tender board? Why is it that in the  
14 memoranda from the Permanent Secretary for health,  
15 the whole issue of obtaining additional insurance does  
16 not even arise? Because if that were a central issue,  
17 as you suggest, then it should have been in those  
18 documents.

19 A. I am telling you it was a central issue. It was  
20 an issue that was discussed at length with the medical  
21 director at the time, and it was also an issue that was  
22 discussed at length with the Permanent Secretary and as  
23 well as members of the Attorney General's chambers. It  
24 was critical.

25 MR MILNE: The advice that came from the Permanent Secretary

1 of health which would have crossed your desk, I would  
2 suggest, was that one of the two, either CMN or

3 Trinity Air Ambulance, would be suitable and appropriate  
4 because both had good track records. Why did you allow  
5 that memorandum to go out if you thought this completely  
6 misses the point, there is an element here which has not  
7 been considered?

8 A. At the time I didn't -- I can't remember exactly  
9 everything that transpired at that time but what I do  
10 recall is that central to us entering -- this is  
11 the first time we were entering into a contractual  
12 arrangement with any provider and central to that for us  
13 was getting reinsurance coverage for the government to  
14 contain the costs.

15 Q. Why then do you not mention your connection with  
16 Delroy Howell?

17 A. Everybody knew my connection with Delroy Howell.

18 Q. And that is good enough, is it?

19 A. I would think that -- I was not under any obligation to  
20 do so but everybody knew he was my friend.

21 Q. And it didn't bother them so it didn't bother you, is  
22 that the situation?

23 A. That is correct.

24 Q. Do you not think that it would have been appropriate as  
25 a senior minister within the government to say:

1 I believe this is the best contract but you must bear in  
2 mind, I am closely related by way of friendship and  
3 business with this gentleman and therefore I am going to  
4 withdraw from the discussion and allow the Cabinet to  
5 consider it in my absence?

6 A. I think they knew that Delroy Howell was a friend of  
7 mine. I considered this to be a fully arm's length  
8 agreement that we were entering into and it was under no  
9 obligation by the ministerial code of conduct as  
10 I stated to withdraw myself from those discussions.

11 SIR ROBIN AULD: You say we have not got sufficient papers  
12 here probably.

13 A. No, I don't think it is reflective of the complete --

14 SIR ROBIN AULD: To whom should we apply to get a full  
15 record of what passed between these two projects?

16 A. Probably the Managing Director of health care and  
17 probably the PS of health and the Attorney General's  
18 office.

19 MR MILNE: The following papers that we have, pages 115 to  
20 117 in your bundles, it is clear that as far as SHN was  
21 concerned, that you took a detailed interest in the  
22 signing of this and corresponded with various parties,  
23 including the Attorney General's office.

24 A. I took a detailed interest in it because I was  
25 the minister responsible for that department. Any

1 communication referring to the situation would have come  
2 from the Attorney General's office to myself. She  
3 relied on me for information coming out of the Cabinet  
4 with respect to this as well as the fact that I was  
5 minister of health at the time.

6 Q. On page 115 we see, as far as the Attorney General's  
7 office is concerned, at the very top, a response from  
8 the assistant Attorney General:

9 "In relation to the agreement in itself we are not  
10 in possession of the incorporation details for SHN. But  
11 we will be happy to make the necessary insertions, per  
12 execution documents."

13 They don't appear to have been given at that stage  
14 at least, when this e-mail was exchanged, the details as  
15 to the brief history of this company.

16 SIR ROBIN AULD: This is what now? October 2006?

17 MR MILNE: Yes.

18 A. Also on that page you will see the correspondence to  
19 the Attorney General's chambers outlining what  
20 I discussed with you a little while ago back in 2006.

21 MR MILNE: It would appear the negotiations reached  
22 an impasse and we have a memorandum which we see at

23 pages 118 to 120, again prepared by  
24 the Permanent Secretary of health, this time submitted  
25 by the Premier to deal with the background to it.

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1 The final -- the amendments, page 120A, we see  
2 the Cabinet minute, 2nd November 2006, approving  
3 the amendments recommended by the Attorney General's  
4 chambers into the contract.

5 Coming forward a considerable period of time, we  
6 have a Cabinet minute from the end of October 2008,  
7 where you indicate to the Cabinet the ministry of health  
8 was continuing to send patients abroad through  
9 Southern Health Network and hospitals reluctant to  
10 accept patients based on the fact that the SHN's  
11 contracted was due to expire at the end of October. You  
12 therefore sought an interim agreement to allow SHN to  
13 continue to process patients, this being  
14 29th October 2008. So again an extension of the SHN  
15 contract.

16 A. SHN has provided a very good service for  
17 the Turks & Caicos government. The fact -- and I must  
18 emphasise this -- the fact that the cost is high is  
19 because they have dealt with during that short period of

20 time in excess of 2,200 cases, whereas the former  
21 provider dealt with less than 400 cases on an annual  
22 basis.

23 They have nothing to do with the patients being  
24 referred overseas. The fact that patients go overseas  
25 has to do directly with the management of the hospitals

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1 locally. In a two-year period to have treated over  
2 2,400 cases, I must also add that some of these cases  
3 were being referred directly outside of their remit.

4 So I think to draw conclusions in the abstract here  
5 will be unfair.

6 Q. But you were aware, no doubt, that there was a highly  
7 critical report prepared last summer, I believe by  
8 Sterling HSA, a major firm of health care providers,  
9 analysing the problems with the medical treatment abroad  
10 programme. You saw that, no doubt.

11 A. Yes, that was highly critical of the government as well  
12 as the treatment abroad provider.

13 Q. It was indeed. Essentially it said that there were  
14 failings on both sides: failings on the part of the  
15 ministry of health, failings on the part of SHN.

16 A. Yes.

17 Q. Did you accept the criticisms within that report?

18 A. The report was commissioned by me. Both government and

19 SHN indicate that the report is not fair in its

20 assessment, but I do know that there is a problem with

21 the treatment abroad process.

22 As it is currently run it is not a sustainable

23 situation. The problem is in this country is that

24 everyone who gets sick wants to be referred overseas.

25 Q. The report identified the fact that people were more

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1 inclined to get sick and be referred overseas in the

2 summer months than in the winter months.

3 A. That seems to be a reflection of the report.

4 Q. It was a seasonal variation, clearly reflecting the wish

5 to go to the USA in the summer?

6 A. As I say, that seems to be the reflection of the report.

7 Q. Wherever the failings lie because there are a number of

8 different aspects, SHN, would you agree, did not walk

9 away with this unscathed? It was criticised on a number

10 of different fronts?

11 A. Yes, and also one of the other salient points to this

12 whole situation too, SHN certainly has not walked away

13 unscathed, but also this was the first time that the

14 government had a treatment abroad provider that paid for  
15 its costs upfront and got the monies later on. With CMN  
16 and Trinity, they would needed to have been paid in  
17 advance, and hence the reason why we have been able to  
18 accommodate the treatment of so many patients from  
19 the Turks & Caicos Islands, and it is a good thing that  
20 we had that system in place too, because we have had  
21 several catastrophic cases since the implementation of  
22 this programme, whereby they had to intercede and  
23 provide medical coverage for our patients.

24 Q. The system of course has now had to be suspended almost  
25 entirely due to lack of cash, is that right?

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1 A. Yes, well, the services are still in place. We still  
2 are able to evac -- Medevac emergency situations. They  
3 still provide those services even today without them  
4 being paid.

5 Q. But as matters stand, there are still expenses that have  
6 been incurred which have yet to be paid by  
7 the government?

8 A. Correct.

9 MR MILNE: Sir, I note the time. It may be that is  
10 an appropriate point.



11 SIR ROBIN AULD: Yes. Five/ten minutes.

12 (3.13 pm)

13 (A short break)

14 (3.19 pm)

15 MR MILNE: The last remaining thing is simply this,

16 Deputy Premier: if there are papers that you are aware

17 of that would complete the Commission's picture as far

18 as Southern Health Network is concerned, no doubt you

19 would be able to obtain those and provide them to us?

20 A. Yes, I will endeavour to do so.

21 MR MILNE: Thank you very much. Sir, other than that,

22 I have no further questions.

23 SIR ROBIN AULD: Now, Mr Smith.

24 MR SMITH: I think I would prefer Mr Fitzgerald to go first

25 if you don't mind?

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1 SIR ROBIN AULD: You have agreed that between you, have you?

2 MR SMITH: Yes.

3 SIR ROBIN AULD: Mr Fitzgerald.

4 Cross-examination by MR FITZGERALD

5 MR FITZGERALD: Mr Hall, your position from 2003 to

6 the present is that you were Deputy Premier and finance

7 minister, is that right?

8 A. Correct.

9 Q. Obviously a member of the Cabinet and a friend and  
10 supporter of Mr Misick, is that right?

11 A. Yes.

12 Q. Now, you obviously supported the government policy on  
13 expanding tourism, is that right?

14 A. That is correct.

15 Q. And also on attracting development?

16 A. That is correct.

17 Q. That proved to be a successful policy during these  
18 years?

19 A. Yes, it was.

20 Q. I think you said on Day 6 that the Premier through his  
21 travels had been able to attract considerable investment  
22 to the Turks & Caicos and attracted quite a lot of  
23 investors as a result of his travels?

24 A. That is correct.

25 Q. What you were saying then, is this right, is that one

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1 has to see things like the chartering of the jet in that  
2 context of expansion and successful attraction of  
3 investment?

4 A. I guess -- I don't think the jet was necessary to do

5 that, but at the end of the day, it was a part of his

6 process.

7 Q. You were also, is this right, involved in the process of

8 authorisation of scholarships?

9 A. Yes.

10 Q. You yourself authorised a number of the scholarships by

11 way of instructions, is that right?

12 A. That is correct.

13 Q. I don't know whether you need to be referred to

14 volume 3, but you recall the audit report?

15 A. I recall offering scholarships.

16 Q. Is this right, that sometimes it was necessary for

17 a minister personally to authorise those scholarships in

18 order to guarantee the funding?

19 A. Yes.

20 SIR ROBIN AULD: What does that mean?

21 MR FITZGERALD: Someone had to authorise it, is that right?

22 SIR ROBIN AULD: But what does that mean? One thing is

23 somebody had to authorise it and another thing is it had

24 to be authorised.

25 MR FITZGERALD: Can I break it down?

1 SIR ROBIN AULD: Yes.

2 MR FITZGERALD: Is this right, that a scholarship to  
3 a candidate had to be authorised by someone in  
4 authority?

5 A. Yes.

6 Q. And if a minister authorised it, then it would be paid  
7 for?

8 A. Yes. The process would be that it was common, I would  
9 say, for persons in the community, if they had a special  
10 sort of comfort zone with a minister, to write to the  
11 minister indicating that there were desires of  
12 a scholarship or they had gotten admittance into  
13 an institution and would ask them to provide assistance  
14 in the procurement of a scholarship. Now, this letter  
15 could come by way of a cc communication to myself as  
16 a minister of finance, and being addressed formally to  
17 the minister of education or even to the scholarship  
18 board.

19 SIR ROBIN AULD: Did you use the term "a special comfort  
20 zone with a minister"?

21 A. Yes, it felt comfortable, "comfort zone" is what I used.

22 MR FITZGERALD: Sometimes, for example, many of the  
23 authorisations were just before the start of the  
24 academic term. They were made in July or August?

25 A. In some cases, yes.

1 Q. Was it necessary then for there to be a speedy decision  
2 so that the scholarship was authorised and the fees  
3 could be paid?

4 A. Yes, because by that time the scholarship board probably  
5 would have already met.

6 Q. Therefore, in those indications where you and -- cases  
7 where you and others as ministers authorised those  
8 scholarships, was there anything unlawful about that  
9 process, of you giving that authorisation?

10 A. No, I think in most cases when those scholarships were  
11 authorised, we didn't even have an educational policy or  
12 scholarship policy. So there was nothing unlawful about  
13 it.

14 Q. I want to just move on briefly to a topic that you have  
15 touched on in your earlier evidence, that is to say  
16 the declarations of interest. I think you accepted that  
17 there was a practice of some laxity in filling out those  
18 forms that was cross-party?

19 A. That is correct.

20 Q. And indeed historic, is that right?

21 A. That is correct.

22 Q. And had taken place for some time. Is this right, that  
23 in particular nobody declared any political donations?

24 A. In flipping through the registers, I don't recall

25 anybody doing that.

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1 Q. That was the general atmosphere and the general  
2 understanding as to what is called gifts or  
3 sponsorships. I think that is the heading?

4 A. Yes.

5 Q. You didn't fill in political donations?

6 A. No.

7 Q. Thank you.

8 Thank you for that on the general picture. Can  
9 I now just ask you some more specific questions. You  
10 have dealt already, when you gave evidence on Day 5,  
11 the first day, with the question of the \$150,000 loan  
12 that the Premier received in May 2006.

13 A. Yes.

14 Q. I just want to see the things that we agree and if there  
15 is something we disagree. You agree that that loan was  
16 paid through the lawyer Stanfield Greene?

17 A. That is correct.

18 Q. Sir, it is at bundle C, page 58. I think you are  
19 aware --

20 SIR ROBIN AULD: Your bundle C?

21 MR FITZGERALD: Our bundle C, page 58.

22 SIR ROBIN AULD: Page 58?

23 MR FITZGERALD: Page 58. I don't need to take you to that

24 cheque. You have seen it.

25 A. Yes.

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1 Q. Is this right, that Stanfield Greene were your lawyers

2 as well as your brother's lawyers?

3 A. That is correct.

4 Q. So the cheque was made payable through your lawyers and

5 it was for 150,000?

6 A. That is correct.

7 Q. That was made shortly after the Premier's wedding, is

8 that right? I think his wedding was in April and

9 the payment was in May?

10 A. Yes, I think thereabouts.

11 Q. It was made, you agree, at the Premier's request to you?

12 A. He requested it through me, yes.

13 Q. Really the only difference is that you say that it was

14 not -- that loan was not paid by you personally but by

15 your brother?

16 A. Yes, and he knew that.

17 Q. Just this, your brother wasn't a wealthy man?

18 A. No.

19 Q. You by contrast are a man of some substance, is that

20 right?

21 A. I am a poor man as well.

22 Q. But of greater substance than your brother.

23 A. Perhaps, yes.

24 Q. You talked about how you have to help your brother with

25 advice on financial matters?

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1 A. Yes.

2 Q. The Premier was your friend?

3 A. Yes.

4 Q. So isn't it more natural and reasonable that the loan

5 should be requested from you and made available by you?

6 A. No, because I told him the funds were not my funds, and

7 at the end of the day, if he had gotten those monies, it

8 would have been from my brother, because indeed I had to

9 request it from my brother. He knew full well, even

10 with the follow-up on it, that it was from my brother.

11 Q. I am not going to labour the debate with you. You

12 appreciate the Premier disagrees with you on that

13 matter?

14 A. Yes.

15 Q. The question of the wedding gift a little bit earlier in



16 that year of 160,000, I think it is February of that

17 year?

18 A. Yes.

19 Q. You have already dealt with in evidence?

20 A. Yes.

21 Q. Is this quite clear, that that was a gift, a loan but

22 something to help him with the wedding?

23 A. That was clear that it was to help him with the wedding

24 and it was from me.

25 Q. That is all it was. There was no question of any deal

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1 or secret commission or anything of that sort?

2 A. Nothing of the sort.

3 Q. You gave or loaned that to him with the wedding in mind?

4 A. Yes.

5 Q. I just want to move on to the question of party

6 finances. You have disclosed, it is in volume 2 of

7 the first tab, the FCIB ledger,

8 the First Caribbean ledger for the PNP account. Is that

9 right?

10 A. Yes.

11 Q. You were responsible for that ledger?

12 A. Correct.

13 Q. You have recorded a number of payments there as

14 stipends?

15 A. Yes.

16 Q. That is your expression?

17 A. That is my expression.

18 Q. It was not something that the party said, everything is

19 to be called stipends?

20 A. No.

21 Q. So it is your expression and I think that you fairly

22 said in evidence on Day 6, you said this, that:

23 "I didn't rigidly adhere to postings for the Premier

24 as salary or stipend."

25 Is that right?

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1 A. That would be correct.

2 Q. So where you wrote "stipend", it could have been

3 "salary", or -- I am not suggesting it is all salary but

4 it could have been salary on occasions?

5 A. Yes, what I -- if I can clarify. I know that the party

6 had made an arrangement prior to the election of 2003 to

7 pay the Premier and some others in the party a salary.

8 I was not of the impression that that were to continue

9 if we were to become successful in elections, and he

10 ascending to the ranks of becoming Chief Minister and  
11 those other individuals became ministers or elected  
12 members.

13 But what I also would state is that even though we  
14 were elected and had incomes, the party continued to  
15 provide assistance.

16 Now that assistance would not have been -- I didn't  
17 construe them as being salaries.

18 Q. Well, you understand that the Premier's clear impression  
19 was that he had a continuing agreement to have a salary  
20 for \$10,000 a month.

21 A. That would have been his interpretation of the  
22 situation.

23 Q. He accepts that it was not paid regularly or on the nail  
24 as it were every month but he regarded himself as  
25 entitled to draw that salary?

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1 A. Okay, that would have been his interpretation of the  
2 situation.

3 (3.30 pm)

4 Q. Is this right, that you said when you gave your evidence  
5 on Day 6, sir, it is page 74, line 10. Perhaps I can  
6 read it to you and if you want to refresh your memory.

7 You said there:

8 "I did not say categorically that he did not get  
9 a salary after that year."

10 That is to say after August 2003. Do you stand by  
11 that?

12 A. I stand by that because in the sense that there was some  
13 subsequent posting after August 2003 of a salary.

14 MR FITZGERALD: We see that for example at page 50 of your  
15 bundle. So is this right that the description of those  
16 payments, and over the five years they total some  
17 900,000, as stipends is not necessarily definitive?

18 A. I think not necessarily definitive.

19 Q. Some of them could have represented salary and some of  
20 them could have represented payments in the sense you  
21 mean of payments for party political expenses?

22 A. Yes, some of them could have represented that.

23 Q. I am obliged.

24 Now, just moving on to the question -- your  
25 understanding of the concept of a stipend, that is

1 something that includes the costs of travel around  
2 the islands, meetings, party expenses, payments to  
3 constituents, even payments to party workers by

4 the individual?

5 A. Yes.

6 Q. All those things are covered, is that right?

7 A. It was a catch-all sort of situation.

8 Q. Obviously it is reasonable that the Premier, who has got

9 to visit all the constituencies and who is the head, is

10 going to have bigger costs in that respect. He is going

11 to have more meetings to host, more travel to make, more

12 constituents to assist.

13 A. He would have higher cost than the average minister.

14 Q. So for that reason one shouldn't draw my sinister

15 inference from the fact that he had higher stipends

16 than, for example, yourself?

17 A. Not in and of itself, no.

18 SIR ROBIN AULD: Say that again, please.

19 A. Not in and of itself. On the face of it I would have no

20 reason to draw any conclusion.

21 SIR ROBIN AULD: I think, Mr Floyd Hall, it is awfully

22 difficult, although your questions are coming from your

23 left, some of your answers have to reach your right.

24 Perhaps you can sit slightly sideways on and the court

25 reporters here too have to pick up every word.

1 MR FITZGERALD: Now, Mr Hall, you have helped us also on  
2 the issue of what you describe as a degree of  
3 commingling, that is to say payments of your own money  
4 for party purposes, and then the party reimbursing you  
5 by payments into your own account. Is that right?

6 A. That is correct.

7 Q. So that you might well have to meet a particular cost of  
8 a party nature and meet it immediately out of your own  
9 account?

10 A. Yes.

11 Q. Maybe out of cash drawn from your own credit card or  
12 money that you had drawn from your own bank account in  
13 that way?

14 A. Yes.

15 Q. Then the party would make a payment into your credit  
16 card account or your account to assist in defraying  
17 those costs?

18 A. Correct.

19 Q. Would you accept that the same process occurred in  
20 respect of the Premier himself?

21 A. That is possible.

22 Q. For example, we know that he paid out of his Horizon  
23 Mastercard the costs of the purchase of some party  
24 paraphernalia in America. Do you recall?

25 A. I think he did. It was for the last election.

1 Q. So he paid for that personally and then he would look to  
2 the party for reimbursement thereafter?

3 A. Correct.

4 Q. In that way, whether it is an ideal situation or not,  
5 there would be some degree of paying for it personally  
6 and then looking to the party for reimbursement?

7 A. Yes.

8 Q. That was perhaps a practice that occurred with both  
9 yourself, the Premier and other ministers and  
10 representatives?

11 A. It is possible, yes.

12 Q. I want to move on from that to the question of  
13 the Belize Bank account.

14 It is right that that was an account on which  
15 a large overdraft was run up?

16 A. Yes.

17 Q. And it was run up for party political purposes, is that  
18 right? Over some years?

19 A. I believe some of it.

20 Q. Is this right that some of the payments into  
21 the First Caribbean International Bank account came from  
22 the Belize Bank account?

23 A. That would be correct.

24 Q. That is to say that the

25 First Caribbean International Bank account was being

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1 supported by payments in from the Belize Bank account?

2 A. Yes, that is correct, as well as payments to build their

3 headquarters.

4 Q. I see. So that came from the Belize Bank account?

5 A. Yes.

6 Q. So there were certainly legitimate party political

7 purposes that were being met out of the funds drawn on

8 the Belize Bank?

9 A. Yes.

10 Q. Is this right, that that gradually built up

11 a considerable overdraft over the years until the point

12 where it was about one and a half million?

13 A. Correct.

14 Q. And then that one and a half million was borrowed from

15 the Belize Bank -- a loan was raised to pay off

16 the overdraft?

17 A. Yes.

18 Q. It was you and the Premier and Jeffrey Hall who

19 underwrote that loan?

20 A. Correct.



21 Q. So you personally guaranteed the loan to repay

22 the party?

23 A. Yes.

24 Q. To repay the party's overdraft?

25 A. Yes.

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1 Q. The three of you would be responsible for paying it

2 back?

3 A. Yes, the three of us.

4 Q. So to the suggestion of the party being in some way

5 ripped off or taken for a ride by yourself or

6 the Premier, by the expenditure in this account, is it

7 right that in fact you were underwriting the overdraft?

8 A. We were certainly underwriting the overdraft.

9 SIR ROBIN AULD: Both of you were underwriting

10 the overdraft?

11 A. Three of us.

12 MR FITZGERALD: You of course were the party Treasurer, is

13 that right?

14 A. Yes.

15 Q. You kept the party accounts?

16 A. Correct.

17 Q. Is this right, that in respect of the Belize Bank,

18 certainly for the most part it was you who kept  
19 the party chequebooks?  
20 A. The Belize Bank?  
21 Q. Yes, the Belize Bank?  
22 A. There were quite a bit of time, a substantial amount of  
23 time, I never had any access to that chequebook.  
24 Q. Is this right, that sometimes you would countersign  
25 a cheque?

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1 A. Sometimes I would.  
2 Q. For the Premier?  
3 A. Of course.  
4 Q. When you were going to be away?  
5 A. Yes.  
6 Q. And sometimes he would countersign a cheque for you?  
7 A. Yes.  
8 SIR ROBIN AULD: Who had the chequebook most of the time?  
9 A. The Belize Bank chequebook was held by the Premier most  
10 of the time.  
11 MR FITZGERALD: You appreciate that there the Premier takes  
12 a different view and he says that you had  
13 the chequebooks for most of the time, do you accept  
14 that?

15 A. I accept he takes a different view of it but a quick  
16 examination of the cheques would reveal that many of  
17 them have one signature on it because I didn't have  
18 access to it.

19 Q. It is right that some of the small cheques, we see them  
20 for example for \$2,000, at page 68 of your bundle, some  
21 of those small cheques had his signature alone. I  
22 accept that.

23 A. As well as some of the transfers that were effected out  
24 of the bank. I didn't have any knowledge of it until at  
25 times the bank would call and indicate that they needed

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1 a second signature on telegraphic transfers that were  
2 attended to. It was myself signing it after the fact.

3 Q. What I just have to put to you is that he always then  
4 gave you an explanation of what it was for?

5 A. Sometimes explanations were forthcoming but many times  
6 they were not.

7 Q. His statement clearly states that it was -- he always  
8 gave you an explanation?

9 A. If I had an explanation I would have been able to do  
10 a better job on reconciling that account.

11 Q. You have not done it then?

12 A. No.

13 Q. I want to move on from there to the question of the jet

14 just very briefly. You were taken to bundle 6 to

15 the Cabinet minute, you recall the Cabinet minute in

16 July, I think, of 2007, where you presented the case for

17 the leasing of the jet from Indigo Transportation?

18 A. Yes.

19 Q. That is right?

20 A. Mmm hmm.

21 Q. You referred when you put that to Cabinet to the need

22 for the Premier to travel with delegations abroad, is

23 that right?

24 A. It was on the day of Cabinet, I had a discussion with

25 the Premier in the hall and he gave me a document

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1 indicating that he needed to get the lease payments

2 authorised to pay Indigo for the lease of a jet. I was

3 surprised by this because that was the first time that

4 I had any knowledge of us entering into a contract to

5 lease a jet.

6 At that time the deal was already completed, there

7 was a situation where Cabinet was seeking ratification.

8 Q. It is right that you not only recommended that the sums

9     owing for the last two months be paid but that the sums  
10    should be paid thereafter?  
11    A. Correct.  
12    Q. Cabinet approved that the outstanding amount of 303,000  
13    should be paid, and that for the months from then  
14    onwards, the lease should be paid for at the rate of  
15    165,000 a month, is that right?  
16    SIR ROBIN AULD: 165,000 a what?  
17    MR FITZGERALD: A month. It is at page 120, sir.  
18    A. Yes.  
19    Q. You obviously have very good recall?  
20    A. I have a good recollection of that because I remember  
21    the paper being tabled whilst it was tabled by me.  
22    I couldn't speak informatively to the paper because  
23    I didn't know the details and it was at that time that  
24    the Premier addressed the situation dealing with  
25    the lease of that jet because I didn't know

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1     the background behind it.  
2     Q. Just looking at the minute, it mentions:  
3         "The Deputy Premier raised this matter, advising  
4     Cabinet that Indigo Transportation Partners is usually  
5     the aircraft used by the Premier for international

6 travel. He advised that the government had purchased

7 400 hours at 165,000 per month."

8 Do you recall saying that?

9 A. Yes.

10 Q. Then:

11 "He noted there was an amount owing and requested

12 the amount be paid."

13 Then:

14 "Cabinet was advised that it approved

15 the outstanding amount for the months of June and July

16 and for the ensuing months to be paid."

17 So you recall all that?

18 A. I recall all that, but there were further discussion

19 with respect to it to bring some sort of clarity as to

20 what it was all about.

21 SIR ROBIN AULD: Forgive me if I interrupt you here,

22 Mr Fitzgerald. That is the rental, that is

23 the leasehold rental?

24 A. Yes.

25 SIR ROBIN AULD: But are there other charges? Mrs Lisa-Raye

1 McCoy Misick spoke of \$100,000 return at weekends. You

2 pay extra when you are in the air, do you, or what?

3 A. I think it was a situation where actually it was paid if

4 the jet was actually utilised.

5 SIR ROBIN AULD: You pay more when you use the jet.

6 A. That was my understanding.

7 SIR ROBIN AULD: On top of the leasehold?

8 A. Right.

9 MR FITZGERALD: Is this right, that in fact what she was

10 referring to was a payment before this, whereby before

11 the agreement with Indigo during their courtship, he

12 regularly visited her and paid himself for the lease?

13 A. Okay, well, here is my understanding of the situation --

14 SIR ROBIN AULD: I just want to know what this contract

15 amounted to. You have the flat leasehold, \$165,000

16 a month. What are you paying on top and when?

17 A. It was my understanding that in addition to the \$165,000

18 a month, if the jet was utilised during that period you

19 had to pay the operational costs, which would have been

20 in respect of crew, fuel and other.

21 SIR ROBIN AULD: Was there a going rate in the contract for

22 that?

23 A. I don't recall, sir.

24 SIR ROBIN AULD: In addition to that, are there any other

25 charges, insurance?

1 A. I don't know how that was treated.

2 SIR ROBIN AULD: I think you may have said, somebody said

3 the term is nearly up now on the lease.

4 A. I think it expires sometime in August.

5 MR FITZGERALD: Can I just clarify on that issue --

6 SIR ROBIN AULD: Perhaps you can help us on what the charges

7 were over and above the leasehold, Mr Fitzgerald.

8 MR FITZGERALD: Sir, I can't assist you on that at the

9 moment. My understanding is that the figure that was

10 quoted by his wife was in respect of --

11 SIR ROBIN AULD: That may be so. That may have been a bad

12 example, but clearly the expenses, once you fly in these

13 things, are going to amount to more than \$165,000

14 a month.

15 MR FITZGERALD: We will certainly deal with that.

16 SIR ROBIN AULD: Once the plane is on the tarmac and

17 the crew are there and it is off in the air, there must

18 be some charge by the hour, mustn't there?

19 MR FITZGERALD: Yes, and indeed when he was using it for --

20 solely for personal purposes, he was paying for it

21 himself.

22 SIR ROBIN AULD: I am simply interested in the rates. What

23 the total cost of this machine was.

24 (3.45 pm)

25 MR FITZGERALD: Can I just clarify this, I think it was



1 suggested in your evidence that the monthly payments on  
2 the lease of the jet were still an ongoing commitment.

3 That was your understanding.

4 A. That is my understanding.

5 Q. Is this right, that actually the government is no longer  
6 paying for the jet?

7 A. I don't know definitively.

8 Q. You are the finance minister. Surely you ought to know  
9 that?

10 A. I am but that would be a matter that would be handled in  
11 the Treasury. I would not know that.

12 Q. Can I just put this for the record, that the government  
13 in fact stopped making payments by June 2008?

14 A. I don't know whether that amount is still owing or  
15 whatever the case may be.

16 Q. Mr Watson in fact revoked the contract when  
17 the government ceased making payments?

18 A. He did?

19 Q. Yes.

20 A. He would have revoked the contract in June then?

21 Q. Shortly after June?

22 A. Okay.

23 Q. So what I am putting to you, you slightly gave  
24 the impression when you gave your evidence on Day 6 that  
25 the commitment was an ongoing commitment up until June

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1 of this year?

2 A. Yes, that is my understanding of the situation. Now, if  
3 he revoked the contract, I would have to see evidence to  
4 that effect.

5 SIR ROBIN AULD: When you say revoked, you mean accepted  
6 the non-payment as a repudiation of contract?

7 MR FITZGERALD: Absolutely, sir, and that therefore -- can I  
8 just put, the situation in fact is that the government  
9 is no longer paying for the jet. You can't help us on  
10 that?

11 A. No, I can't. I would have to check with my finance  
12 department.

13 Q. The jet is no longer available to the government in  
14 fact?

15 A. Okay, I am not aware, sir.

16 Q. You would know if it was knocking around, wouldn't you?

17 A. No, because I had no interest in it.

18 Q. Absolutely none at all?

19 A. None at all.

20 MR FITZGERALD: Those are the only questions. Thank you

21 very much, Deputy Premier.

22 SIR ROBIN AULD: Thank you, Mr Fitzgerald.

23 Cross-examination by MR SMITH

24 MR SMITH: Let's start with the jet. You indicated you had

25 no interest in the jet, is that correct?

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1 A. That is correct.

2 Q. I am not sure if I asked you this before: have you ever

3 been inside that jet?

4 A. Never been inside it.

5 Q. You don't know what the family crest looks like?

6 A. No, I have no knowledge.

7 Q. Let me ask you this: were there any discussions prior to

8 you making that proposal to Cabinet in relation to

9 between yourself and the Premier in relation to that

10 jet?

11 A. We had discussed a plane before casually, and at that

12 stage -- not only me, with myself, him and other

13 colleagues, and in my mind back then, I think we had

14 agreed that that was not the way to go.

15 Q. Let me put you back to the hours or minutes or seconds

16 prior to you making that proposal to Cabinet. Did you

17 have any discussions with the Premier in relation to

18 what you just discovered from him?

19 A. No.

20 Q. I am going to move on to the Southern Health --

21 SIR ROBIN AULD: Please don't move on for a second, if you

22 don't mind, Mr Smith. You said we agreed that that was

23 not the way it was done. What were you talking about

24 and what was the way it was not done? Were you talking

25 about another plane? You had discussions --

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1 A. No, we agreed that that was not the way to go. That we

2 didn't -- we were not interested in a plane.

3 SIR ROBIN AULD: Not the way to go?

4 A. Yes.

5 SIR ROBIN AULD: I see, yes. Thank you.

6 MR SMITH: Let's move to Southern Health Network. You were

7 posed some questions by Mr Milne in relation to your

8 role in relation to this arrangement. Do you remember

9 those questions?

10 A. Yes.

11 Q. In fact we are agreed that you had a close relationship

12 with Mr Howell?

13 A. Yes.

14 Q. Would you agree with me, sir, that given the fact that  
15 you had a close relationship with Mr Howell, and given  
16 the fact that you had knowledge that Mr Howell was  
17 the moving spirit behind Southern Health Network, do you  
18 understand why there is a perception that you should  
19 have withdrawn from this deal?

20 A. I do understand.

21 Q. Can you explain to the Commission the reasons why you  
22 didn't?

23 A. Because at the end of the day I had no personal interest  
24 in the matter from a personal gain standpoint. It was  
25 important for me to see the cost of health care

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1 per capita reduced, and I believed that the proposal, as  
2 he had submitted, would enable us to get the costs  
3 reduced and in addition to that, to provide  
4 the reinsurance coverage that we needed for catastrophic  
5 cases. I was confident in my mind that his proposal was  
6 the best suited for that.

7 Also, he was able to demonstrate to us that he could  
8 have provided ambulatory care at 50 per cent of the cost  
9 that we were getting it at. We were paying \$24,000 in  
10 some cases for ambulatory services. He was able to

11 demonstrate, and has done consistently since having  
12 the contract, that he can bring down the ambulatory cost  
13 down to \$12,000 per evac, and so that was the reason why  
14 I felt comfortable about the situation.

15 Q. But the question, though, that we should answer is that  
16 we agreed that you had two pre-existing tenders, two  
17 pre-existing proposals, is that correct?

18 A. Yes.

19 Q. We also agreed that Southern Health Network proposal  
20 came after those two?

21 A. Yes, it did.

22 Q. Once you came to your conclusion that Southern Health  
23 Network would possibly satisfy the reinsurance aspect,  
24 did you now, in an opportunity to give these persons a  
25 fair opportunity, go back to these entities to ascertain

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1 whether or not they could also provide the same services  
2 that you were now getting from Southern Health?

3 A. I had no need to go back to them because we were seeking  
4 the reinsurance coverage as an ongoing process from CMN.  
5 They could not provide us with the situation, and also  
6 when we had the consultant that came from California  
7 down here to deal with the entire patient care

8 situation, he made it clear that under no circumstances  
9 we were going to be able to get reinsurance coverage for  
10 our health care unless we can get a claims ratio done or  
11 claims history done.

12 Southern Health Network, through their sister  
13 company, I would say, their health insurance company,  
14 would have been able to provide us with that claims  
15 history and indeed they provided quite a bit of work on  
16 it, I think, but they were not able to conclude their  
17 report because all the cases did not go through them.  
18 You have to remember, one third of the cases that should  
19 have gone through them went outside of their control.

20 So they were not able to get the documentary  
21 evidence that they needed to generate a proper claims  
22 history. So we had to abandon that whole process which  
23 was a very costly undertaking, but they absorbed that in  
24 their rate.

25 Q. Let me ask you this: would you agree with me, sir, that

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1 the fact that Southern Health Network had an established  
2 insurance arm, did that play a significant role in you  
3 making a proposal that that is the entity that should  
4 be employed?

5 A. A very significant role, and also the fact that they  
6 were based in Miami, as opposed to the other entity,  
7 CMN, which was based in Canada, and all they did was  
8 receive paperwork to Canada and send it on to us in  
9 the Turks & Caicos. They were able to provide on-site  
10 management of the cases in Miami.

11 Q. Did Southern Network actually achieve what it promised  
12 in relation to cutting costs?

13 A. It achieved -- the cost per capita has been cut, but  
14 what has happened unfortunately is that the global cost  
15 of health care has escalated and it has created  
16 the perception that they did not control the costs, that  
17 they increased the costs.

18 Q. Let me stop you there. Would you agree that the global  
19 increase of costs comes as a result of the amount of  
20 referrals?

21 A. It comes not only as a result of the amount of referrals  
22 but the inflation in health care cost globally and  
23 especially the inflation of health care costs in the US.

24 Q. What role if any, and let's deal with the referrals  
25 first, did Southern Network have in referring the cases



2 A. They played no role whatsoever in that process.

3 Q. Let me just wrap up with Southern Health Network. Did

4 you receive any financial benefit yourself personally

5 from that relationship?

6 A. Never.

7 Q. Whilst we know Mr Howell ultimately would have received

8 some financial benefit, would you agree with me, sir,

9 that he had, as a man of substantial means, even prior

10 to his relationship with the government and with

11 Southern Health?

12 A. Mr Howell is a man of very substantial means, much

13 before he got involved with the Southern Health Network

14 project. Also I would say that Mr Howell is deeply out

15 of pocket, millions of dollars as it relates to paying

16 for health care cost for the Turks & Caicos government

17 that to date he has not been reimbursed for.

18 Q. Let me move to another matter. There was some testimony

19 in relation to Windsor Investment Group?

20 A. Yes.

21 Q. You indicated in your testimony that you made

22 a contribution?

23 A. Yes.

24 Q. Now, did you have an opportunity to at any time check

25 the Company Registry to ascertain whether or not any

1 shares were issued to you in relation to the Windsor  
2 Investment Group?

3 A. Yes, I checked it upon learning that I had 10 per cent  
4 shares in Windsor Investment and I checked  
5 the Companies Registry.

6 Q. Can you look at page 144, bundle 4. Would you agree  
7 with me, sir, that that reflects the company search  
8 results in relation to Windsor Investment Group?

9 A. Yes, it does.

10 Q. Would you also agree with me, sir, that this document is  
11 a document that the Commission has?

12 A. Yes, the Commission has it.

13 Q. There is an incorporation date on that, is that correct.

14 A. Yes.

15 Q. What date is that?

16 A. It seems to me that the incorporation date --

17 Q. The registered date, does it say 21st April 2004?

18 A. 21st April 2004, yes.

19 Q. Who are the shareholders listed here?

20 A. The sole shareholder is Chal Misick.

21 Q. Are you listed there as having 10 per cent shares, sir?

22 A. No.

23 Q. Is there an indication in the Company Registry that any  
24 shares were transferred to you, subsequent to

25 the formation of this company?

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1 A. No.

2 Q. Just to clarify, were you a part of any negotiations in  
3 terms of the construction of the Casablanca Casino?

4 A. No.

5 Q. Were you a part of any negotiations in relation to any  
6 lease arrangement between Casablanca Casino and  
7 Windsor Investment Group?

8 A. No.

9 Q. Were you a part of any negotiations in relation to any  
10 mortgage or loan taken up by Casablanca Casino involving  
11 Windsor Investment Group?

12 A. No.

13 Q. Let me touch on one other matter in relation to bank  
14 accounts. Am I correct that when you testified, you  
15 indicated that you have a Cayman Islands bank account?

16 A. Correct.

17 Q. You remember there were some oohs and ahs when you  
18 mentioned that?

19 SIR ROBIN AULD: Can you repeat what you just said, Mr  
20 Smith? Cayman Islands bank account, what did you then  
21 say?

22 MR SMITH: There were some oohs and ahs from the audience  
23 when you mentioned that you had a Cayman Islands bank  
24 account.  
25 A. Correct.

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1 Q. Can you clarify the history in relation to that  
2 Cayman Islands bank account?  
3 A. The Royal Bank of Canada had a small branch here in the  
4 Turks & Caicos, I think some time as recent as 2004.  
5 I opened up a fixed deposit account, my wife and I, with  
6 Royal Bank of Canada some time in 2003. After that,  
7 the bank, RBC, Dominion was the name of the bank, it was  
8 near where Fedex building is at present, they decided  
9 that they were going to relocate their offices to Cayman  
10 and in the process of relocating their processes to  
11 Cayman, my bank account was transferred to the  
12 Cayman Islands. So the account was opened here.  
13 Q. So was this a savings account or a mutual fund account?  
14 A. It is a small fixed deposit account that had \$25,000 in  
15 it.  
16 Q. Would you agree with me that it has lost money since you  
17 started it?  
18 A. Yes, I invested in some stocks and as a result of the

19     downturn in the stock market, it has lost almost 40  
20     per cent of its investment.  
21    Q. So this is not an account where you are secreting money,  
22     is that correct?  
23    A. No, I have lost money.  
24    Q. Would you agree that you provided that information and  
25     details of that account to the Commission?

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1    A. Yes, I have.  
2    (4.00 pm)  
3    Q. Now, there were some questions posed by Mr Milne this  
4     morning in relation to your finder's fee for Mr Padgett?  
5    A. Yes.  
6    Q. Let's clarify this. Am I correct that when you first  
7     approached Mr Padgett in relation to the idea of making  
8     this purchase, in what year, sir?  
9    A. It was in 2002.  
10   Q. Will you agree with me, sir, that was a year when you  
11     were not involved in politics?  
12   A. I was not involved in politics.  
13   Q. Not a member of the Legislative Council?  
14   A. Not a member of the Legislative Council.  
15   Q. Not a Member of Parliament at that time?

16 A. Not involved in politics in any capacity.

17 Q. Am I correct to say that the matter was only resolved in

18 2006?

19 A. Yes.

20 Q. At the end of 2006, sir, did you send Mr Padgett

21 an invoice for your services?

22 A. I did.

23 Q. Are you aware if the Commission has a copy of that

24 invoice?

25 A. They do.

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1 Q. Tell us, what did that invoice specify?

2 A. It specified a 6 per cent commission on a sale of a

3 \$5 million purchase of the Third Turtle Inn property and

4 it also reflects general discussions and meetings

5 dealing with the development of the site with \$75,000.

6 SIR ROBIN AULD: Where do we find that in our papers,

7 Mr Smith? The invoice?

8 MR SMITH: I think the Commission received a copy of that.

9 SIR ROBIN AULD: That is what I am asking about. When did

10 we receive it? No, you tell me when did we receive it?

11 MR SMITH: Over the weekend.

12 SIR ROBIN AULD: Let's find out where it has been put. Has

13 it been filed yet? What is today? Today is Monday, is  
14 it not?  
15 MR MILNE: It is, sir, and we have a fax dated 2nd February,  
16 which is today at 10.38 am.  
17 SIR ROBIN AULD: Would you like to have a look at that,  
18 Mr Smith?  
19 MR SMITH: I have it.  
20 SIR ROBIN AULD: May I see it?  
21 MR SMITH: Yes, sure.  
22 MR MILNE: We have one copy so far. (Handed)  
23 Thank you very much.  
24 SIR ROBIN AULD: It is dated 6th February 2006:  
25 "Ref the Third Turtle property, Providenciales.

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1 2.1:  
2 "April 2004. Fees relating to the introduction and  
3 subsequent negotiation of the purchase of the freehold  
4 development opportunity, formerly known as the Third  
5 Turtle site, located at Turtle Cove, Providenciales, on  
6 property legally described as parcels."  
7 It then gives the numbers:  
8 "Purchase price of 5 million, fixed commission  
9 300,000.

10 "2. October 2005, general advice between 2002 and  
11 \$2005, \$75,000. Total fees due, \$375,000. Terms  
12 payable upon receipt of invoice, payable to  
13 Paradigm Corporate Management."

14 That is the document.

15 MR SMITH: That is the document. Am I correct, sir, that  
16 that is the document that you sent to Mr Padgett back in  
17 2005?

18 A. That is correct. 2006, I believe.

19 Q. Would you agree with me that that document was obtained  
20 not from you but from Mr Padgett himself by  
21 the Commission?

22 A. That is correct.

23 SIR ROBIN AULD: Sorry, I thought we only received this  
24 today?

25 MR MILNE: We received it by fax this morning after we had

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1 started sitting.

2 SIR ROBIN AULD: From whom?

3 MR MILNE: From Mr Padgett.

4 SIR ROBIN AULD: Did we ask Mr Padgett for it?

5 MR MILNE: I believe we did, sir, yes.

6 SIR ROBIN AULD: If there is any significance in that, there



7 we are.

8 MR SMITH: There were some questions in relation to that, at

9 one point in time you signed a document that basically

10 allowed Mr Padgett to build seven storeys instead of

11 five, is that correct?

12 A. That is correct.

13 Q. Would you agree with me, sir, were you the individual

14 who made the decision to give Mr Padgett the permission

15 to build seven storeys instead of five?

16 A. No, I didn't make that decision.

17 Q. How come, sir, that, since in fact you were not the one

18 who made the decision, did you come to be signing that

19 document?

20 SIR ROBIN AULD: Could you repeat that question more slowly

21 please?

22 MR SMITH: How come, sir, since you were not the one who

23 actually made the decision, did you find yourself

24 signing that document?

25 A. Because I was Acting Premier and at the time

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1 the document was completed the Premier was not in

2 the country and it was, I think, at that time, they

3 needed to get the document signed. So I signed off as

4 Acting Premier.

5 Q. If the Premier was in the country, would you be  
6 the person signing that document?

7 A. No. Also, as I stated this morning, I advised  
8 Mr Padgett time and time again to abandon his pursuit  
9 for seven storeys because I figured he was not going to  
10 get -- it was not going to fly.

11 The community in which he was in, I didn't think  
12 they would have felt comfortable with it. So  
13 I encouraged him to go for a five-storey development  
14 there. But in order to reach the economies of scale  
15 that he wanted, I think he needed to get seven storeys  
16 to accommodate a car port.

17 Q. Were you Minister of Planning at that time?

18 A. I was never Minister of Planning.

19 Q. Did you have any authority to overrule a decision of the  
20 Planning Board?

21 A. No.

22 Q. Did you play any role by influencing the Ministry of  
23 Planning to grant a seven-storey?

24 A. No.

25 Q. Let's just jump ahead to the Belize Bank account. You

1 are a certified public accountant, is that correct?

2 A. That is correct. I think it has been well established

3 now too.

4 Q. In your professional capacity, sir, are you -- do you

5 take some blame for the way the Belize Bank account has

6 been presented?

7 A. Yes, I do.

8 Q. Why is that?

9 A. Because it has not been properly -- the transactions on

10 it haven't been properly documented and reconciled and

11 I do accept blame in that respect because it should have

12 been better handled, I believe.

13 Q. You handled the First Caribbean Bank account, is that

14 correct?

15 A. Yes.

16 Q. And you prepared a ledger from that, is that correct?

17 A. I prepared a full set of books for that account.

18 Q. Why were you able to prepare a full set of books for

19 the First Caribbean International Bank and not from

20 the Belize Bank account?

21 A. Because I have all the information at my disposal for

22 that account.

23 Q. Can you tell us why it is that you as a Treasurer did

24 not have information in relation to the Belize Bank

25 account?

1 A. The cheques were most of the times held by the Premier  
2 and even when cheques were written, I didn't get proper  
3 details on it. So I would have to go to the bank to  
4 find out information from time to time and it became  
5 frustrating. So at the time I couldn't properly  
6 reconcile the account.

7 Q. Would you agree with me, sir, that there were occasions  
8 when there were transfers done --

9 MR FITZGERALD: Could you not lead. He is your witness  
10 don't lead him.

11 SIR ROBIN AULD: Sorry, I missed that.

12 MR FITZGERALD: Sorry, sir, I object to him leading in this  
13 case. This is an area where there is a disagreement  
14 between the witness --

15 SIR ROBIN AULD: The witness has already said that the  
16 Premier signed most of the cheques and was responsible  
17 for most of the transfers and that is his evidence. If  
18 Mr Smith is going to try to get him to repeat it, it is  
19 pointless; if he is going to try and improve on it, he  
20 should do it in a non-leading way.

21 MR FITZGERALD: That is my request.

22 MR SMITH: I am going to take you to page 68 of your  
23 bundle 2. Without me leading, could you tell me what is

24 at page 68?

25 A. It is a series of cheques that have been signed by

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1 the Premier.

2 Q. How many cheques?

3 A. Three.

4 Q. And without me leading, again, how many signatures are

5 on these cheques?

6 A. It is just his signature.

7 SIR ROBIN AULD: Sorry, I should not have interrupted.

8 A. I am saying it is just his signatures.

9 MR SMITH: What are the amounts in those cheques?

10 A. 12,000, 1,890, 3,600.

11 Q. Again, let's go to page 69 and look at that middle

12 document. What is that middle document?

13 A. It is a cheque signed by the Premier.

14 Q. How much is that cheque?

15 A. 25,000.

16 Q. And there are others?

17 A. Yes.

18 Q. If you go to page 70.

19 A. Yes.

20 Q. In the middle is there another cheque?

21 A. Yes, there is another cheque signed by the Premier.

22 Q. How much is that cheque?

23 A. For 23,100.

24 Q. Are those examples, sir, of cheques signed by

25 the Premier alone without your control?

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1 A. Yes.

2 Q. Did those factors contribute to you not being able to

3 fully reconcile the Belize Bank statement?

4 A. It contributed.

5 Q. In relation to the PNP funds that you were given,

6 the contributions, you indicated that there were

7 instances when you had to be reimbursed.

8 A. Yes.

9 Q. Why, sir, would the reimbursement be sent to your credit

10 cards?

11 A. Because at times the reimbursement would have been --

12 I would need to make a payment to the credit card at

13 times and rather than the payment going to my current

14 account, I would have it go directly to my credit card.

15 Q. Does it necessarily mean that the fact that it was paid

16 on your credit card was reimbursement for purchase or a

17 sum that you expended on the credit card?

18 A. It doesn't necessarily mean that. Although there were  
19 times I could recall that we did incur transactions on  
20 the credit card and the reimbursement would in some case  
21 coincide with that.

22 Q. This system of having PNP political funds, campaign  
23 contributions going to an individual who would then  
24 place it in their personal account, you testified that  
25 that is pretty much standard in the country?

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1 A. That is very much standard in the country.

2 Q. What is the basis for you saying that, sir?

3 A. Because I met that system going on when I came to the  
4 party and I also am aware that in both parties that  
5 the various parties make funds available to their  
6 candidates during the election because they would  
7 probably have a peculiar situation that they have to  
8 deal with that is unique to their constituency. So both  
9 parties have done that and I can say for all  
10 the candidates that have ever run on a PNP ticket, they  
11 would have gotten some form of personal financial  
12 assistance during the election.

13 Q. Are we agreed that during the period I think 2004 to  
14 2008 you received a total of \$303,000?

15 A. Correct.

16 Q. Did you have an opportunity, sir, just to do a sample of

17 how you expended that sum?

18 A. Yes, I was able to do that over the weekend.

19 Q. Did you prepare a chart and supply it to the Commission?

20 A. Yes, I have.

21 Q. What period of time did you sample?

22 A. I covered a period just less than nine months.

23 SIR ROBIN AULD: Is this something we have looked at?

24 A chart prepared --

25 MR MILNE: I was shown a copy of it, sir, before we started

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1 today but it is not something I have questioned him on.

2 SIR ROBIN AULD: But do you have a copy of it?

3 MR MILNE: I have a copy, if it is the same document my

4 learned friend handed to me this morning.

5 SIR ROBIN AULD: But you have not had a chance to look at

6 it?

7 MR MILNE: I have glanced at it very quickly, sir, but it is

8 impossible for me to do any sort of comparison --

9 SIR ROBIN AULD: I am not suggesting you should but at least

10 I would like to know what we are talking about. Can I

11 perhaps see the only copy, if there is only one copy in



12 the building at the moment? Do you have a copy  
13 Mr Floyd Hall?  
14 A. I have a copy.  
15 SIR ROBIN AULD: It is important you have one and that you  
16 have one Mr Smith and I have one at the very least.  
17 Ideally Mr Milne should have one too.  
18 MR SMITH: I gave Mr Milne four copies this morning.  
19 SIR ROBIN AULD: What are we going to call this Mr Smith?  
20 MR SMITH: We could call it sample of contribution  
21 dispersed.  
22 SIR ROBIN AULD: Political contributions are these?  
23 MR SMITH: Dispersed by my client.  
24 SIR ROBIN AULD: Sample of political contributions dispersed  
25 by Mr Floyd Hall, is that right?

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1 MR SMITH: Yes.  
2 SIR ROBIN AULD: Thank you.  
3 MR SMITH: How many months did that sample cover?  
4 A. It begins at the end of November and it goes up to  
5 sometime in September but the month of -- part of the  
6 month of June is missing. June 2007 is missing because  
7 I couldn't find my cheque; my cancelled chequebook stubs  
8 for that period.

9 Q. What was the source of the information from which you

10 gleaned that document?

11 A. My chequebook stubs.

12 SIR ROBIN AULD: Derived from chequebook stubs. I am adding

13 that to the title.

14 MR SMITH: During that nine month period what is the total

15 amount of money you expended as part of your political

16 endeavours?

17 A. \$117,355.41.

18 Q. Can you give us a synopsis as to how that sum was spent?

19 A. It was spent on assistance to those in need in

20 the various communities. Not necessarily my only

21 constituency -- not necessarily my constituency but on

22 persons, students coming home from college, not having

23 sufficient funds to pay their way back to school or to

24 purchase tickets to allow them to come home during

25 the Christmas holidays or what have you; to assist

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1 persons who went off for medical treatment, purchasing

2 either their tickets or paying for hotel accommodation

3 for them. In some cases assisting people with loans to

4 provide to pay for utility bills and what have you. In

5 some cases some persons would come and state that they

6 want to borrow something from me but you know very well  
7 that you would never get the money back. These were  
8 things that politicians are called upon to do in this  
9 community from time to time.

10 Q. Were these bribes to have these people vote for you,  
11 sir?

12 A. Not at all. Never in one occasion did I ever even  
13 mention the word vote for me. This was used to assist  
14 not only PNPs but also PDMs and regardless of the  
15 political situation. I never asked what their situation  
16 was.

17 Q. Did you have an opportunity to look at the names on  
18 those lists and to see if they are all within your  
19 constituency, outside your constituency or not?

20 A. I had an opportunity to look at this list, and to tell  
21 you the truth, some of the names I don't even know  
22 the persons now if you were to put them in front of me,  
23 but I know for a fact that they came and asked for  
24 assistance, and I assisted them if I was in a position  
25 to do so.

1 (4.15 pm)

2 SIR ROBIN AULD: I think we should make it plain, because no

3 one else can see this, it consists of a series of in  
4 the main round figures by way of credit to the credit  
5 card account.

6 A. No. These were not --

7 SIR ROBIN AULD: You have identified amounts, what -- you do  
8 not say whether they are cash, cheque or what?

9 A. Okay.

10 SIR ROBIN AULD: They are all round sums or mostly.

11 A. Mostly round sums because someone would come and ask if  
12 I could assist them with \$500. If they had to purchase  
13 a ticket for travel, I would not go to the -- although  
14 there have been cases that I ran up huge accounts with  
15 travel agencies, paying for tickets for individuals to  
16 either send their children off to school or to pay for  
17 emergency health care for some people.

18 MR SMITH: Are these all cheques?

19 A. These here are all cheques.

20 SIR ROBIN AULD: These are gifts that you made by way of  
21 cheque payments?

22 A. Yes.

23 SIR ROBIN AULD: So we have lots of 200s and 500s in that  
24 order. We have some big ones too. We have a large one  
25 for Christmas parties, over \$11,000. That is in

1 a particular figure. 2,000 in another instance. 4,000  
2 in another. 3,000 in another. Mother's Day gifts,  
3 \$10,000. \$5,000. There were some pretty meaty cheques  
4 there.

5 A. The Mother's Day gift would have been a collection of  
6 Mother's Day gifts and would go through the community.

7 SIR ROBIN AULD: There must have been a lot of happy  
8 mothers.

9 A. In (inaudible) constituency I would say there are.

10 MR SMITH: One final thing before I sit. Reference has been  
11 made to you in relation to PNP contributions that have  
12 come to your account and to the PNP account. Were these  
13 bribes?

14 A. Definitely not.

15 Q. Why do you say that?

16 A. Because these funds were always utilised for political  
17 endeavours, and at the end of the day the funds never  
18 personally benefited me. It was used to benefit persons  
19 in the community.

20 Q. You would agree with me, though, that some of these  
21 investments, some of these contributions are from  
22 developers?

23 A. Yes.

24 Q. Would you agree that there could be a perception that  
25 these monies were paid to the PNP and paid to you in

1 an attempt to have you look on whatever they do in  
2 favour?

3 A. In many cases I didn't even know what they were doing.

4 Q. Do you agree that that perception is actually a real  
5 perception?

6 A. That perception is probably a real perception, but I can  
7 always say that I have conducted myself in an arm's  
8 length and in a professional manner in dealing with  
9 whatever business I had to deal with with developers in  
10 this country.

11 MR SMITH: Thank you. That is all I have, sir.

12 SIR ROBIN AULD: Mr Misick, I see you in front of me.

13 I don't know whether you wish to ask any questions?

14 MR MISICK: No, sir.

15 SIR ROBIN AULD: Mr Milne.

16 Re-examination by MR MILNE

17 MR MILNE: Just on that last list, before we get overwhelmed

18 by it, we should bear in mind that quite a number of

19 the items on here are cash. In fact on my tally,

20 \$14,950 is cash withdrawals.

21 A. Yes.

22 Q. We also have, as we have heard, 11,372 for Christmas

23 parties but that cheque was made payable to your wife?  
24 A. Yes, because she would be the one organising the event.  
25 Q. There is a cheque to yourself for \$1,000 on that. First

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1 page, sir.

2 A. That would have been a case whereby --

3 SIR ROBIN AULD: Which \$1,000 is that?

4 MR MILNE: 13th March 2007.

5 A. What I would only like to record with respect to that is

6 that not only did I assist people with cheques, but

7 there were times when I had cash or I needed cash to

8 assist.

9 SIR ROBIN AULD: You said 13th March. There is

10 a 14th March 2007 and there is a 3rd March.

11 MR MILNE: TCIG on 14th March.

12 A. That probably would have been paying for a lease payment

13 for someone who had a Crown land lease.

14 Q. But you don't have any record, apart from your cheque

15 stubs, going back to 2007, have you?

16 A. I have other information.

17 Q. There are a list of names here, but essentially there is

18 no -- no criticism here, sir -- your personal chequebook

19 is likely to have a number of things that you pay out

20 for. But this list which you described as being  
21 117,000, which no doubt is the total, does include quite  
22 a lot of your personal expenditure, Hallmark Trust, on  
23 two occasions you are paying your credit card out of it.  
24 A. Yes, but there were small amounts to the credit card and  
25 it would have probably been in relation to some campaign

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1 activity that I was dealing with.

2 Q. That was \$1,000 we are talking about.

3 A. Yes.

4 Q. Belize, it says, presumably not the country, I assume it  
5 is the bank?

6 A. Yes.

7 Q. Another 1,500?

8 A. Yes.

9 Q. TCI Sky King, small payment but \$161 there.

10 A. It could have been travel to a meeting.

11 Q. It could be. Premier's Cup \$1,750?

12 A. Yes.

13 Q. Royal Jewels, \$5,000?

14 A. It could have been for the Mother's Day gifts. We  
15 purchased small items.

16 Q. When is Mother's Day?



17 A. It is in May.

18 Q. This is in August?

19 A. Yes, but I could have credited the situation and in most  
20 cases I would have credited and paid it at a later date.

21 Q. You have Mother's Day gifts in April of \$10,000 so  
22 mothers were doing really well that year.

23 A. I spend a lot of money in my constituency on mothers,  
24 especially the elderly.

25 Q. With respect all we have is a list of names, and from

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1 that you ask us to infer that much of these are  
2 payments, effectively grants, is that correct?

3 A. Yes, and I still have my cancelled cheque stubs. I can  
4 provide them to you if you wish. I painstakingly went  
5 through the list and took out anything that related to  
6 my personal payments.

7 Q. Despite the fact that these cover a period of time  
8 which runs before and indeed after the election of last  
9 year, not one of these was designed to induce anybody to  
10 vote for you?

11 A. I never, ever asked any person to vote for me as  
12 a result of me making a payment to them. Never.

13 Q. That is a different issue. Whether you asked them or

14 not, did it ever cross your mind that it might be seen  
15 as a persuader?  
16 A. Sir, if persons in my community are in need, and I know  
17 that they are in need, and they came to me asking me for  
18 assistance and I was in a position to do that, I would  
19 have done it.  
20 Q. One last point, from the fax that we received this  
21 morning from Oceanpoint Developments. The invoice that  
22 you provided to them, at least as far as the photocopy  
23 is concerned doesn't come out particularly clearly, but  
24 it does say TCREA which appears to be Turks & Caicos  
25 Real Estate Association. Are you a member of that?

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1 A. No, but the company Platinum Realty is a member of it.  
2 Q. Platinum Realty, as I understand it, is inactive. It  
3 was not doing business?  
4 A. I told you Platinum Realty is active. I told you it  
5 doesn't conduct a lot of business, but this is in  
6 respect of activity which I conducted in 2002, and as  
7 a result, those funds were not entitled to go to  
8 Platinum Realty, and hence the reason why it was  
9 instructed to be paid to Paradigm.  
10 Q. It does say pay to Paradigm. I just wonder why it is

11 not invoiced on the part of Paradigm?  
12 A. It was not invoiced on the part of Paradigm because it  
13 was for real estate activity. As I indicated, it was  
14 a real estate activity that was conducted in 2002 that  
15 I was involved in. The invoice was presented in 2006.  
16 Because that is when the deal got consummated. So it  
17 was submitted under a real estate invoice with  
18 the company Platinum, but the payment was asked to go to  
19 Paradigm.  
20 SIR ROBIN AULD: Are you leaving that now?  
21 MR MILNE: I am leaving that.  
22 SIR ROBIN AULD: May I just, before you move on, there  
23 seemed to be quite a lot of payments to K Lightbourne.  
24 3,000, 2,000, 2,000, another 1,000. Are they all  
25 the same chap?

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1 A. Yes, it probably would have been about three payments to  
2 K Lightbourne. One of them would have been a request  
3 for assistance to him.  
4 SIR ROBIN AULD: ú3,000 in May of --  
5 A. You say ú3,000 but these are dollars.  
6 SIR ROBIN AULD: Sorry, forgive me. It is almost the same  
7 now anyway.

8 A. He is my messenger, my assistant at my office in  
9 Grand Turk.  
10 SIR ROBIN AULD: That is payment for his assistance and  
11 there is another 2,000 to him in July. Two days  
12 running, really.  
13 A. One of those would have been for him providing cash to  
14 me for my work in the island.  
15 SIR ROBIN AULD: Another one in August.  
16 A. Yes.  
17 SIR ROBIN AULD: That follows a payment of 5,000 to  
18 Royal Jewels.  
19 A. Yes.  
20 SIR ROBIN AULD: What is that about?  
21 A. I just described that to Mr Milne. It was in respect of  
22 Mother's Day gifts.  
23 SIR ROBIN AULD: That was Mother's Day gifts too, was it?  
24 A. Yes.  
25 SIR ROBIN AULD: So that is ú15,000 on Mother's Day gifts.

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1 A. Dollars, please, sir.  
2 SIR ROBIN AULD: Is that right?  
3 A. \$15,000.  
4 SIR ROBIN AULD: What were you buying them?

5 A. Every year I spend at least about 15,000 on Mother's Day

6 gifts and probably another 15,000 --

7 SIR ROBIN AULD: Give us an example of the jewellery from

8 Royal Jewels.

9 A. It will be very simple stuff, it could be a number of

10 small bracelets, pendants and stuff like that.

11 SIR ROBIN AULD: How many mothers benefited, would you say?

12 Roughly?

13 A. There is about, I would say in excess of 200 mothers in

14 the constituency. All of them would not get gifts from

15 Royal Jewels. Some of them would get probably a floral

16 arrangement with probably some piece of clothing or

17 something like that.

18 SIR ROBIN AULD: I was never very good at sums. What is

19 that, about \$150 a mother, is it?

20 MR MILNE: It is about \$75 per mother.

21 SIR ROBIN AULD: Don't tell my mother, will you? We have

22 probably had enough of this, have we?

23 MR MILNE: I have no further questions, sir.

24 SIR ROBIN AULD: Thank you. Mr Floyd Hall, thank you for

25 attending to give evidence. You have done so with great

1 courtesy and at times good humour, and I am sorry that

2 we have had to keep you in the witness box for so long.

3 A. Thank you very much, sir.

4 MR MILNE: Sir, given the late hour, it is regretfully

5 impractical, I think, to proceed with any further

6 witnesses. It is 4.30.

7 SIR ROBIN AULD: What remains is an apology to

8 Mr Jeffrey Hall. Is Mr Jeffrey Hall here?

9 MS MISSICK: Yes, sir.

10 SIR ROBIN AULD: I am sorry, Mr Jeffrey Hall, and I can

11 almost hear you saying can we sit on again. I think we

12 had better start with you in the morning if you are

13 available tomorrow, and we shall hope then to make

14 a start with the Honourable Lillian Boyce, but I suspect

15 not before 2 pm. Mr Hall all morning and Lillian Boyce

16 in the afternoon.

17 MR SMITH: Very well.

18 MR MILNE: Sir, can I indicate that Mr Ariel Misick, who

19 appears for the Honourable Jeffrey Hall now, has kindly

20 provided me with a statement, and indeed I think,

21 although I have not had a chance to look through them,

22 there are supporting documents which we will have

23 a chance to give attention to overnight. Clearly it may

24 be that by virtue of that, we can take the Honourable

25 Jeffrey Hall slightly faster in the morning. I will try

1 to focus down the areas of questioning since we have  
2 already covered some ground prior to this.

3 Whilst I am on my feet, might I also raise an issue  
4 which in fact dates back a week or two to exchanges that  
5 occurred while the Premier was giving evidence.

6 I have been invited to deal with this by Mr Ariel  
7 Misick and I am happy to do so. It relates back to  
8 Thursday, 15th January 2009. That would be the third  
9 day of transcripts.

10 The Commission may recall that there was questioning  
11 of the Premier who was giving evidence at the time.

12 Those questions related to his failure to disclose  
13 a financial link with a company called  
14 Aquarius Development Limited.

15 This may ring some bells with the Commission, sir,  
16 because it would seem that there was a purchase between,  
17 I think, Ashley Properties and Aquarius Development  
18 Limited where the Premier and indeed the Deputy Premier  
19 made the commission. Certainly the Premier did.

20 Questions were put to the Premier as to whether or  
21 not he should have declared the financial link with  
22 Aquarius Limited, given that subsequent to that,  
23 Aquarius Limited came up as an issue before Cabinet in  
24 relation to the extension or addition to an earlier

25 development agreement.

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1 The criticism, I need to make clear, sir, was of the  
2 Premier for his failure to disclose.

3 Aquarius Development Limited has as one of its  
4 shareholders Mr Wehrli, whose name has also been  
5 mentioned. I am asked to point out, and I am happy to  
6 do so, that Aquarius is not, as might have been  
7 perceived at the time, Mr Wehrli's exclusive company.  
8 He is a shareholder within the company, but is not  
9 the sole shareholder. I believe he has a 50 per cent  
10 interest. He wishes it made clear that he does not  
11 actually manage Aquarius Development.

12 More importantly, the Commission is happy to make  
13 clear that it is not intended, nor should it be read  
14 that the Commission seeks to criticise the behaviour of  
15 Aquarius Development in relation to this deal.

16 The criticism was and remains that of the behaviour of  
17 the Premier in failing to disclose properly or indeed at  
18 all that financial link at the time that he was party to  
19 consideration of the Aquarius application for  
20 a development extension.

21 I trust that that can be put on the record, and that



22 Mr Wehrli is not in this exchange in any way the subject  
23 of criticism, nor should it be read in such a fashion.  
24 I don't know if that is --  
25 SIR ROBIN AULD: Thank you, Mr Milne.

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1 MR MISICK: Thank you, sir. I am very grateful to Mr Milne  
2 and I am sure that will satisfy Mr Wehrli.  
3 MR MILNE: I am happy to make that concession, sir.  
4 SIR ROBIN AULD: Mr Misick, I should have added when I spoke  
5 to you that the Commission is very grateful to you for  
6 stepping in at such short notice to look after Mr Hall.  
7 You can't have had much of a weekend.  
8 MR MISICK: Not at all.  
9 SIR ROBIN AULD: We look forward to seeing you again in the  
10 morning. 10.30.  
11 (4.32 pm)  
12 (The court adjourned until 10.30 am  
13 on Tuesday, 3rd February 2009)  
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