



TRANSCRIPT OF PROCEEDINGS

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COMMISSION OF INQUIRY INTO NATIONAL PROVIDENT FUND

Mr Tos Barnett, Chairman
Mr Donald Manoa, Commissioner
Lady Wilhemina Siaguru, Commissioner
(In Absentia)

AT WAIGANI, WEDNESDAY 20 FEBRUARY 2002 AT 9.40 AM

(Continued from 19 February 2002)

[9.40 am] THE CHAIRMAN: The inquiry for the National Provident Fund is now resumed. Mr Reeve.

MR REEVE: I recall Mr Philip Eludeme.

PHILIP ELUDEME, recalled:

THE CHAIRMAN: Thank you. Mr Eludeme, you are still bound by the oath you swore yesterday. Do you understand?

A: Yes, sir.

Q: Okay, thank you. Yes Mr Reeve.

XN: MR REEVE (continued)

Q: Mr Eludeme, do you remember that you previously gave evidence relating to the preparation of an agreement for the sale of shares in Waigani City Centre Limited to the National Provident Fund Board of Trustees?

A: Yes.

Q: And do you recall you gave evidence about discussing that matter with Mr Jimmy Maladina who you said told you that Carter Newell would not be able to do the work and he gave you the name of Mr Jack Patterson?

A: Yes.

Q: Did Mr Maladina tell you why Carter Newell were unable to do the work?

A: No.

Q: He did not say anything, he just said Carter Newell could not do it, is that right?

A: He just said Jack Patterson would be able to help me.

Q: I see. And you said then, I think, that he gave you Mr Patterson's name and you went to see Mr Patterson?

A: Yes.

Q: And you said that Mr Patterson prepared two agreements, is that correct?

A: Yes.

Q: Are you aware that Mr Patterson has given evidence to the commission?

A: Yes.

Q: Are you aware of what Mr Patterson has said or not?

A: No.

Q: I will tell you briefly what Mr Patterson said and I will ask you to comment on what you have to say about that. Mr Patterson says that the first he knew about this sale was when he was called by Mr Jimmy Maladina on 12 February 1999 to the office of Carter Newell Lawyers. And he says that, when he arrived there, the people who were present were Jimmy Maladina of Carter Newell, Herman Leahy corporate secretary of NPF and you. And that Mr Maladina then told Mr Patterson what was required of him and Mr Patterson left that meeting.

[9. 44 am] What do you say about that?

A: Mr Maladina was my lobbyist and my marketing man, so if I had not remembered that meeting in my previous statement I would have overlooked, but if that meeting had occurred, yes, it would have occurred.

Q: Well, do you have a recollection of that meeting at Carter Newell's office where Jimmy Maladina and Herman Leahy and you were present and Mr Patterson came over at Mr Maladina's request and was given instructions about preparing this sale agreement?

A: No.

Q: Do you say that meeting did not take place or that you cannot remember it?

A: I cannot remember.

Q: Mr Patterson also says that following that meeting on 12 February that you went to his office on 13 February, the next day 1999 and you gave him, as had been arranged at Mr Maladina's office, the details that he needed to draw up an agreement for the sale of shares. What do you say to that?

A: Yes.

Q: Now, Mr Patterson gave evidence and his file bears him out that he only prepared one agreement, that is the agreement for the sale of the shares, all the shares to the National Provident Fund Board of Trustees and that there was not any second agreement drawn by him. What do you say to that?

A: Yes, I agree.

Q: Well, why did you tell the commission earlier that Mr Maladina - sorry, that Mr Patterson drew up two agreements?

A: Because I saw two agreements, two different agreements on two different days maybe. That day I saw Mr Patterson's document and the next day I saw another one.

Q: And where did you see these documents?

A: Both in Mr Maladina's office.

Q: And you are very specific. You see what you said earlier was that Patterson prepared two agreements for the sale of a part share holding; one to NPF 20 per cent, and one to DFRBF for 20

percent. That is what you said previously.

A: Because I saw the two agreements and I was of the opinion that Mr Patterson prepared the two.

Q: Are they agreements that you saw or are they the proposals from Pacific Capital that you saw?

[9.47 am] A: Saw the agreements prepared by Mr Patterson.

Q: Well, how do you explain that you were so specific saying that there were two agreements and you are specific about 20 percent to NPF and 20 percent to DFRBF and Mr Patterson said, no, there was only one agreement selling 100 percent to NPF and that all the documents he has produced to the commission are consistent with that and he has only produced one agreement.

A: Because I said I saw two agreements the day before and the day after.

Q: The day before?

A: And the day after.

Q: Just fix those two days. The day before what?

A: The day when Mr Patterson delivered the first agreement and the day after that I saw another agreement as well.

Q: And with the first agreement, how did you - what was your first knowledge of the first agreement, the one on the Thursday?

A: It was the sale of the shares.

Q: And did you have that agreement with you or did someone show it to you?

A: Someone.

Q: Who is the someone that showed it?

A: Mr Maladina.

Q: So, Jimmy Maladina showed you the first agreement in his office, did he?

A: Yes.

Q: And that is the first time that you saw that agreement?

A: Yes.

Q: Now, the second agreement, when was the first time you saw that?

A: The day after the first agreement that I saw. About the day after.

Q: And where was it that you first saw that?

A: You mean the second agreement?

Q: Yes?

A: In Mr Maladina's office.

Q: Who showed that to you?

A: Mr Maladina.

Q: Did you read the agreements?

A: Very briefly.

[9:49 am] Q: And what did they relate to?

A: About 20 percent.

Q: Well let us deal with the first agreement, what did the first agreement relate to?

A: Sale of shares.

Q: Yes, by whom? Who were the vendors in the first - - -

A: Me, the shareholders of Waim 92.

Q: And who was the purchaser?

A: I believe it is NPF.

Q: At what percentage of the shares?

A: About 20 percent.

Q: And the second agreement who were the parties to that?

A: Could you repeat?

Q: In the second agreement who was the seller, in the second agreement?

A: The shareholders.

Q: Who was the buyer?

A: I believe Defence Force Retirement Fund.

Q: And what percentage of shares?

A: I could be wrong, it could be about 20 percent again.

Q: Now in the first agreement, the one to NPF of 20 percent, what was the sale price that you say was included in the agreement?

A: That is to NPF is it?

Q: Yes. You said there was one to NPF for 20 percent of the shares. What was the price for that 20 percent in the agreement that you saw?

A: I cannot remember. It could be about 20 million but I am not really sure about that figure.

Q: 20 million for 20 percent?

A: It could be around there but I cannot remember.

Q: And in the second one to DFRBF?

A: That I did not see a figure.

Q: Did not see a figure at all?

A: No.

Q: I see. And what percentage of shares and to whom?

[9:52 am] Now, why did you tell the commission earlier in view of what you have now said, and I will just read to you what you said earlier. That you went to see, on the Monday and Tuesday Mr Patterson did the draft agreement. On the Tuesday afternoon it was ready. You said that you went and collected it. And you went to Carter Newell's office to see Jimmy Maladina. And you said there were two agreements, and then you would say - you said that there were a lot of mistakes and spelling mistakes

in the draft so that Mr Maladina and yourself did not finish your review on the Tuesday because Mr Maladina had another appointment. Now, why did you tell the commission on the previous occasion that you collected the agreements from Mr Patterson's office, and you now say the first time you saw them was when Mr Maladina showed them to you in Carter Newell's office?

A: Because I delivered the file for him to do the agreement. And, at that time I was given the first report I thought I collected the agreement. But I am not sure now whether I have collected or I have picked it from Mr Maladina.

Q: Well, see do you understand that what you are now saying is quite different from what you said earlier?

A: Yes.

Q: Well, how do you explain that?

A: The first I gave was from my memory. What we are now going through is from actual document that you have.

Q: I see. It is from your memory now.

A: Yes, from my memory.

Q: I have not shown you any documents, I have just asked the questions. So why did you tell the commission last time I went to collect the documents from Mr Patterson's office? And now you are saying the first time I saw both those documents was when Jimmy Maladina showed them to me in his office, one on one day and one the next day, and that is the first I saw of them.

A: I am losing memory here so I cannot really remember whether I collected or I saw it in Jimmy's office.

Q: Do you remember making some attempt yourself to sell shares to the DFRB board?

A: Yes.

Q: Do you remember how you did that?

A: I wrote a letter to the attention of, I think Mr Darby Kila asking for the shares.

Q: Do you remember when you wrote that letter, what month you say you wrote it?

A: No.

Q: Well, see the documents produced by the DFRBF do not show any letter received from you before the matter was considered. What they show is that there was a proposal from Pacific Capital and some other documents that were sent to them by Mr Herman Leahy. So are you sure you wrote a letter?

A: I am sure I wrote a letter. Just a one page letter.

Q: A one page letter, all right. Just tell us what your recollection is about what that letter said.

A: To sell shares in Waim 92.

Q: That is all?

A: That is all.

Q: Do you recall writing a letter to the DFRB board after you had been told something that the board had decided?

A: No.

Q: Do you remember someone talking to you from the DFRB board indicating that they had an interest in purchasing shares in Waigani City Centre Limited?

A: No.

Q: I am going to show you from commission document 348 a copy of a letter on Waigani City Centre Limited letterhead and apparently signed by you addressed to the general manager of the DFRB board dated 10 March 1999. Is that a copy of the letter which bears your signature?

A: Yes.

Q: Do you see that letter indicates that someone had told you about the DFRB board being interested in buying shares in Waigani City Centre Limited, does it not? If you refer to the first paragraph you refer to an offer. Do you recall that?

A: Could you repeat the question, please?

Q: Yes. The first paragraph says, "We acknowledge receipt of your offer to purchase shares." Now do you have a recollection that you received an offer to purchase shares from the DFRB board?

A: Yes.

Q: How did you receive that offer?

A: A one page letter was faxed to me.

Q: Faxed to you by whom?

A: I cannot remember the writer, but there was a one page letter - similar letter faxed to me.

[9.56 am] Q: Do you recall who that letter was from?

A: Mr Darby Kila, I think.

Q: See, I am going to suggest this to you and ask you what you say to it. Defence Force Retirement Benefits Board has produced their files to us, and there is no letter to you from the Defence Force Retirement Benefits Board prior to that letter being written. There is a letter written to Mr Herman Leahy but there is no letter to you. Does that assist your recollection about who might have told you about this offer?

A: No.

Q: Did you write that letter yourself, the letter that you are now looking at or did someone write it for you?

A: I think Mr Maladina wrote it for me.

Q: Did Mr Maladina draw up some documents as well to go with that letter?

A: No, I cannot recall.

Q: I am going to show you some documents. You then give me that one back. I am going to show you some documents from commission document 727, and I will tell you what they are. They are a copy of the letter that you have just been looking at together with minutes of a directors' meeting at Waigani City Centre which were apparently signed by you; a director's certificate as to the consideration for issue of shares and a notice of issue of shares in Form 10 under the Companies Act 1997 apparently signed by you.

[10.00 am] Seen those documents before?

A: Yes.

Q: Who prepared those documents?

A: Carter Newell.

Q: Did you have any discussions with anyone at the Defence Force Retirement Benefits Board about

that letter that you wrote and the documents that - - -

A: No.

Q: Are you sure of that?

A: You mean verbal discussions?

Q: Yes?

A: No.

Q: Are you sure of that?

A: I am sure.

Q: Just give me those. Did you have any knowledge - I withdraw that. You see, in that offer what you were saying to the Defence Force Retirement Benefits Board or what you were seeking to do was to say to them, well, look, we have in effect allocated 4,400,000 shares to you in the capital of Waigani City Centre Limited which will be about 25 percent of the issued capital, and that the price of those shares was K4.4 million. Agree with that?

A: Yes.

[10.30 am] Q: Did you have knowledge that Pacific Capital had prepared a proposal for the sale of the shares in Waigani City Centre Limited?

A: To who?

Q: To NPF?

A: No.

Q: Did you have knowledge that they prepared one for POSF?

A: No.

Q: Did you have knowledge that they prepared a proposal for the Defence Force Retirement Benefits Fund?

A: No.

Q: Would it surprise you to know that when you wrote that letter suggesting to the Defence Force Retirement Benefits Board that they could buy 25 per cent of the shares for K4.4 million that Pacific Capital had sent them a proposal indicating that they could buy 100 per cent of the shares for only K8 million. Do you know that?

A: No.

Q: So I would like you to explain just assuming that that is the position which the evidence clearly shows, you are saying K4.4 million for 25 per cent. Pacific Capital are saying K8 million for the lot. It tends to indicate that you were not very much in control of what was going on over the sale of these shares, does not it?

A: Mr Maladina was my lobbyist, my lawyer so they could have done that without me knowing.

Q: Surely, as the owner. You say you are the owner?

A: Yes.

Q: Would not you have exercised some control over the price that was being asked for these shares? It does not matter who is doing the negotiating. If you were the owner as you say, would not you have exercised some control over what your property as you put it was being sold for?

A: Not necessary. I would have accepted anything.

Q: What, K2?

A: Not necessary K2 but something reasonable.

Q: So, if we accept what you say, you are saying to the Defence Force Retirement Benefits Board I want K4.4 million for 25 per cent and your agent, if you like, he is saying, you can have the whole lot for K8 million?

A: Yes.

Q: You do not see any difficulty what that?

A: No.

Q: Do you think that it is credible that someone would look at a proposition when the right hand is saying, for the whole lot I want K17.6 million and the left hand is saying, I will take K8 million.

A: Could you simplify your statement please.

Q: What the Defence Force Retirement Benefits Board had before it were two propositions. One from Pacific Capital saying, you can have 100 per cent of the shares in this company for K8 million. And one from you saying, you can have 4.4 million shares which will be about 25 per cent of the capital for K4.4 million, which if you multiply it out becomes K17.6 million for 100 per cent. So, do you not see anything odd in one person purporting to have the authority of Waim No. 92 shareholder saying, I want the equivalent of K17.6 million for the whole lot and the other one saying, you can have the whole lot for K8 million?

A: Yes.

Q: When that is happening, you see the inference one can draw and this what I am putting to you is that, you did not really have very much idea of what was going on. Jimmy Maladina was in control of it?

A: He was my marketing man. He had all the contacts.

[10:06 am] Q: I asked you earlier whether you remembered having any conversations after you wrote that letter and you said you did not. I am going to show you and this taken from commission document 348 a copy of a letter dated 16 March 1999 addressed to yourself from Mr Darby Kila. I am going to ask you whether you have seen that document before? Have you seen that document before?

A: Yes.

Q: Did you receive the original of that letter from Mr Kila?

A: Yes.

Q: You see the second paragraph of that letter refers to a conversation Mr Kila had with you. You see that?

A: Yes.

Q: Do you want to change what you said about no one having spoken to you having seen that letter?

A: He must have spoken to me but I cannot remember speaking to him.

Q: Do you recall discussing Mr Kila's letter, that letter you are looking at with Mr Maladina?

A: Yes.

Q: And what was the nature of that discussion?

A: That I got this letter.

[10:09 am] Q: Did you contact DFRBF any further after you received that letter?

A: No.

Q: Do you recall receiving any other communication from DFRBF about the proposed sale of shares in Waigani City Centre to the DFRBF?

A: No.

Q: Did you have any discussions with Mr Maladina about taking it further with DFRBF?

A: No.

Q: Did you have any discussions with Mr Kelly Naru?

A: No.

Q: Do you know Mr Kelly Naru?

A: Yes.

Q: Do you recall receiving any correspondence from Mr Naru about these shares in Waigani City Centre Limited?

A: No.

Q: Are you sure of that?

A: If he has done it, he could have done it, but I did not see a correspondence from him.

Q: You did not see anything from him?

A: No.

Q: Did Jimmy tell you that he received anything from DFRBF?

A: I knew there was something going on with him and the fund.

Q: Which fund?

A: The defence force fund, but I cannot recall him telling me anything.

Q: Well, what was the something that was going on with him and the fund?

A: To sell the shares.

Q: So he knew that as well as you negotiating he was doing something as well, was he?

A: Yes.

Q: And you did not know what that something was?

A: No.

Q: I am going to show you from commission document 348 a letter that was addressed to you dated 1 April 1999 and signed by Mr Naru. Have you ever seen that letter before?

A: No.

THE CHAIRMAN: Can I see that one?

[10.12 am] MR REEVE: Now, I want to move from these events and I want to ask you some questions about Mr Simon Ketan. In your previous evidence you said that in July or August 1999 you received a telephone call from Mr Simon Ketan who told you that he had good news for you and to come into the office quickly. Do you remember that?

A: Yes.

Q: Had you had any previous contact with Mr Ketan over the Waigani Land?

A: I cannot recall.

Q: Well, did you give instructions to Mr Ketan to do anything on your behalf in relation to Waigani City Centre before you had received this call from him?

A: I cannot recall.

[10.15 am] Q: Have you ever heard of a company called Southmole Investments (PNG) Limited?

A: Could you repeat that name please?

Q: Have you ever heard of a company Southmole Investments (PNG) Limited?

A: No.

Q: Have you ever heard of a man called Mr Peter Wilton?

A: No.

Q: Did anyone ever tell you about a proposal whereby Southmole Investments offered to purchase the Waigani Land?

A: No.

Q: Did you instruct anybody to prepare a contract for the sale of the Waigani Land, sorry, the shares in Waigani City Centre Limited to Southmole Investments (PNG) Limited?

A: I cannot recall.

Q: Is that not something you would remember with this valuable asset about whether you had a buyer, that you actually got to the stage of getting a contract drawn up?

A: Because there was so much going on at the same time, like different people showing interest that is why I cannot remember.

Q: Well, there may have been people showing interest, I am not talking about someone showing interest. I am talking about someone that actually got to the stage of a contract being drawn up.

A: Mr Maladina had a lobbying, marketing, also doing contracts, that is why some of it I would not have known.

Q: But surely if Mr Maladina was your agent and he had found a buyer and he was getting to the contract stage, would he not tell you?

MR SHEPPARD: Well, he cannot answer that.

MR REEVE: Well, would you not expect to be told?

A: Yes.

Q: Were you told?

A: No.

Q: You see, on Mr Ketan's file, I am just going to describe the documents. I can show them to you if you like. There is a letter dated 25 May 1999 addressed to Mr Ketan from Mr Peter Wilton of Southmole Investments offering K7 million for the Waigani Land, and it does not say the shares and Mr Ketan drew up a contract which he obviously got instructions from someone to prepare and he wrote to Mr Wilton on 28 May 1999 saying, "the offer to purchase the land for K7 million has been accepted by my client." Do you have any knowledge of those events?

A: No.

Q: Does it strike you as strange that an offer would have been made and accepted for K7 million and a contract prepared and that you would not know about it?

A: Yes.

Q: Do you have any knowledge of a company called Coastfield Limited?

A: Could you call the name of the company again?

Q: Coastfield Limited.

A: No.

Q: Are you sure you have no knowledge?

A: Yes.

Q: Do you have any knowledge of a man called Jason Loh?

A: No.

Q: Do you have any knowledge of a man called Jimmy Yii?

A: No.

THE CHAIRMAN: Jimmy, what was the second name?

MR REEVE: Y-i-i.

A: No.

Q: Do you recall anyone asking you to agree to appointing Coastfield Limited as the agent to sell the Waigani Land?

I am going to show you a document- - -

THE CHAIRMAN: That was no?

A: I said no.

MR REEVE: I am going to show you a document dated 2 August 1999 addressed to Coastfield Limited and signed, not by you, but by someone on your behalf by Waigani City Centre Limited authorising Coastfield Limited to find a buyer for the land for a price of K3.3 million and agreeing to pay that company commission on the sale for any price equal to an amount in excess of K3.3 million. This is a statement from Mr Ketan's file which is commission document 106.

You ever seen that document before?

[10:19 am] A: No.

Q: Did you authorise Mr Ketan on behalf of Waigani City Centre Limited do engage Coastfield Limited as the agent?

A: No.

Q: For the sale of the Waigani land?

A: No. Maybe Mr Maladina must have.

Q: You have no knowledge of that agency being organised?

A: No.

Q: Do you have any knowledge before Mr Ketan made this phone call telling you he had good news of receiving an offer from Rimbunan Hijau to purchase the Waigani land for K3.7 million in August 1999?

A: No.

Q: Did anyone contact you to ask you whether you would agree to sell for K3.7 million?

A: No.

Q: Do you have any recollection of authorising anyone to accept an offer from Rimbunan Hijau to purchase the Waigani land for K3.7 million?

A: Could you rephrase your question again please?

Q: Do you have any recollection of authorising anyone to accept an offer on 3 August 1999, tell you the date, from Rimbunan Hijau to purchase the Waigani land for K3.7 million?

A: No.

Q: I am going to show you a document retrieved from Mr Ketan's file, commission document 116 which is a document dated 3 August addressed to Rimbunan Hijau thanking them for their letter of offer and stating that the offer to purchase the property which is the Waigani land for K3.7 million is accepted and it is signed on behalf of Waigani City Centre by someone else over your name. Have you ever seen that document before?

A: No.

Q: Did you give authority to any person to sell the Waigani land for K3.7 million?

A: My authority with Jimmy will still stand but not particular to this amount.

Q: So what authority with Jimmy would still stand?

A: To help me sell at whatever reasonable price.

Q: Sell for whatever you could get for it?

A: Yes.

[10.23 am] Q: And that did not require any referral back to you to accept the price?

A: No.

Q: Does that seem strange to you that you are not even consulted about what price is obtained?

A: No.

Q: It does not seem strange?

A: No.

Q: The terms of issue of the urban development lease over the Waigani Land that I think you have already referred to, you knew required payments of K50,000 a month off the price. Agree with that?

A: Yes.

Q: What did you do about paying those instalments? What did you do about paying the K50,000 a month?

A: I cannot recall about what I did.

THE CHAIRMAN: I mean you have stretched my powers of belief a lot over the last day but this one I find extremely hard to accept. You do not remember anything about what you did to make the required payments of 50,000 per month?

A: That is because Mr Maladina would have - could have done it, which I am not aware, that is why I cannot recall.

Q: Mr Reeve?

MR REEVE: Well, Mr Maladina was totally in control of this thing, was he not?

A: Yes, he was my lobby man and my lawyer who was just totally in control.

Q: Well, what I am suggesting to you is, he was his own man, and that you were his front man.

A: I was the owner.

Q: And, that you did not need to be consulted about anything because Jimmy was looking after his own affairs and he did not need to consult you?

A: No.

[10.26 am] Q: Now over the sale of the land, after Mr Ketan phoned you and told you he had the good news and to come down to his office, just tell us what happened then.

A: I was given documents to sign.

Q: Was that the same day that you were asked to come down because there was good news?

A: I went in quite often to sign numerous documents. So I cannot remember it is the same day or another day.

Q: You went quite often to where?

A: To Mr Ketan's office.

Q: I see. I thought you told us last time that when you went in the first time you told Mr Ketan you had enough time trouble over this and you did not want anything to do with it, that he should talk to Jimmy or he should - not to you. And that you only went in to sign the contract. Is that what you said before?

A: Yes.

Q: Well, why are you telling us now that you went in to Mr Ketan's office quite frequently over this period and signed a lot of documents?

A: Because I did that. I went in several times.

Q: But why did you not tell us that before? Do you see what I am suggesting to you? What you said before seems different from what you are saying now.

A: That is right. First was a brief statement that I gave, that yes I did see Mr Ketan and to sign so on and so on and to sell the place. I believe now we are going into detail.

Q: Well, the commission obviously will be able to read what you said and make up their own minds. Now, you also said last time that Mr Ketan said his fee was K150,000 and that you agreed to that?

A: Yes.

Q: Do you remember saying that?

A: Yes.

Q: Mr Ketan has given the commission evidence and he says that that is totally untrue. What do you say to that?

A: I do not know about that now.

Q: You see Mr Ketan would seem to be right because when the transaction was finished he deducted his fee from the moneys that were paid and his fee was only K40,000. What do you say to that?

A: I think I was told that his fee should be K150,000.

Q: Do you accept now that you were wrong about that?

A: Yes.

[10.29 am] Q: You said last time that you wanted to find out who the buyer was but that Mr Ketan told you that you would find out when it was all done. You remember saying that?

A: Yes.

Q: You say that you and Philip Mamando were the people who were selling these shares?

A: Yes.

Q: For your benefit, you say?

A: Yes.

Q: Why would you not demand from the lawyer to know who the buyer was if you were the seller?

A: Because there were so many buyers coming and going without real sale.

Q: Mr Eludeme, you are signing the contract to sell the shares; do not worry about all the buyers. This is "the buyer", the one who is getting to contract stage and you were signing a contract. Why, if you were the owner of the shares, would you not demand to know who the buyer was?

A: I am not interested in the buyer, I am interested in the money.

Q: So it is all about the money, is it?

A: Yes.

Q: It was right from the start, was it not, "let us get this land, and let us sell and let us get the money"? That is what it was all about, was it not?

A: No.

Q: That is what you did, is it not?

A: It was about making business and making money.

Q: You left all that to Jimmy?

A: Yes.

Q: You are concerned about the money but you did not really care how much as long as Jimmy got you what you thought was a fair thing?

A: Yes.

Q: You said that the purchaser did a lot of due diligence. You recall saying that?

A: Yes.

Q: What due diligence were you aware of?

A: I was just told that there were due diligence being carried out?

Q: Who told you that?

A: Mr Maladina and Mr Ketan.

Q: Did they tell you that separately or when you were all together?

A: Separately.

Q: You remember what involvement you had in satisfying these due diligence requirements?

A: No.

Q: Do you recall telling the commission earlier that you were asked to prepare tax returns?

A: Yes.

Q: Who asked you to do that?

A: Mr Maladina.

Q: Did you prepare documents?

A: The tax returns?

Q: Yes?

A: Yes.

Q: Did you prepare financial statements for the purpose of- - -

A: Yes.

[10:32 am] Q: I am going to show you from Mr Ketan's file, it is exhibit 116 a set of documents which are described first as a balance sheet as at 31 December 1998, the second a trial balance as at 31 December 1998, the third a profit and loss statement as at 31 December 1998 and the 9 page set of financial statements for the year ended 31 December 1998 for Waigani City Centre Limited. Just turn it sideways so you can see each document. Can you just have a look at those documents? Perhaps it might take a little while. Perhaps we can, chairman, have five minutes and you have a chance to have a look at those documents.

THE CHAIRMAN: We will take five minute break. We will resume at twenty to 11.

SHORT ADJOURNMENT

[10.40 am] MR REEVE: Are they the documents that you prepared?

A: Yes.

Q: Are you able to recall when those documents were prepared?

A: During - either before the signing of the sales agreement.

Q: You said either before or what?

A: Sorry, after the sales agreement.

Q: I see. Can you be satisfied as to which it was, whether it was before or whether it was after and when they were doing their due diligence or what?

A: I cannot recall. But it was during that period.

Q: Do you agree with me that they were prepared in the later part of 1999 when the sale had already been agreed?

THE CHAIRMAN: Did you say, yes?

A: Yes.

MR REEVE: Would you agree that they were prepared for the purpose of satisfying the purchaser's requirement that there be financial returns or financial statements in place for the company that was being sold?

A: Yes.

Q: Would you also agree with me that at the time they were prepared, speaking as at 31 December 1998 that you had the ability to use a little bit of hindsight in the figures?

A: Could you explain what you mean please?

Q: When you were preparing the documents at the end of 1998, there were subsequent events.

THE CHAIRMAN: '99?

MR REEVE: 1999, sorry. There were events which had happened subsequent to 31 December 1998 which could be taken into account to make the figures more accurate, if I can put it that way.

A: Yes.

Q: I just want to show you, if I can, in the balance sheet you showed two assets which were the land which you bring to book at K1.7 million?

A: Yes.

Q: And that is the value that you placed on the - what is known as the Waigani land, is that correct?

A: Yes.

Q: And there were receivables of K2?

A: Yes.

Q: They were the amounts that were payable for the shares, were they not?

A: Yes.

Q: And in the liability section, you showed a liability to the Lands Department of K1.5 million?

A: Yes.

Q: What did that liability represent?

A: The unpaid, what we call it, lease as well as those K50 thousand that we were supposed to pay.

Q: And how did you get the figure of K1.5 million?

A: Just an estimate.

Q: Being in the balance sheet, that would be a capital item, would not it? The liability to the Lands Department.

A: It is a liability on the balance sheet.

Q: Yes, but normally - would you agree with me that if you are looking at land on the balance on which you owe money to the Lands Department, you would treat the amount that was owed by way of the purchase price from the Lands Department tender price as capital?

A: Yes.

Q: And you would treat the annual rent as a revenue expense in your profit loss, would you?

A: Yes.

Q: So, how did you calculate the capital amount of one and a half million kina?

A: The liability?

Q: Yes.

A: It is an estimate.

Q: Why could you not have simply said, look, we owe the Lands Department - because you must have known this doing accounts - we owe the Lands Department K1.7 million and we have only paid K50,000 and put in an exact figure.

[10.43 am] A: This is an estimate, so I just took it out.

Q: The other liability you show is of sundry creditors and accruals, which is K706,298.22. Do you agree with that?

A: Yes.

Q: When you go to what you describe as the trial balance, I want to deal with the other figures that we have - not the ones that I have just asked you about. You have got a figure in there under creditors and accruals and you have got Pacific Finance Limited K700,000. What is that about?

A: I do not know. I was advised by Jimmy to put that figure.

Q: You have also got a figure in there of land rates and taxes K100,000. What is that for?

A: That is the yearly dues. The yearly rates payable to Lands Department.

Q: I see. The yearly land rates, is that what you are saying?

A: Yearly land rates. Land rates, yes.

Q: When we look at what you got from the minister for whom you had done this work, the land rent was only K17,000 a year. So where would the rest of the K100,000 come from?

A: It is an estimate. I was of the opinion that it would be about K100,000.

Q: What was the basis for that opinion?

A: I think it is about 5 per cent of the value of the land; certain percentage of the value of the land.

Q: There is an item you have included in there for consultancy fees K400,000. What is that?

A: That is my estimated costs for all the selling, lobbying, whatever.

Q: Well, you see K400,000 was the amount that was payable and in fact paid to Coastfield Limited. Is that what that K400,000 represents or is it something else?

A: I do not know. I cannot comment because I just took up the figure.

Q: Well, you prepared the documents.

A: As advised.

Q: They are financial statements for a company that you are selling. What is the K400,000 for?

A: It was for consultancy fees. The real nature, I would not know.

Q: Are you serious?

A: Yes.

Q: You say you are the owner of this company, you are the professional accountant that is preparing accounting fees and you would not know what the figure is for. Is that what you are telling us?

A: No.

Q: What are you saying?

A: They are for consultancy fees. But for what purpose, I would not know sir.

Q: Well, where did you get the figure from?

A: Advised by Jimmy.

Q: That is what Jimmy told you to put in?

A: Yes.

Q: And did not occur to you as an accountant that you should be saying well how is this figure made up, so that you could tell us how it is made up?

A: No, it is not an audit, so I would not really need to know.

[10.47 am] Q: So, you can just put the figures in that you are told. Is that what you are saying?

A: Yes.

Q: Did you use those figures to prepare the set of financial statements?

A: Yes.

Q: Did you sign - I am going to show you these documents - did you sign the financial statements and the statement by directors and a declaration by the secretary on those financial statements?

A: Yes.

Q: In the statement by directors you say that the accounts are drawn up so as to give a true and fair view of the state of affairs of the company at 31 December 1998, is that correct?

A: Yes.

Q: How could you say that when what you have already told us is you are just putting figures in that Jimmy told you?

A: These are figures, we believe they are fair and reasonable to take up. That is what I am saying I believe.

Q: How could you say in the director's statement, that the accounts are in accordance with generally accepted accounting standards and in line with the Papua New Guinea Institute of Accountants requirements when you are putting in figures that Jimmy gave you?

MR SHEPPARD: I would advise you not to answer that question.

MR REEVE: Mr Sheppard will tell you what to say. Do not say anything until you talk to Mr Sheppard. Do you understand what - perhaps Mr Sheppard may have to tell you what to say.

MR SHEPPARD: You have to say, I decline to answer that question on the grounds it may incriminate me.

A: I decline to answer that question on the basis that the answer might incriminate me.

MR REEVE: Do you understand, directors of companies have responsibilities under the Companies Act, 1997, in relation to statements that are made by them regarding companies of which they are directors?

A: Yes.

Q: Were these financial statements used for the purposes of submitting a tax return to the tax office for Waigani City Centre Limited?

A: Yes.

Q: Do you understand the liabilities that flow in relation to the furnishing of financial information to the tax office?

A: Could you repeat your question, please.

Q: Yes, do you understand the liabilities that exist for a director of a company or anyone who signs a tax return in relation to the furnishing of information to the tax office?

A: Based on the assessment that we are sending in or for sending other information.

MR SHEPPARD: He is just asking if you understand there are liabilities, and you can answer that question yes or no?

A: Yes.

[10.50 am] MR REEVE: I am going to change subjects again. Now, do you recall that after you had previously given evidence before the commission, you came into this room to have a discussion with me on 27 January 2001?

A: Yes.

Q: About giving further evidence?

A: Yes.

Q: Do you remember what you told me on that occasion?

A: No.

Q: Do you remember telling me that you were in fear of your life about giving further evidence?

A: Yes.

Q: And do you remember telling me that you would need some time to explain to some people that you were being compelled to give evidence so that you could reduce that potential danger to you?

A: Yes.

Q: Is it true that you felt your life was in danger?

A: Yes.

Q: Why did you feel your life was in danger?

A: Because of the adverse it may have on people who dealt with this case in one way or another.

Q: Well, would you like to be a little bit more explicit about what you mean?

A: How would you - sorry?

Q: Would you like to be a little bit more specific?

A: Like the danger that might bring to me from the evidence that I might give, like calling names and so on and might affect those people.

Q: Which people?

MR SHEPPARD: Can we have that in camera?

MR REEVE: Application. Yes, I have no objection to that application being made in camera.

THE CHAIRMAN: All right, we will briefly go into in camera session. Do you mind just waiting outside for a few minutes? We will adjourn the hearing for a minute while this gets organised.

SHORT ADJOURNMENT

[11.15 am] THE CHAIRMAN: Yes, Mr Reeve.

MR REEVE: Thank you, Chairman. Now, I want to ask you some questions about your going down to Australia in late January or early February 2001.

A: Yes.

Q: After we have had the discussion that I was asking you about, do you agree that you travelled to Australia?

A: Yes.

Q: And that do you also agree that you remained in Australia for a period of about three months?

A: Yes.

Q: Where did you stay when you went to Australia?

A: Two weeks with Mr Maladina and the rest of the time I travelled.

Q: The two weeks with Mr Maladina, where did you stay with him?

A: At Shailer Park in Brisbane.

Q: At his house there?

A: At his house.

THE CHAIRMAN: Did you say Shenton Park?

MR SHEPAPRD: Shailer.

MR REEVE: Shailer. S-h-a-i-l-e-r. I just want to put some general propositions to you and I want your reaction to them. I put to you that Mr Philip Mamando and yourself were in fact fronts in Waim No.92 Limited for Mr Jimmy Maladina, and that the company was really Jimmy Maladina's company. What do you say to that?

A: No. I am the owner of the company. Jimmy was my lawyer, my lobbyist, my marketing man.

Q: I further put it to you that the proceeds of sale of the Waigani Land were in fact disposed of by Jimmy Maladina, or at his direction, and that all you received out of those proceeds of sale was K20,000?

A: No.

Q: And I put it to you that the money that was brought into Papua New Guinea in May 2000 was brought in to cover up the manner in which the proceeds of sale of the Waigani Land had actually been expended?

A: No, it was advanced and repaid as far as I am concerned.

Q: I put it to you that the money that was brought in was brought in to cover up what had really happened to the proceeds of sale of the Waigani Land?

A: I do not know about that, but the money that was given me was the repayment of the initial advance.

Q: Well, I put it to you that you were part of an arrangement with Mr Maladina to bring that money in

and to say it was a loan in order to cover up Mr Maladina's expenditure of the actual proceeds of sale of the land?

A: No.

Q: I have no further questions.

THE CHAIRMAN: Okay, thank you. Mr Sheppard, do you wish to re-examine generally?

MR SHEPAPRD: Very, very briefly.

XXN: MR SHEPPARD

Q: Mr Eludeme, I gather that the general thrust of Mr Reeve's questioning is to suggest that Waim 92 belonged to Jimmy Maladina, that is what Mr Reeve is suggesting to you, do you understand that?

A: Yes, but- - -

Q: Who do you say is the owner of Waim 92?

A: I am the owner.

Q: Are you registered as the shareholder along with Philip Mamando?

A: Yes.

Q: Is Jimmy registered as a shareholder?

A: No.

Q: Have you ever executed a deed of trust for Mr Maladina?

A: No.

Q: And in relation to the proceeds of sale, apart from his fees, did he ever take any of the money from the sale of the Waigani Land?

A: No, as far as I am aware.

Q: Who paid the tax on the Waigani Land?

A: It was assessed in my name and I paid the full amount.

Q: Did Mr Maladina pay any of the tax?

A: No.

Q: And, on whose direction was the money paid to the tax office?

A: On - could you rephrase your question, please?

Q: Yes. Who authorised - on behalf of the company, who authorised the money to be paid to the tax office?

A: I authorised the lawyers to pay direct to the tax office.

Q: And have you still got some of that money left?

A: Yes.

Q: And have you given Jimmy any of that money that is left?

A: No.

Q: Has he ever asked for any of it?

A: No.

Q: Yes, thank you.

MR REEVE: I just have one question to ask.

THE CHAIRMAN: Yes.

RXN: MR REEVE

Q: The money that was paid to the tax office was paid under a section 272 notice that was given to Carter Newell lawyers, was it not?

A: Yes.

Q: So there was not any choice about paying it, was there? The notice required it to be paid?

A: Yes.

Q: I have no further questions.

THE CHAIRMAN: Mr Sheppard, do you have anything further?

MR SHEPPARD: No.

THE WITNESS WITHDREW

THE CHAIRMAN: Mr Reeve, when do we adjourn to?

[11.20 am] MR REEVE: I can indicate to the inquiry that I have one further witness that I intended to call and some correspondence between my learned friend Mr Sheppard and myself as to two other people which I wish to tender. Subject to that I intended to close the hearings relating to this inquiry and I would like, if I may, to ask that the commission adjourn until Friday morning at 9.30 this week when I will be able to report whether I have been successful in procuring the attendance of the final witness that I had intended and if I have not by then, although it is contrary to my nature, I will give up. I will also tender the other documents and formally close the hearings of the National Provident Fund Inquiry at that hearing on Friday.

THE CHAIRMAN: Okay, so we will adjourn until 9.30 on 22 February, that is Friday.

MR REEVE: As the commission pleases.

AT 11.21 AM THE COMMISSION OF INQUIRY WAS ADJOURNED UNTIL FRIDAY, 22 FEBRUARY 2002, AT 9.30 AM.

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