



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, TUESDAY 27 NOVEMBER 2001 AT 10.15 AM

(Continued from 22 November 2001)

[10.15 am] THE CHAIRMAN: The Commission of Inquiry into the National Provident Fund is now resumed. Yes, Mr Reeve.

MR REEVE: Thank you, Chairman. Before we get to the main purpose of today which was Mr O'Neill's statement, I consider that I have an obligation to publicly report to the commission that at about 4 o'clock last Thursday, 22 November I received a fax from Mr Simon Sipo - S-i-p-o - the First Secretary to the Honourable and Leader of the Opposition, following a telephone conversation between myself and Mr Sipo, a copy of what purports to be an 8 page statutory declaration made by Mr Norman Kenneth Barker. The document on its face is shown to have been declared before a Justice for Peace/Solicitor in Brisbane, Australia, on 16 November 2001. The document received was a faxed copy of what is clearly a photocopy and was not an original document. The copied document attributed to Mr Barker states that Mr Barker has no permanent place of residence or employment because he is in fear of his life, and provides no contact details.

Subsequently and late on Friday 23 November 2001, I received from a firm of solicitors in Brisbane, Australia, a letter. A copy of a further letter which was then addressed to the Chairman of the commission and a further copy of that 8 page document.

Finally, I received yet another copy of that document at about 2 pm on Sunday 25 November from my learned friend Mr Wilson. Now, I have replied to that letter to the solicitors in Brisbane and I also replied to Mr Wilson's letter last Sunday 25 November.

Now, what I would seek to do - what I wish to say in relation to that document is contained in the letter which I wrote to the solicitors in Brisbane. Those solicitors did indicate that they are attempting to retain legal representation in Papua New Guinea. And, from what they had said I actually expected that my learned friend Mr Jerewai might be here this morning. But I wrote to those solicitors indicating to them why the document was not acceptable to be admitted into evidence and why it should not be admitted into evidence before the commission in its present form. And I think to make my position clear, I would seek to tender a copy of the letter which I wrote to the solicitors in Brisbane and to ask that that letter be incorporated in the transcript.

THE CHAIRMAN: I think I will ask you to read it out, Mr Reeve. It is now a matter of public interest because I think this is the statement that has been referred to in the press recently and also in parliament, was it?

MR REEVE: Well, one gains the impression there are probably a lot of copies of it around town.

THE CHAIRMAN: Yes. So I think if you could read out what I understand is your view about that statement.

MR REEVE: Thank you.

[10:18 am] That is a letter dated 25 November 2001 addressed to Messrs Tucker and Cowen Solicitors of GPO Box 345, Brisbane, Queensland, Australia. It is headed: Norman Kenneth Barker, and says this and I quote:

"Thank you for your faxed letter dated 23 November 2001. As you would doubtless appreciate, it is my function as counsel assisting to bring evidence or arrange the bringing of evidence before the commission and that is done in public hearings unless the commission directs that evidence be taken in camera. Evidence before the commission is required to be given on oath. The chairman has in consequence handed me your faxed letter to him unread and instructed me to reply to you. You may not be aware that there are some severe problems with the evidence earlier given by Mr Barker to the commission. I have made submissions to the commission in public hearing that Mr Barker should be referred to the Commissioner for Police with a view to his being prosecuted on a number of counts of perjury. Rulings by the commission on those matters are pending. You may also not be aware that there is evidence before the commission that:

(a) Prior to his leaving Papua New Guinea, Mr Barker in his capacity as managing director of Port Moresby First National Real Estate, ("PMFNRE") was served with a notice under section 272 of the Income Tax Act in respect of a company, Kuntila Company No. 35 Limited through which proceeds of the NPF Tower fraud had been laundered. These monies were also further laundered through Mr Barker's joint account with his wife before being deposited with PMFNRE.

(b) On the eve of his leaving Papua New Guinea, Mr Barker gave instructions to one Mr Joseph Kup of PMFNRE regarding a sum of almost K1.0 million in treasury bills held in the name of PMFNRE and the bulk of which Mr Barker gave evidence to the commission was the money of Kuntila Company No. 35 Limited.

(c) As a result of Mr Barker's instructions, just under K1.0 million was paid out of the proceeds of redemption of this K1.0 million in treasury bills by PMFNRE to one Mr Dick Karl, a brother in-law of Mr Jimmy Maladina. That payment was made in cash.

[10.21 am] (d) As a consequence of these occurrences and in contravention of the section 272 notice, the tax office was deprived of the almost K1.0 million the subject of the section 272 notice.

I believe that the tax office has consequent civil and criminal remedies available to it against Mr Barker.

I mention these matters so you are aware of them, can assess their impact on Mr Barker's business ethics and credibility and can understand my reluctance to have Mr Barker give evidence outside the jurisdiction of the commission and in any location where he may not be susceptible to effective sanctions for giving false testimony.

The commission of inquiry as you would doubtless appreciate is limited by its terms of reference.

The only terms of reference, which could relate in any way to the allegations made by Mr Barker of payments to some 30 prominent Papua New Guineans between January 1999 and November 1999, are those concerned with whether improper benefits were obtained from monies received:-

(a) from valuation fees which came into Mr Jimmy Maladina's hands and which were derived from two valuations of each of the NPF Tower and the property known as the Waigani land; and

(b) from the NPF Tower fraud.

We have extensively documented evidence tracing those monies and identifying the parts of them that came into the hands of PMFNRE.

We also have further extensively documented evidence of what occurred with those parts of those monies, which came into the hands of PMFNRE.

The only explanations which are outstanding and with which Mr Barker could assist are:-

1. In relation to the only funds derived from the NPF Tower fraud which came into the hands of PMFNRE and which are not traced to their destination being:-

(a) The sum of K100,000 paid out on 21st May 1999 by PMFNRE Number 1 Trust Account cheque # 266943 drawn to cash.

(b) The further sum of K100,000 transferred by PMFNRE number 1 trust account cheque number 266929 on 14 May 1999 to PMFNRE number 2 trust account and paid out of the latter account on 14 May 1999, by PMFNRE number 2 trust account cheque number 263929 drawn to cash.

[10.24 am] 2. In relation to a matter of indirect relevance being whether Mr Jimmy Maladina obtained any direct or indirect benefit from PFMNRE No. 1 Trust Account cheque number 266939 for K300,000 which was cashed on 1 July 1999.

All of these three cheques were cashed and the cash handed to Mr Barker who should thus be able to say who that cash was handed to.

The directly relevant payments amount in aggregate to K200,000. The indirectly relevant payment only has the limited relevance stated above and is of K300,000. The payments referred to in Mr Barker's document aggregate over K2.0 million. The residue of the payments which Mr Barker alleges are not within the commission's terms of reference and evidence regarding them could not be properly received by the commission.

The residual allegations may be of interest to the commissioner of police and/or Ombudsman Commission and Mr Jerewai would be able to advise you on those aspects.

In short, Mr Barker's evidence is not presently in form or content appropriate to be brought before the commission and it would in consequence be both irresponsible and mischievous of me to allow the commission to be used as a forum for publication of his statement under privilege.

I am, however, desirous of discussing either with you or with Mr Jerewai:-

(a) how the document can be revamped so that it is limited to matters within the commission's terms of reference

(b) how any evidence to be given by Mr Barker can be given in the form of evidence on oath, in accordance with the Commissions of Inquiry Act and with Mr Barker susceptible to effective sanctions for false testimony; and

(c) what arrangements can be made for Mr Barker to be promptly cross-examined on any sworn testimony he may give by the commission, counsel on behalf of any other person who has an appropriate interest in any relevant statements that Mr Barker may wish to make under oath and by myself as counsel assisting the commission.

Finally, I am at this stage far from satisfied that Mr Barker's reluctance to return to Papua New Guinea is actuated by any reasonably held fears over his security. He made no earlier complaint to the commission that he was under threat and did not seek the commission's protection. I am rather of the view that Mr Barker is seeking to continue to avoid the legal consequences of his past conduct by remaining out of the jurisdiction.

[10.26 am] I am further confident that if Mr Barker were to agree to return to Papua New Guinea, appropriate security arrangements can and will be made upon request to the commissioner of police. I would be prepared to initiate discussions as to such arrangements if you so wish.

I await further advice from either yourself or Mr Jerewai at your earlier convenience."

So that says in effect what the present position is. I should indicate that that letter was faxed to the solicitors in Brisbane, as I said, on Sunday. And I have received nothing further from them at this point. Mr Jerewai's fax in Port Moresby was unable to be accessed on Sunday and the copy of the letter was faxed to Mr Jerewai yesterday morning quite early.

THE CHAIRMAN: Thank you.

MR REEVE: And I have not heard anything yet from Mr Jerewai.

THE CHAIRMAN: All right, thank you.

MR REEVE: So I thought I should say that. It frankly states what the present position is. And if Mr Barker is

prepared to come to some reasonable arrangements about giving further evidence and wishes to do so, I have no problem with that being done. And indeed, some of the statements he makes are certainly relevant to the business of the commission.

THE CHAIRMAN: Thank you, Mr Reeve. Well, I confirm that there has been a referral of Mr Barker - or has been requested that he be referred for prosecution for perjury and that the commission has not ruled on that, awaiting in the hope that he may be in Papua New Guinea so that we can give him a chance to show cause why he should not be. And also the commission also agrees that if Mr Barker's evidence can be given in an acceptable form where he can be cross examined on oath and, if it is limited strictly to the terms of reference of this commission we would be very happy indeed to have Mr Barker give that evidence. Now if anybody is intending to tender the statement which Mr Reeve is not intending to tender, that is perfectly okay and we will rule on it when we have seen the statement and the Commission can make a ruling on it. So I do not know whether you are intending to try to put that statement of Mr Barker's into evidence, Mr Wilson.

MR WILSON: We are. I have noticed the objection to what we are attempting to do from Mr Reeve.

THE CHAIRMAN: Okay. Well, I will hear you on that in a moment and then we can make a ruling on it. Yes, thank you. Mr Reeve.

[10.30 am] MR REEVE: The second item of business this morning was to deal with Mr O'Neill's evidence. The situation is that Mr Wilson wrote to me a number of times yesterday indicating the statement was not completed by the time which was allowed which was 12 o'clock yesterday. And the statement was faxed at 21.16 hours last evening. I did actually wait until 8 o'clock and it had not arrived and I then went home. So, I have seen that statement this morning. The statement is quite lengthy, it runs to some 46 or 47 pages. Obviously I have not had adequate time to consider it. I have briefly skimmed through it and there are two parts of that statement which I would object to. I have indicated to Mr Wilson what those two parts of the statement are. Other than that probably the appropriate course would be for the original statement to be tendered and deposited to by Mr O'Neill. And I then need a short time I suppose on Mr Wilson's philosophy, I should ask for five weeks but I think probably two days is enough and I should be in a position then to ask Mr O'Neill any questions that I wish to ask.

THE CHAIRMAN: Thank you. Mr Wilson?

MR WILSON: Okay. I then tender the signed statement of Mr Peter O'Neill which he would then swear to. There are two copies for the commission. There are 46 pages in total plus annexures and I am aware of an objection to the inclusion of any reference to the statutory declaration of Norman Kenneth Barker which is referred to on page 4 and page 10 of the statement by Mr O'Neill. So, I propose then to tender the document and that Mr O'Neill be given an opportunity to swear to it.

THE CHAIRMAN: Thank you. And do we have - you have been sworn before so Mr O'Neill, you are still bound by that former oath. Yes, Mr Wilson?

PETER O'NEILL, recalled:

XN: MR WILSON

Q: Mr O'Neill, this document here, the two copies are that of your original statement in reply to the opening address and documentation provided by counsel for the commission and do you swear that the contents of this statement are true and correct, you say so help me God?

A: Yes.

Q: I would ask that the- - -

MR REEVE: Chairman, I tender the statement of Peter O'Neill.

THE CHAIRMAN: Thank you. And we will give it- - -

MR REEVE: Dated 26 November 2001 which consists of 46 pages and a number of annexures.

THE CHAIRMAN: So, Mr O'Neill's statement dated 26 November 2001 and the annexures are accepted into evidence with an exhibit number to be allocated.

MR REEVE: As the commission pleases. And what I would seek to do if I may is to - in due course I will be

asking that a direction be given that that statement be incorporated in the transcript.

[10:34 am] I will be asking that the matters of objection be dealt with and that any parts of that statement which are ruled out as a result of the objection be not published in the transcript. THE CHAIRMAN: Yes.

MR REEVE: And I have indicated to Mr Wilson that I object to on page 4 of the statement, the third paragraph under the first heading, "Response" I object to the words "other than the first line". In other words down to the word "knowledge", I have no objection but I object to what appears after the word "knowledge".

THE CHAIRMAN: Yes.

MR REEVE: And on page 10 of the statement, under the heading "Response" in the second paragraph, I object to the first sentence beginning with the word "attached" and ending with the word "on".

THE CHAIRMAN: Which time all materials that are relied on or dependent- - - ?

MR REEVE: That are relied on the first sentence.

THE CHAIRMAN: Yes.

MR REEVE: And the reason that I object of course is reference is made to a document which is not in evidence.

THE CHAIRMAN: Yes. Mr Wilson, do you wish to seek to tender the statement of Mr Ken Barker at this stage so that we can rule on it and then you will all know where you are standing on Thursday. Are you prepared to do that? Do you have a copy of the document here?

MR REEVE: Well it will have to be an original. I will object to a copy.

MR WILSON: Yes I have got a copy.

THE CHAIRMAN: Do you have an original statement?

MR WILSON: No I certainly got a photocopy of it which has been - - -

THE CHAIRMAN: Is that a photocopy of the original statement or photocopy or a fax of a photocopy of the statement?

MR WILSON: It is a photocopy. A much used photocopy.

MR REEVE: And I assume the source is the back of a truck.

THE CHAIRMAN: Thank you Mr Reeve. So you are seeking to tender a facsimile of a photocopy?

MR WILSON: It is a photocopy of a facsimile that has been sent to me.

THE CHAIRMAN: Or is it a facsimile of a photocopy?

MR WILSON: It is a photocopy of the facsimile that has been sent to me.

THE CHAIRMAN: Is it a photocopy of a fax of a photocopy?

MR WILSON: There is no way knowing it. From my perspective it is a photocopy of a facsimile received. There is no identifying references.

[10.37 am] THE CHAIRMAN: And what is the document?

MR WILSON: The document is that of a statutory declaration declared by one Norman Kenneth Barker in Queensland on 16 November 2001 before a Justice of the Peace/Solicitor and I now believe that it would be a solicitor in the employee one Tucker and Cowen Solicitors, Brisbane, but that would be a supposition. I have learned more of the document from Mr Reeve than from any other source. It definitely supplies in its content, material that is relevant to the position of my client, Mr O'Neill in that it refers to how the trust accounts of Port Moresby First National Real Estate were operated by Mr Barker. And that is of primary relevance sofar as Mr O'Neill is concerned because it is the only information he has of how that was done and it does elucidate in his mind what was going on with his money and how it was being treated and therefore is very relevant from his point of view.

As far as the evidence is objected to, it is certainly not given on oath- - -

THE CHAIRMAN: Sorry, what is not given on oath?

MR WILSON: I said the evidence, that is to say the statutory declaration is not given on oath by definition, it is only a declaration. And of course, the matter that is before the inquiry does not present any possibility of a cross examination or further testing. And I can see that if counsel for the inquiry objects to that statement, he is demanding as he has done on previous occasions that the witness be present for cross examination that first threshold being on oath and available for cross examination simply cannot be overcome.

I have written to counsel assisting the inquiry in relation to our situation- - -

THE CHAIRMAN: Sorry, who have you written to?

MR WILSON: I have written to counsel assisting the inquiry in relation to the matter raising points which have been covered by counsel in fact as to the claim that Mr Barker makes, that he is unable to return to Papua New Guinea and querying why he was allowed to go given the fact that he was here and he had received a death threat and concerning myself as to why he was not given protection, if that was the case. The answer being that, of course, he never revealed the death threat and went without notice.

[10.40 am] THE CHAIRMAN: I did not understand about- - - MR WILSON: He did not- - -

THE CHAIRMAN: No, the comment about why he was allowed to go. Allowed by whom?

MR WILSON: Allowed to go. I thought if he had complained about the death threat he would have got some protection. He would have been in the jurisdiction available as a witness. When I say he was allowed to go, it was in the context had he complained, but he did not complain, according to Mr Reeve. So therefore he has gone without notice, which explains how he left.

THE CHAIRMAN: Are you suggesting that this commission would have had power to stop him going? Because had I known he was going and not coming back, and had I had that power I would have stopped him. But I do not believe the commission has that power, and we did not know that he was going and not coming back.

MR WILSON: If he complained about a death threat he could have got some sort of protection from the police and stayed on had he wished.

MR REEVE: I certainly have no argument about that. I mean if a witness indicated to me as counsel assisting that he had problems, I would regard it as part of my obligation to report that to the commissioner of police and ask whether something could be done about it. There is no argument about that.

MR WILSON: I am not arguing. I am saying that in fact was what happened. And the answer has been so far that he did not complain, so therefore the inquiry was not involved in his loss as a witness. So it is now beyond the jurisdiction. In practical terms, what I have requested of the counsel for the inquiry has been an opportunity for Mr O'Neill through myself to cross examine Mr Barker on his statement. And, faced with the objection to the statement being taken on board as evidence at this stage, my application is therefore two-fold. Firstly, that the application be accepted as an exception. And failing that, that opportunity be given to Mr O'Neill and his counsel to cross examine Mr Barker in Australia. This can be organised through his lawyers Tucker and Cowen.

[10.43 am] The cross-examination on the statement would be largely limited to the use of the trust account and some corroborative evidence in relation to the reconciliation of the account which Mr O'Neill has provided and some supportive evidence if that is available from Mr Barker. So, if I could leave it at that then - so there is an application for it to be accepted, the document be accepted. And secondly an application for Mr Barker to be examined in Australia if that can be arranged.

THE CHAIRMAN: Is there any way that this commission can examine Mr Barker in Australia and make him subject to the laws of Papua New Guinea in consequence of whatever he might say in his answer. How would we be able to do that and properly test his evidence so that he would be subject to the laws of perjury of Papua New Guinea? If there is a way then I will be really interested.

MR WILSON: But looking at it from our side, that is from Mr O'Neill's side, what is happening is that a threat of prosecution of perjury is preventing Mr O'Neill from having the benefit of a witness. There are two things that I see possible. He could be extradited out of Australia and charged with perjury and alternatively he be given some immunity from those charges so that he could be available as a witness. These are the only two practical measures that I can think of in that circumstance. Beyond that the requirement that he be here and be examined

could surely be relaxed. I mean, while it might give the greatest probative value is something that is asked that it be - that the answer is an item of perjury and that can be enforced that we give the greatest probative value to anything that is said by Mr Barker but surely a statement still could be taken from him without that threat of the penalty and it be given some weight.

THE CHAIRMAN: How would you suggest we take the statement? And I am not trying to be difficult. If there is a way of doing it then we could be very co-operative.

MR WILSON: No, I am just thinking of some - I can only think of the procedures in the way the National Court may take evidence on commission, off shore and something of that nature whereby the inquiry sets itself up in Australia with the laws of Papua New Guinea applying as it were to the evidence that is given and taken and examined and done by way of a commission. Certainly then if the evidence is given on oath, and the witness perjures themselves the offence is still committed. It is just a matter of where he can be apprehended, not so much whether he could be charged. And with the laws of extradition being as such between the two countries, surely he can be brought back if that is the case. It is not as if he does not have representation or a place of address or may not be a fixed abode but certainly he is contactable.

THE CHAIRMAN: Are you saying that under the present law of Papua New Guinea, it is open to the commission to take evidence from him in Australia on commission in some way and make him - - -

MR WILSON: I would certainly explore that possibility. I am not certain of whether the commission is empowered to do so but I do know that if the Supreme Court Rules and National Court Rules were used something comparable maybe. There maybe some - - -

[10:46 am] THE CHAIRMAN: Good thank you. Well have you got the document there that you wish to tender and I think the appropriate thing is - - -

MR WILSON: It is attached to the statement as an exhibit.

THE CHAIRMAN: So the best possible copy you can give is already the one attached to the statement.

MR WILSON: Yes it is. I have written on this one of course.

THE CHAIRMAN: Well look we will take a few minutes to read it and then I will hear you Mr Reeve as to what you say. Have you finished your address on it?

MR WILSON: Yes I have. I would be beholden to Mr Reeve he will say whether there was legislation on not on the use of a commission in Australia in these circumstances.

MR REEVE: My view is, no there is not. I mean there is in relation to the courts. There is clear legislation and rules in relation to it, the taking of evidence overseas. Now the difficulty as I perceive it is essentially a difficulty of private international law that if Mr Barker were to give evidence in Australia and give false testimony, it would be open to him to say the offence did not occur in PNG and that the offence occurred beyond the jurisdictional limits of PNG and we can do nothing about it. I might have taken a different attitude, if Mr Barker did not have a pre-history and his pre-history before this commission in the case that he has given, in my respectful submission, patently perjured evidence about a transaction of which he had clear knowledge and of which we have subsequently obtained documentary records of which he is the author and there is patently clear evidence about his conduct in relation to the monies that were held in treasury bills, where in effect through Mr Barker's conduct the PNG tax authorities have been deprived of some K900,000 in tax and penalties. Now in those circumstances, my concern about meeting Mr Barker's convenience is that the balance of convenience would have required him to come to PNG. He says he has had threats, well he said nothing about it. We only have his word for that and his word is questionable in my respectful submission and I do not really see why the commission should extend any particular privileges to Mr Barker in view of his past track record and why tax payers money should be used, he having already deprived the tax office of some substantial amount of money, should be expended to meet Mr Barker's convenience in Australia. Now there are things that he says which I am sure are pertinent to what Mr O'Neill says, I do not seek to hide that for a moment.

[10.50 am] There are things also which I would like to test him on because I am sure a number of statements in there are untrue. And I want him to be in the position that when I demonstrate they are untrue, he pays the penalty.

THE CHAIRMAN: Okay. Well look, we will take a few minutes and read the statement and then I will be in a better position to understand your objections when we have seen it.

MR REEVE: As the commission pleases.

THE WITNESS WITHDREW

SHORT ADJOURNMENT

[11.26 am] THE CHAIRMAN: We will resume now. We have read the statement and we have conferred upon it and are now ready to make the ruling.

Mr Wilson has tendered a photocopy of a facsimile of a statutory declaration, or possibly of a photocopy of a statutory declaration by Norman Kenneth Barker purportedly sworn before a JP/Solicitor in Brisbane on 16 November 2001.

Mr Reeve, sorry, but having looked at your letter, I do not need to hear from you any further on this.

The name of the person and his address before whom it was declared is not stated.

Mr Barker's current whereabouts is not stated.

The declaration refers to some matters within the terms of reference of the Commission of Inquiry, some matters which may or may not be within the terms of reference and some matters which are clearly outside the terms of reference. The declaration makes very serious allegations against 27 prominent citizens of Papua New Guinea. The commission is empowered to determine its own rules of procedure and evidence, subject to a duty to abide by the rules of natural justice.

Mr Barker is apparently in Australia, and the declaration was apparently made in Australia, which would make him subject to the laws of perjury prevailing in Australia, not Papua New Guinea. He states that he is unwilling to return to Papua New Guinea which would enable him to give his evidence on oath and to have it tested here by cross examination which would subject him to the laws of Papua New Guinea with regard to perjury.

In considering the request, the commission has taken account of the form of the document as well as the contents. We note that it is a fax of a photocopy. The contents of the document, it contains matters within and outside the terms of reference. It contains matter which Mr Peter O'Neill and also Mr Reeve would probably like to rely upon and ask questions about, but it also contains matter which is severely prejudicial to many other people, who to be fair, must be given a right to cross examine. By accepting the document into evidence, it would become privileged which would enable it to be published without concern for the laws of defamation.

The commission's ruling is that, it refuses to accept a photocopy of a facsimile of a purported statutory declaration of Mr Norman Kenneth Barker into evidence.

[11.29 am] That would be to allow the commission to be party to an abuse of due process and contrary to the laws of natural justice. If ways can be found to enable Mr Barker to give relevant evidence in an acceptable and admissible form which can be properly tested in cross examination, the commission will be pleased to provide the forum for that evidence. In consequence of this ruling the two passages in Mr O'Neill's statement which have been objected to by counsel assisting will be struck out and the commission so rules.

Subject to the exclusion of those two passages I direct that the statement of Mr O'Neill be incorporated into the transcript.

STATEMENT BY PETER O'NEILL

IN REPLY TO THE THIRD SUPPLEMENTARY OPENING ADDRESS

OF THE NPF COMMISSION OF INQUIRY

The much-publicised Third Opening address by the Counsel Assisting the NPF Commission of Inquiry Mr John Reeve claiming that I was part of a so-called joint venture in control of the NPF Tower money is untrue.

The Commission has been wrong in the past and their comments have been sensationalised in the press, not even

an apology or a retraction has been forthcoming from either the press or the Commission. An example of this is the PNGBC car sale saga.

The allegations and claims of the Counsel Assisting the Inquiry should be answered because on many occasions his assumptions and interpretations are wrong. Some of the evidence said to be crystal clear is based on the invention and the promotion of the common fund and many of the payments which are said to be related to the common fund have absolutely nothing to do with me.

I have never been requested by the Commission to make a statement on any of the allegations made against me over the past two years. After, reading continuously about it in the press, I had voluntarily made a statement to the Commission of Inquiry.

The matters I raised in my affidavit filed 27th April 2001 were largely deemed relevant by the fact that my name appeared in the transcript on occasions and I was unaware of the nature of the allegation to some extent and any inaccuracies in regard to that statement and items overlooked should be understandable in this regard.

I have never been asked to respond to any of the payments that are claimed to have made out of the NPF money and these are being published in both dailies without me exercising my right of reply.

In the process of the Inquiry, there has been much gratuitous comment on transactions and investments, which clearly have nothing to do with the NPF, but nonetheless they have been subject to comment, innuendo and speculation.

I have stated that I had my own funds, which were legally earned to K3.2 million in the Trust Account operated by the real estate agents, Port Moresby First National Real Estate Limited ("PMFNRE"). To the best of my knowledge, all payments stated as being related to me have been paid out of my own funds. I am yet to receive a completely reconciled account of my funds from PMFNRE. I am confident with the assistance of Mr Barker a reconciled statement of the trust account will be available to me shortly through his lawyers which will enable me to recover the balance of monies outstanding and owed to me to by PMFNRE.

Mr Sullivan has told me that the Trust Account operated by PMFNRE included funds belonging to several hundred clients for rental income. It is very obvious that they did not operate separate bank accounts for each of their client, which is physically impossible. The suggestion by Mr Reeve that tainted funds were in that Trust Account and therefore, as one of PMFNRE clients, I must be involved in the scam as a fact is not credible.

By using the transcript provided, I have set out full reconciliation of funds that are attributable to me and which have been expended on my behalf. The balance of that reconciliation is K405,523.03 in my favour.

Once again, there is no legal documentation either with the Registrar of Companies or anyone else to suggest that I am a shareholder of PMFNRE. This is a fact that is unchallengeable. I am only one of the many clients of PMFNRE. The suggestion that the shares of the company must be held in trust for me is again wrong because there is not one single legal document to prove this allegation.

There is no evidence that suggests I have been involved in a conspiracy to defraud the National Provident Fund. The facts are:-

* I have never met the principals or managers, including Mr Tanaguchi of Kumagai Limited. This is confirmed in his statement to the Commission of Inquiry. Kumagai made out the invoices to NPF, received payment and made payments to parties without my knowledge.

* I have never met any of the principals of Pacific Architects Consortium (PAC) or any of their employees. PAC quantified and approvals for payment of the Kumagai claims.

* I have never met Mr Ken Yapan of Ken Yapan & Associates who made the claims to Kumagai. He has testified to this effect at the Commission.

* I have never met or done business with any of the valuers that have done valuation for the NPF Tower or the Waigani Land.

* Mr Jimmy Maladina was the Managing Partner of Carter Newell Lawyers, but he did not have the personal carriage of my legal work. The lawyers who handled my files in that firm have always been Messrs John Beattie and David Lightfoot. He has never discussed with me on his dealings with Kumagai Gumi or the other parties who have played key roles in the disbursement of funds. I have never been in any business venture with him and therefore fail to understand why I should be accused of being a joint-venture partner.

* I have never had any discussions with the management of NPF, particularly Messrs Henry Fabila, Rod Mitchell and Herman Leahy on issues and payments made on behalf of the Tower. I have never had any discussions with any of the NPF Board Trustees or to encourage them in reaching their decisions.

It is with this scenario that I absolutely deny ever been involved in the so-called conspiracy to defraud the NPF.

I now will address each of allegations presented by the Counsel Assisting the Inquiry, page by page and then summarise with financial calculations, proving that there was sufficient funds held on my behalf to cover all the expenditures that have been deemed to be attributable to me. This conclusion is reached with a careful analysis of the calculations and arguments presented by the Counsel Assisting, including selective marking of money to suit his argument and further explanations sought from PMFNRE on my funds and other information now available to me. I stress again that my initial statement to the Inquiry was presented without my personal documents and records being available to me.

RESPONSES TO ALLEGATIONS OF THE THIRD OPENING ADDRESS

Transcript 9102

"In that examination we show how payments to Mr. O'Neill's former wife Cheryl Caley of K50,000.00 and to Mecca No.36 Limited of K100,000.00 a company owned by Mr. O'Neill and Mr. Nathaniel Poya were not paid from Mr. O'Neill funds but were from NPF Tower fraud money, as were two other cash payments of K100,000 each."

The allegation appears to be that I used K150,000.00 of NPF Tower monies to pay Cheryl Caley and Mecca No. 36 Limited. It is assumed that I knew the NPF Tower monies were being used for this purpose and that I am criminally involved in a conspiracy or otherwise to steal money from the NPF.

It is further suggested that I was the recipient of two other cash payments from this source of K100,000.00 each.

Response

I disagree with the Counsel Assisting the Inquiry that the payments were made out of my personal funds and according to my reconciliation of receipts and payments as presented by the Commission. I am of the view that I had over K200,403.16 on the day 4th May 1999 when first payment K50,000.00 to Cheryl Caley was paid and I had balance of K261,236.49 when the payment of K100,000.00 was paid on the 17th May 1999.

It is absolute nonsense for Mr Reeve to suggest that payment to Caley was diverted to purchase properties in Australia when in fact it was paying living expenses.

With regard to the two cash payments of K100,000.00 each, I have absolutely no knowledge.

Transcript 9105

"In the process payments on behalf of Mr. O'Neill of K100,00.00 to purchase shares in Nama Coffee Exports Limited and numerous other payments on Mr. O'Neill's behalf are exposed as well as a payment of K30,400.00 to the loan account of Hon. William Skate."

This is a further allegation of my using NPF Tower fraud monies for my personal benefit.

Response

In 1997 I moved to Port Moresby to take up the position of Executive Chairman job at PNGBC.

In early 1998, my former wife Cheryl Caley left Goroka to live in Australia. My then Accountant Mr Joseph Kup had also left Goroka to set up his own business in Mt Hagen. Towards mid 1998, the company Mecca 36 was not performing well because of poor management and I could not return to rescue the business and therefore decided to sell my shares.

I was approached by Mr Maurice Sullivan that he knew Mr Jack Awela, originally from Goroka but a long term resident of Port Moresby who was interested in resettling to Goroka because he had just retired from the PNG Defence Force. It was after a lengthy discussions Mecca was sold to Jack Awela on a deferred payment arrangement. A copy of Agreement attached.

Mr Awela owned 25% shareholding in Nama Coffee. He wrote to me advising me that as part of the settlement of outstanding amount for Mecca shares, he was transferring his Nama shares to me at agreed value of

K150,000.00. A copy of letter attached.

I believed that Mr Sullivan who was instructed to facilitate the transfers had done so and therefore, got onto the Board of Nama. I have since received benefits thinking that I was a shareholder. We are now trying to have proper transfers executed to me.

Under the management of Mr Jack Awela, South Super Stores continued to deteriorate and it was necessary for me to intervene to save the business. I then organised a term sale by way of payment by instalments to Highlands Traders Limited.

With regard to the reconciliation of funds you will note that I directed funds to PMFNRE, which were received as payments from Highlands Traders Limited as follows:-



Mr Sullivan has told me that payment of K30,400.00 to Mr Bill Skate was paid out of his rents received from his Touaguba Hill property.

In my response I believe I have answered the allegation that the K100,000.00 was paid by PMFNRE on my behalf by establishing that it was paid on behalf of Jack Awela for his shares in Nama Coffee Exports.

With regard to payment on my behalf to Hon. William Skate, I was established through Mr Maurice Sullivan that that was rent payable to him for his Touaguba house. As regards the allegations of numerous payments, these are not detailed and I have responded at this stage but these are included in my overall summary of all payments attributed to me or on my behalf below.

Transcript 9105

"The receipt of K150,000.00 to Ledger 9 for Blue Haven 42 Limited derived from NPF Tower fraud, K160,000 to same ledger in the Nambawan Finance IBD and K690,000 from Carter Newell Lawyers from an entity in Hong Kong."

The allegation here is that part of the NPF Tower monies have been used by Blue Haven 42 Limited to purchase the Manamatana Apartments.

Response

I am a 50% shareholder of Blue Haven 42 Limited and I have always stated that 50 % funding of the purchase came from my funds. The reconciliation clearly shows that when the payment were made for the deposits and final settlement of the purchase took place, there were sufficient funds that were attributable to me in PMFNRE trust account to cover those payments.

On the 26th of June 1999 my share of K150,000 was made available and I had funds in PMFNRE trust account of K154,672.71 and when the final settlement on 13th April 2000 took place, the balance of the of Trust funds attributable to me is K1,156,699.95 and the payment of K600,000.00 was made.

The funds originating out of Hong Kong has nothing to do with me except a sales commission of K40,000.00 was paid to my wife, Lynda Babao, out of final settlement for selling the Manamatana Apartments.

Therefore the allegation that NPF Tower fraud monies were used by me to purchase the Manamatana Apartments is untrue.

Transcript - 9106

"He said in effect that Pangia Enterprises was owed rent by Hunter Real Estate and PMFNRE which came to K100,000.00 and that explained payment to Mecca No. 36 Limited of the K100,000.00 out of what he said were his funds but which were clearly NPF Tower Fraud Monies and when you look at those transactions, we show that is where the rent money was paid."

The allegation is that PMFNRE paid rent to Pangia Enterprises of K100,000.00 out of the NPF Tower fraud monies.

Response

There is absolutely no evidence that PMFNRE had paid rent earlier to Pangia Enterprises Limited for the premises that their staff are living, until the bill of K100,000.00 was given to PMFNRE. I do not run charity and therefore expect to be paid at market rates. Where PMFNRE get their funds to pay rent is irrelevant to me. The fact remains, Pangia Enterprises Limited was due for rent and was paid accordingly.

Transcript - 9107

"We detail a withdrawal from Nambawan Finance IBD By PMFNRE used to purchase a vehicle from Ela Motors by Mr O'Neill, which then passed to Hon.Dr Fabian Pok and a further withdrawal by PMFNRE which was credited to Ledger 11 and expenditure of those funds largely for Mr O'Neill's benefit is also detailed".

This quote of itself contains no allegation but subsequent remarks in the transcript and the press speculation which was associated with those remarks amounted to allegations.

Response

This matter has been covered extensively by the Counsel Assisting the Commission and after much speculation and fanfare in the media, the Counsel has only recently admitted that the purchase was done properly as per documents supplied by Ela Motors. I was aware the vehicle was traded in by PNGBC and how the vehicle was bought by PMFNRE from Ela Motors and onsold to Dr Pok is none of my business and I have no further knowledge.

Again, the Counsel Assisting the Commission has not made any attempt to withdraw his earlier comments, which were completely wrong and has conveniently ignored it.

Transcript - 9107

The Counsel Assisting the Commission makes allegations that funds that were attributable to me of K390,000.00 and K1,000,000.00 were included with funds from the Tower with residual funds from Nambawan Finance IBD were deposited into Trust Account No. 2 and again many of the off book adjustment items are shown to have been paid Mr. O'Neill benefit or for the benefit of persons or companies associated with Mr. O'Neill throughout the period.

The allegations on this page seem to be that I was aware that my own funds were deliberately mixed with those of NPF Tower fraud monies and deposited with Nambawan Finance.

Response

It is quite obvious that large portion of the funds were mine, which had been legally earned and taxed. It is also common sense that funds will be expended on my behalf out of my funds and just because all other funds were banked into the same bank account does not mean they are tainted by the fraud money.

I take objection to the selective marking of my money to justify the allegations when my own calculations demonstrate that I had sufficient cash at all times. This is an outcome which was available to Counsel Assisting but this was clearly ignored.

I have no knowledge of how the accounting records were kept at PMFNRE. I have never sighted original ledgers that the Counsel Assisting is referring to other than the ledgers he has reconstructed. I would like to view the

original ledgers.

Therefore I deny the allegation that I had prior knowledge of the pooling of the funds by PMFNRE.

Transcript - 9108

"The main payments were to purchase two treasury bills for the face values of K1 million and K500,000.00 respectively. The other main payments were at the Kina equivalent of AUD\$72,000.00 to Cairns Solicitors, William, Graham and Carman and of K50,000.00 to South Super Stores Trading (Mecca 36) Limited and K150,000 to Mr. Nathaniel Poya the NPF employers representative trustee personally."

The allegation here is that NPF Tower fraud monies were used to buy treasury bills and pay the solicitors in Cairns, Mecca No. 36 Limited and Mr Nathaniel Poya.

Response

Again, I would like to see the original Ledger 18 to verify the above transactions that he claims to have been made out of the NPF Tower funds. He is again trying simplify the scenario by selective marking of funds to suit his story, when in fact he admits in his earlier paragraph 40 of transcript 9107, that there was funds in excess of K1.39 million in PMFNRE trust account which were attributable to me.

I have no knowledge of the payment to William Graham Carman Lawyers.

The payment of K50,000.00 is from my trust funds with PMFNRE where according to my reconciliation I had a balance of K1,898,294.37 when the payment was made on the 17th September 1999. This payment again was to bail out South Super Stores under the management and ownership of Mr Jack Awela. It was during the time, I was negotiating with other potential buyers to rescue the position South Super Stores.

The other payment of K150,000.00 to Mr Nathaniel Poya was to pay for suppliers based in Lae on behalf South Super Stores Limited. Mr Poya was a shareholder of South Super Stores Limited and was willing to assist in rescuing the company (copies of payment to suppliers attached). The balance of my trust funds when this payment was made is K1,848,294.37.

Other than Counsel Assisting the Commission's invention of the common fund, there is no evidence to suggest that I have been involved in the creation of a common fund.

Transcript - 9108 & 9109

Mr. Reeve makes mention of the initial PON, "You will see that mentioned dozens and dozens of times in the transactions and there is no doubt who it means."

The allegation here is because my name is Peter O'Neill that the initials "PON" refer to me and because of this I am involved in the business of PMFNRE and its disbursement of funds from the Tower.

Response

I have no firm knowledge of who the author of this initial is but I believe it is Mr Ken Barker. The initial PON does not necessarily refer to Peter O'Neill. My initials are PPCO, which stands for Peter Paire Charles O'Neill, my full name.

Counsel Assisting the Commission is also not the author of the transactions and the ledgers that bear those initials and therefore cannot generalise.

He refers to Mr Rupa Siba as being the witness that has confirmed that it may refer to Peter O'Neill. He has also stated that he is not the author of those transactions or indeed any accounting transactions within PMFNRE. He has stated that he has not handled any accounting entries and therefore can have no knowledge of the authenticity or notations of vouchers at all.

It is obvious from the transcripts that Mr Siba was intimidated and threatened. The treatment of Mr Siba improved only when he sought legal counsel.

In the trading business, PON is commonly used to abbreviate Purchase Order Number. A purchase order book is used universally and in this case may really explain the many off book payments. Mr Barker is the only person who can explain the entries.

I say that there is very great doubt placed on what PON means on some of the accounting vouchers within PMFNRE especially when there are on many occasions the accounting entries also refer to as O'Neill account. The assertion of Counsel Assisting the Commission that there is no doubt is wrong.

Transcript - 9109

"But at the time Mr O'Neill went to PNGBC or shortly thereafter, that shareholding changed from Pangia Enterprises to a man named Jack Awela who gets a lot of mention in this report and who I say was a nominee for Mr. O'Neill in this and a number of other companies."

The allegation here is that Mr Jack Awela is a nominee for me and that to avoid being subjected to the Leadership Code and to benefit from the borrowings from PNGBC, I have used Mr Jack Awela as my nominee.

I deny that Mr Jack Awela is or has been a nominee for me and that my companies have had loans approved by PNGBC have been on other than arms length in commercial terms.

Response

This is absolute nonsense. The Counsel Assisting the Commission does not have evidence to prove that there is an arrangement between myself and Mr Awela to hold shares in trust for me. I have personally used the services of three lawyers during my life and they are Mr Greg Lay of White Young & Williams, Mr Greg Sheppard of Maladinas Lawyers and recently Mr Michael Wilson of Warner Shand. None of these most senior legal personalities have been requested to prepare any trust deeds or any other legal documents for the suggested purpose.

When I stated that I still owned or have beneficial ownership of Mecca No. 36 Limited is true because Mr Jack Awela has yet to fully pay me for all the shares. I was introduced to Mr Awela by Mr Sullivan, I did not know him prior to that meeting. All our business dealings have been handled through Mr Maurice Sullivan whom he trusts absolutely.

Mr Awela was already a major shareholder of PMFNRE and had lived in Port Moresby for a very long time and on recommendation by Mr Sullivan, I had no hesitation on my part in selling my shares in Mecca No. 36 Limited to him on a deferred settlement arrangement.

I sold my shares to Jack Awela in 1998, close to one year after my appointment to PNGBC and to suggest that I tried to conceal my involvement is untrue. It is not something that you hide very easily when everybody knows that you come from trading background.

The Counsel Assisting the Commission has also suggested that the other reason to conceal my involvement is to secure loans with PNGBC. I state that I introduced the credit committee system which is being also practiced today at PNGBC where not a single sign-off approval for loans but a committee of five approve every loan application.

Not one single employee of PNGBC will testify that Peter O'Neill interfered with the Committee or that I tried to influence their decision. I had also removed myself from any approval listing to give more independence to the management.

Transcript - 9110

"The evidence shows that Resources and Investments Finance Limited which I call RIFL was acquired by PNGBC and corporatised in 1999 being owned by Finance Pacific Investments Limited. The evidence further shows that after Peter O'Neill was terminated from Finance Pacific Group on 23rd August 1999, he signed a contract of sale of RIFL to a company Blue Haven No.67 Limited by way of sale of shares under seal of Finance Pacific Investments Limited."

The allegation here is that I signed a contract for the sale of RIFL to Blue Haven No. 67 Limited after termination as Executive Chairman of the Finance Pacific Group.

Response

RIFL was never corporatised, it has been in voluntary liquidation. Again the Counsel Assisting the Commission has got it wrong.

As I stated in my earlier statement, I had a meeting with the Prime Minister on Wednesday 25th August 1999 where he informed me that the Cabinet was going to deliberate that morning to terminate my services at the

Finance Pacific Group.

I was not formally terminated until a shareholders meeting of the company Finance Pacific Limited was held on Saturday 28th August 1999. This was because Cabinet did not have the authority to terminate my services. I was still the Chairman of the Bank when I signed those documents. It was the following week that the shareholder, being the Minister responsible signed the necessary documents.

My earlier evidence about the date of termination was based on a discussion with Mr. Dawson. He and I knew that the Prime Minister contacted me on a Wednesday and we made an error in looking up a past date on the computer. We looked at a Wednesday in August 2000 which was the 23rd instead of a Wednesday in August 1999 which was the 25th.

I was as asked by Mr Malcolm Roy Smith-Kela in around September 1999 to assist in settling the purchase as it was taking too long to conclude the matter. I had liaised with the Bank officials and prospective shareholder Mr Jim Dawson to finalise the purchase.

Several days before the settlement, Mr Dawson informed me that they were unable to settle on time, as his own funds were not readily available and that Mr Smith Kela was unable to contribute further funds. I agree to advance Mr Dawson K750, 000.00 to complete the purchase and he has since repaid me K300, 000.00 and a balance of K450, 000.00 remain outstanding. I have no knowledge of the manner in which the remaining balance of the required capital was raised but that was handled by Mr Dawson.

I deny that I signed a contract for the sale of the business after I was replaced as Executive Chairman on 28th August 1999.

Transcript - 9113

"In February 1999, the interest from the K1.5 million in treasury bills plus K49,218.27 interest paid by RIFL were credited to Ledger 18 and added by a further K60,000.00 provided by Mr Jimmy Maladina out of his valuation fee share for the Waigani Land and NPF Tower valuations and K80,000.00 provided by Mr. Mohameed Sultan and then paid out to Baradeen Holdings".

The allegation here is that K60,000 of the Waigani Land valuation fee was combined with my money and paid to Baradeen Holdings Limited.

Response

My contribution to the Baradeen purchase was K120,000.00, which was paid on the 22nd February 2000 and balance of funds held in the Trust Account of PMFNRE was K1,071,688.26, adequate enough to cover the payment.

I have no knowledge of the supposition that these monies were compiled of NPF monies or the Waigani Land valuation fee and was paid in by Mr Jimmy Maladina to PMFNRE. So far as I know Mr Jimmy Maladina had no involvement in matters relating to Baradeen Holdings Limited.

The payment by Mr Mohameed Sultan is a separate matter and has nothing to do with the Inquiry. The sale by Baradeen was not concluded until early 2001 and certainly not February of 1999. The deposit was made in February 2000 and the sale was settled in August 2001.

Transcript - 9114

"The transactions on Ledger 31 are multiple and the involvement of and benefits to Mr. Peter O'Neill are clear. Significantly two of these payments are for land tax and Cairns City Council rates for Perimist Proprietary Limited and thus provide the link to that company and its Cairns property."

"Well the owners of Perimist like the owners of Bethgold are Mr. Sullivan and Mr. Barker and the clear reason for that is, they are Australian companies and Mr. Barker and Mr. Sullivan are Australians. In my respectful submission it is quite clear they do not own them but they are holding them as nominees."

The allegation is that because two payments were made by PMFNRE for Perimist Pty Limited that this creates a link between myself and Perimist and further that Messrs Sullivan and Barker are holding shares in Perimist on my behalf.

Response

The Commission's searches of the Australian Securities Commission show that Messrs Sullivan and Barker are the owners. The Counsel Assisting the Commission simply chooses to ignore these facts.

It is also a required by law in Australia for trustees to disclose if any trust arrangements are in place. There is no such Trust or nominee arrangement and therefore the searches conducted by the Commission has not shown documents it now has in its possession.

The argument that payments were made from some ledger that I have never sighted is simply outrages. I also do not have any knowledge of the payments that were made. It quite obvious from the transcripts that Management of PMFNRE were careless in expending trust funds and in particular for personal benefit.

The other argument that shares were held in trust because both Messrs Sullivan and Barker were Australian citizens is again flawed because it is now quite apparent to the Commission that Mr Maladina's family are Australian citizens and I have my own family members who are Australian citizens and would have preferred them to hold shares in trust for me if I was the beneficiary. I would always prefer them to hold shares in trust for me if I had any. That would have been the normal approach to protect one's interest.

Transcript - 9114

"The final section of the supplement deal with Mr. O'Neill's rental income essentially to show how that was disposed of. The funds received by Carter Newell from Niugini Aviation Consultants in Hong Kong, the receipts of the money and the links between people concerned; the tenants of PMFNRE and the relationship between Peter O'Neill and PMFNRE."

The allegation here is that I am linked to PMFNRE and that I am in some way linked to money received by Carter Newell from Niugini Aviation Consultants in Hong Kong.

Response

The treatment of rental income due to me and to companies associated with me are fairly straight forward and have been paid in accordance to the normal monthly rental statements received from PMFNRE. I did not include the receipts and payments in relation to rental in my reconciliation and therefore will not comment any further.

On transcript 9105 the Counsel Assisting the Commission when asked by the Chairman of the Inquiry as to how the funds of Hong Kong of K690,000.00 was derived from the fraud, replies that "none!"

I have never been to Hong Kong, except only at the Airport on transit to other destination and I have never heard of the company Niugini Aviation Consultants. I shall not comment any further.

Transcript - 9115

At the time Perimist Propriety Limited was buying a property in Whitfield in February 1999, some K400,000.00 was returned from IBD to Carter Newell in a series of cheque swaps and cashings. This was at the same time that Mr O'Neill's initial funds arrived at PMFNRE from Finance Pacific and they were involved in this cheque swap and/or the investment of a further K100,000.00 into PMFNRE, Nambawan Finance IBD."

"There were two payments, three of his housing allowance. The first one of about K91,000.00 and then shortly after that one of K54,000.00 and two days later one of K10,883.33."

The allegation here is that my funds were involved in the reimbursement of some K400, 000.00 to Carter Newell Lawyers which leads to the suggestion that I have interest in the property owned by Perimist.

Response

The payment of K420,000.00 on the 22nd January 1999 is certainly well before the so-called first payment of the Tower funds were alleged to have been received by PMFNRE on the 26th March 1999 an amount of K300,000.00. I cannot see the relationship between these payments. There is no evidence put forward by the Counsel Assisting to back his claim that it was reimbursement of funds used by Maladina to buy property in Cairns by Perimist Propriety Limited.

Again, it is quite obvious, except to Counsel Assisting the Commission that the legally proven beneficiaries of Perimist Propriety Limited are Messrs Sullivan and Barker.

There have been several unexplained cheques between the trust accounts of Carter Newell and PMFNRE as per

the transcript but I do not have any knowledge and therefore cannot comment.

It seems to me that funds in the Trust Account of PMFNRE were utilised indiscriminately regardless of whose funds they were and they were pooled together into several ledgers of funds that were clearly outside their usual business income.

The suggestion by the Counsel that I have pooled the three rental payments of K91,467.65 received on 20th January 1999, K54,166.45 received on 8th February 1999 and K10,833.33 received on 10th February 1999 totalling K156,467.43 was paid together with other monies to Carter Newell on the 22nd January 1999 to reimburse Mr Maladina for buying property in Cairns for Perimist Propriety Limited is simply nonsense and untrue and the dates are out of order.

I am not a beneficiary of Perimist Propriety Limited and there is no evidence to suggest otherwise. I am not charity and have not authorised anybody to give my monies to Carter Newell or Mr Maladina. PMFNRE also have never sought my permission and none was given.

The Counsel has not provided in the transcript any evidence to substantiate his claim that Mr Maladina advanced the monies to purchase property in Cairns, Australia.

Transcript - 9116

"When Mr O'Neill was facing termination as Executive Chairman of Finance Pacific Group, there was a rush of money into PMFNRE with large sums of NPF Tower Fraud money, K390,000.00 of Mr. O'Neill's payout from Finance Pacific and the residue of funds left in PMFNRE Nambawan Finance IBD all collected in a larger common fund on PMFNRE ledger 18."

The allegation contained in these remarks is largely to continue the theme of the common fund and in some way associate me and my funds with that common fund.

Transcript - 9117

"There was also a substantial leakage and this speaking generally in payments of K100,000.00 in cash and other expenditure, the main beneficiary of which was Peter O'Neill."

The allegation again is that because my funds arrived at the same time as other funds from the clients and IBDs of PMFNRE that there is a common fund in ledger 18.

Response

It is not true that funds were being moved because of my pending dismissal from the Finance Pacific Group, there is absolutely no evidence to suggest that.

Again, I have no knowledge of accounting methods and bookkeeping of PMFNRE but it is obvious from the transcript that ledger 18 is an untitled ledger used by PMFNRE to pool funds, which have no relationship to the day-to-day business of PMFNRE. That seems to be the only explanation why monies received in trust from various unrelated sources were pooled together in ledgers and the common fund has been invented by Counsel Assisting in an attempt to involve me in the NPF Tower fraud.

The cash payments have nothing to do with me and I have no knowledge of them.

The other payments which the Counsel claims to have been expended for my benefit will be explained later in the statement. I have always maintained in my earlier statement that there were payments made on my behalf from the Trust fund.

There has been suggestion that KPMG took instructions from me for accounting issues relating to PMFNRE is again untrue. I was introduced to an accountant in KPMG by the name of Prashant by Mr Sullivan who had been doing business for a number of years. I asked Prashant to update statutory records for a company, Pangia Enterprises Limited. I have never met with Mr Prashant or any other KPMG official other than the single meeting and therefore have not given instructions on PMFNRE.

The allegation that I have been involved in any way with the so-called common fund is denied.

Transcript - 9117

"It is further plain that at least K310,000.00 of this NPF Tower fraud money and the common fund, that is

out of IBD was invested in the purchase of Manamatana flats."

Response

As I stated earlier, I am 50% shareholder of Manamatana flats and I have contributed 50% of the funds required to purchase the property and therefore state that K150,000.00 was contributed out my trust funds which had balance of K154, 672.71 in trust at PMFNRE.

There has been attempt by the Counsel Assisting the Commission to suggest that LBJ Investments Limited, a company that I have beneficial ownership of, had 100% of Blue haven 42 Limited is quite simply wrong. Documents now lodged show a total of 4 shares are in Blue Haven 42 Limited with LBJ owning 2 shares, the remaining 2 shares are held by Property Investment Consultants Limited on the 4th August 2000. Prior to the this date Blue Haven 42 was a shelf company with shares held by nominees. Mr Sullivan had the carriage of the file and had liaised with Mr Greg Lay of Young & Williams in attendance of transfers and other statutory documents.

I deny that I had used funds other than my own for the purchase of my share of the Manamatana Apartments.

Transcript - 9120

"Both were involved in a number of transactions and both were at the helm of control of the NPF Tower fraud proceeds and their roles and involvement are in our submission crystal clear. Their relationship was not as Mr O'Neill has described it but that of joint venturers with the proceeds largely placed in a common fund over which Mr O'Neill clearly exercised control."

The allegation here is that Mr Maladina and I controlled the NPF Tower fraud proceeds and that we pooled our funds into a common fund over which I exercised control.

Response

It is quite evident that the Counsel Assisting the Commission has from the beginning of the Inquiry made desperate attempts to link myself to Mr Maladina. Subsequently this is being expanded to suggest that my relationship with Mr Maladina means that I am in some way connected or associated with the NPF Tower fraud monies.

Given the reliance on hearsay evidence I may wish to cross-examine many of the earlier witnesses who were asked leading questions and to whom suggestions were made. These would include Messrs Tanaguchi of Kumagai Limited, Ken Yapane, Ken Barker, Maurice Sullivan, Henry Fabila, Rod Mitchell, John Paska, John Ruimb, Jack Patterson, Simon Ketan, Iori Veraga, KPMG Accountants and the Pacific Architect Consortium witnesses.

My relationship with Mr Maladina is of a professional nature, he is not a business partner and has absolutely no involvement in businesses that I am associated with. This is proven by various legal documents, that is company searches conducted by the Commission itself. Any other suggestions is just speculation.

The common fund that is being referred to constantly by the Counsel was not created by me or at my direction. It has been created, developed and promoted by Counsel Assisting to justify the money matching exercise.

It is obvious from the records produced by the Commission that all income or funds received which were pooled into several ledgers and expended from there, this as the Commission had acknowledged, was due to change over of the accounting system at PMFNRE from manual to computerised and there being no accountant to keep proper track of the transactions.

Therefore, the inability of PMFNRE to keep proper account of its trust funds activity is not of my doing, I had my own funds in there and to date I have yet to receive a complete account of my funds. I was certainly not in control of the so-called common fund because I was not aware that it existed. I was not a signatory to the Trust bank account. I am not a shareholder, employee or director of PMFNRE to exercise control.

The suggestion that I was at the helm of control with Mr Maladina is again untested and utter rubbish.

Transcript - 9120

"The Commission would find that PMFNRE is owned and controlled by Mr Peter O'Neill and I detail at great length why that would be so. And one of the principal reasons I can indicate to you is that Mr. Jack Awela is a 90 percent shareholder of PMFNRE."

The allegation here is that Mr Awela is a nominee or trustee of mine and therefore I controlled PMFNRE.

Response

Mr Jack Awela was introduced to me in early 1998 by Mr Maurice Sullivan who expressed interest in purchasing the business of Hunter Real Estate Limited, which I had assumed Mr Sullivan to have controlling interest in the company.

The searches reveal that Mr Jack Awela is a major shareholder. He is a close friend of Mr Sullivan. I have no personal, family or business relationship with Mr Awela and it is illogical for me to appoint him as my trustee.

Mr Awela had lived in Port Moresby for over 25 years until he agreed to purchase Mecca No. 36 Limited and moved to Goroka.

In earlier evidence I had assumed that I had sold the business of Hunter to Mr Sullivan on a handshake but there is a copy of the contract of sale which I believe was drawn by Young & Williams Lawyers, see reference note (contract attached).

Mr Jack Awela had never been a nominee or trustee for companies owned by me and I have no association with PMFNRE other than as a client.

Transcript - 9120

"Mr Jack Awela is a 25 percent shareholder of Nama Coffee Exports. Yet Mr O'Neill says that is a mistake, I own those shares. Mr Jack Awela is the owner of 6700 or 67 percent of the capital of the Mecca. No.36 Limited. Mr O'Neill says I own those shares through Pangia Enterprises Limited. Mr O'Neill was involved in trusts where two shareholders of Blue Haven No.42 and we got documents because Mr Sullivan gave them to us, two shareholders in that company acknowledged in May 1999 that they held those shares in trust for Peter O'Neill. Now, you can probate and reprobate. You will also see Mr Awela is involved in the company Chelsea Security and there is abundance, that is one of evidence."

The allegation here is that repeats the theme of Mr Awela being a nominee for Mecca No. 36 Limited and Nama Coffee Exports Limited. It also says that Mr Awela is involved in Chelsea Security Limited. It says that I have been involved in trust arrangements previously by way of shareholdings in Blue Haven No. 42 Limited. All of these instances have received comment to leave the impression that I am a regular user of trustee and nominee shareholding arrangements.

Response

Mr Jack Awela is from Goroka, Eastern Highlands Province and has lived in Port Moresby for over 25 years. I am from Southern Highlands Province and have lived in Goroka since 1992 except for the period that I was Executive Chairman of PNGBC and Finance Pacific.

It is very unusual here in Papua New Guinea that someone from a different area will be asked to be a nominee, trusting him with millions of Kina worth of shares without proper documentation to protect my interest. None of the lawyers who have been engaged by me over the past years will state that there is a Trust Deed. This is because there is simply none.

I sold Mecca No.36 Limited to Mr Awela in 1998 because of both family issues and management problems. In 1998, my then wife decided to move to Australia and my accountant decided to pursue his own business interest and left around the same time.

I had crisis situation for several months until I sold my shares to Mr Jack Awela in May 1998 on a deferred settlement basis. This was arranged by Mr Sullivan who is known both to myself and Mr Awela. A copy of the sale agreement is attached.

In March 1999 I was getting concerned that there was no payment forthcoming and had several discussions with Mr Sullivan who in turn told Mr Awela that he must make some form of payment to me.

Mr Awela was having problems both with finance and staffing issues. These issues were not to be easily resolved and problems were compounding by each day.

It was then decided that I should try and rescue the business by looking for other trading companies to acquire the business from Mr Awela, who still owns shares in Mecca No. 36 Limited. Mr Awela agreed to transfer the shares in Nama Coffee Exports Limited and Toanamo Apartments Limited as part payment of the purchase price

of K2 million.

In December 1999 I concluded a deal worth K2 million with a group of Malaysian/Chinese traders, Highlands Traders Limited, where payments due to Mecca No. 36 Limited were to be diverted to me to pay for my shares sold to Mr Awela. These funds received from Highlands Traders Limited have been included in the reconciliation of funds received by PMFNRE into their trust account.

It is for these reasons that I state that I still own the shares in Mecca No. 36 Limited.

Mr Sullivan was tasked to ensure that the transfer of shares in Nama Coffee Exports and Toanamo Apartments to me took place but because of his illness he had not done so. He was able to complete the transfer in Toanamo because he was in control of the file, whereas Nama transfers are with Mr Rod Robinson of Pacific Legal Group. Attached are copies of correspondence between myself and Mr Awela.

The issues raised in respect of Blue Haven 42 Limited were discussed in detail earlier but it is not correct when the Counsel Assisting suggests that Trust Deed was signed in May 1999 and therefore these two original shares were held in trust for me.

As I said Mr Greg Lay of Young & Williams had the carriage of the file and he liaised with Mr Sullivan whose was supposed to be issued two additional shares to Property Investment Consultants but again due to Mr Sullivan's illness he had not been able attend to this earlier. However, eventually, the actual transfer of 2 shares to LBJ Investments were done on 8th March 2000 while two additional shares were issued on 4th of August 2000 to Property Investment Consultants Limited.

I have no involvement with Chelsea Security Limited and therefore am unable to comment.

I deny the allegation that Mr Jack Awela owns shares in Mecca No. 36 Limited on my behalf and further deny that the shares in Nama Coffee Exports and Toanamo Apartments were held in trust for me by Mr Awela.

I deny that the so-called trust arrangements with Young & Williams was to protect myself from scrutineer or to camouflage my involvement but it was to give indemnity to Mr Greg Lay for his role in establishing the company which was a shelf company.

Transcript - 9121

"But the changes occur when Mr. O'Neill becomes subject to leadership code and if you look at each of those companies, you will see that all of them borrowed money from PNGBC."

The allegation here is that the shares were held in trust for me in various companies to disguise my involvement so that they could borrow money from the PNGBC and avoid being subjected to the leadership code.

Response

I became subject to the leadership code in 1997 and the transfers happened in 1998, 1999 and 2000. I had no reason to disguise these facts because most people were aware of my business interests before I became subjected to the leadership code.

I have also admitted to the Commission of my involvement and there is never a time that I denied having interest where I had them. It is not usual for someone to go around publicly advertising their financial position.

When I took over the senior position in PNGBC I established a credit committee and removed myself from the loan approval delegations. The effect of this was that any place in PNGBC had to be approved by credit or lending committee members of 3 to 5 people or by the full board of the bank on anything above K3 million.

I am not aware of the companies who borrowed money from PNGBC.

Transcript - 9124

"I do not think that these things will come as a terrible shock to Mr. O'Neill."

The allegation here is that I must have been aware of what was going on.

Response

Again, I stress my point, the Counsel Assisting the Commission has already made up his mind on how he wants

the Commission to conclude its findings. He has not explored any alternative view in his investigations because he has been so mesmerised by the common fund and the money marking exercise.

Any shock has come from the daily press cover and the extended campaign to ensure that bit by bit some of the more salacious parts of the opening were published whether they were proved or not.

I am politically involved and I am not necessarily shocked by issues such as these.

My overriding concern is that the extended negative publicity could affect the welfare of over 700 staff who work directly for me and our various businesses throughout the country.

REVIEW OF FINANCIAL PRESENTATION & ASSUMPTION

The financial summaries and explanation presented by the Counsel Assisting the Commission are discussed in detail and to test the assumptions that are being made to explain transactions. I will discuss issues which are only relevant to me or as being referred as beneficial to me or to parties deemed to be related to me.

Attached is a complete summary of payments and receipts made on the funds held for me in trust. I have never known that ledgers existed prior to reading it in the transcripts as I did not receive copies of such ledgers and therefore will not comment for this exercise. Instead, I will present to you all payments that is said to be related to me and compare with them with funds received and held for me.

This exercise has been most revealing because I did not receive a statement of the trust funds managed by PMFNRE for me.

22.01.99 K420,000.00 PMFNRE paid to Carter Newell Lawyers

It is important that we start the review with the K420, 000.00, which the Counsel Assisting the Inquiry says that it was reimbursement to Jimmy Maladina for his funds used to purchase a house in Cairns for Perimist Propriety Limited. He then goes to say that funds received by PMFNRE on my behalf from Finance Pacific (PNGBC Group) as rental allowance of K91,467.65 must have been included in the K420,000.00 paid Carter Newell Lawyers for Mr. Maladina.

Counsel Assisting the Inquiry has no evidence whatsoever that suggests a reimbursement was to have been made to Mr Maladina for his funds used to buy the property in Cairns, Australia. He certainly does not have any proof that I authorised my funds of K91,467.65 to be paid to Carter Newell Lawyers or to Mr Maladina. His own search with the Australian Securities Commission prove that I am not a shareholder of Perimist Pty Limited they are Messrs. Maurice Sullivan and Ken Barker. I have no beneficial ownership of the property.

This again proves that the Counsel Assisting the Inquiry is wrong on his assumption, the evidence above is crystal clear, it need no further explanation. Given the dates as being 22nd January 1999 this was well before the so called NPF Tower money existed.

21.01.99 K91,467.65 PNGBC - Rental Allowance

The balance of funds attributable to me begins with K91,467.65 rental allowance for me received on the 21st January 1999.

09.02.99 K 54,166.45 PNGBC - Rental Allowance

The second rental allowance received from PNGBC Group was K54,166.45 paid on the 9th February 1999.

11.02.99 K10,833.33 PNGBC - Rental Allowance

The third rental allowance for K10,833.33 was paid on the 11th February 1999.

10.03.99 K10,833.33 PNGBC - Rental Allowance

The fourth rental allowance for K10,833.33 was paid on the 10th March 1999.

10.03.99 K22,269.07 ANZ - Personal

The next payment to PMFNRE trust funds was paid out of my personal account on the 10th March 1999 from ANZ Bank Boroko for an amount of K22,269.07. The Counsel Assisting has stated that this is an odd amount because of the .07 figure at the end of the amount paid and therefore is suspicious. I did not know that it was a

crime to write cheques with decimal point at the end.

I have consistently stated that I put any excess funds due to me through the PMFNRE trust account because firstly, I want to purchase properties that would come on market and secondly because of my position, I did not enjoy the privacy of having a bank account without it being accessed by persons other than those authorised. This was particularly so when you had Unions at various Banks exchanging information that was strictly confidential.

12.04.99 K10,833.33 PNGBC - Rental Allowance

The fifth rental allowance received was K10,833.33 on the 12th April 1999.

This would bring the total funds attributable to me at K200,403.16 before the first payment was made out of my trust funds.



04.05.99 K50,000.00 Living Expenses

The first payment made out of my trust funds was K50,000.00 made to Cheryl Caley to her personal account on 4th May 1999. There were sufficient funds to cover this payment leaving a balance of K150,403.16 held in Trust on my behalf.

The Counsel Assisting has tried to mark this money by saying that this was pooled together with funds that were remitted to Williams, Graham & Carman, Solicitors in Cairns to buy a house. The Counsel has no proof of evidence to substantiate his claim. The funds were used to pay for living expenses.

06.05.99 K10,833.33 Rental Allowance

On the 6th May 1999, an rental allowance of K10,833.33 was paid to PMFNRE on my behalf, bringing the total funds available to me of K161,236.49.



The next payment received was K100,000.00 from PMFNRE to Mecca No. 36 Pty Limited on the 17th May 1999 for rents on Section 86 Allotment 15 Gordons being K2,500.00 per month. The property is owned by Pangia Enterprises Limited and the rental payment was directed to Mecca No. 36 Limited in order to settle outstanding bills.

Counsel Assisting the Inquiry states that PMFNRE did not have sufficient funds to cover the payment of K100,000.00 and as a result the funds were paid out of the Trust Account of PMFNRE. It is not our business to know where PMFNRE got their funds to pay rent. The fact is that their staff have been living on the premises owned by Pangia Enterprises Limited and as such are required to pay rent in accordance with the prevailing market rates.

The receipt of K100,000.00 added to the remaining balance of K161,236.49 gives a total of K261,236.49 funds available that are attributable to me.

17.05.99 K100,000.00 Mecca No 36 Limited - suppliers

The payment to Mecca No.36 Limited on the 17th May 1999 was to pay for suppliers. It was becoming very obvious that the business was in serious trouble given the suppliers now ringing me directly for payments thinking that I was still a shareholder of Mecca No.36 Limited.

I state that I still own the shares in the Mecca No.36 Limited because I have not been fully paid. The only payment I received from Mr Awela has been an agreement arranged by Mr Sullivan to transfer shares held by Mr Awela in Nama Coffee Exports and Toanamo Apartments to me. A letter signed by both parties is be provided to the Commission.

I became very concerned that I was going to loose all my outstanding balance of the K2 million that was to be paid by Mr Awela for the shares he had purchased earlier. I was truly in a desperate situation, given that, I did not have the time to go and manage or take over the company and did not have anyone else to that either. This is a highly cash business and it is fairly hard to recruit trusted people.

After a series of discussions with both Messrs Awela and Sullivan, we agreed that Mr. Awela lacked the skills to continue running the business and therefore we needed to assist him in selling the business. Meanwhile, I was to assist in keeping the business operating and that is why this first payment of K100,000.00 was made to Mecca No. 36 Limited out of funds that were available to me.

The balance of the trust funds available to me after this payment was K161,236.49.

17.05.99 K 17,379.11 Cheryl Caley - Living expenses

17.05.99 K 18.00 PNGBC - Bank fees

This payment to Cheryl Caley was again made to her to settle some outstanding bills in Australia either on my behalf and or for living expenses. I sent these funds earlier as I did not have the time to send them regular monthly payments to cover the living expenses in Australia. The other payment of K18.00 to PNGBC is merely bank fee.

These payments were made out of funds attributable to me. The balance of the funds still available on 17th May 1999 was K143,839.38.



Again, this payment was paid to Cheryl Caley for living expenses mainly I believe for school fees. This payment was easily covered by funds that were available to me. However, this payment was immediately reimbursed on the 14th June 1999 through a personal ANZ Boroko cheque from me for the equivalent amount.

14.06.99 K22,799.82 ANZ - Personal

This is reimbursement of payment to Caley from my personal account despite the fact that there were funds available to me that could have easily covered the payment. As I have stated many times, only Mr Ken Barker was responsible for the management of my funds and he was not available during that time and therefore arrange a reimbursement to avoid confusion with their accounting staff. I think this payment was arranged through Mr Sullivan.

This is a contra entry and therefore, does not change the balance of the trust funds available on my behalf.

11.06.99 K10,833.33 PNGBC - Rental Allowance

Again, this is a receipt of rental allowance from PNGBC bringing the total funds available to K154,672.71.

18.06.99 K920.00 AC Fox - Company search

I do not recall this payment but the Counsel has stated that this is a payment that is related to me and therefore for this exercise I will accept that being the case, although I do not have documentary evidence available to me.

28.06.99 K150,000.00 Blue Haven 42 Limited

This payment made on the 28th June 1999 was paid for my half share of the then proposed purchase of Manamatana Apartments from Investment Corporation of Papua New Guinea.

The Counsel Assisting the Inquiry has stated on several occasions that as I did not have the necessary funds available to me, this payment must have come from the NPF Tower monies.

This simply is not the case, there is sufficient funds of K153,752.71 after deduction of K920.00 for AC Fox to cover the payment made on my behalf.

I had no knowledge of the funds said to be transferred to PMFNRE trust account from Carter Newell Lawyers that originated from the NPF.

The Counsel also argues about the shares of Blue Haven 42 Limited being held in trust for me, and that all the shares at sometime were held on my behalf. Again, this is a simplistic approach to justify his conclusion.

Blue Haven 42 Limited was a shelf company bought solely for the purposes of purchasing Manamatana Apartments. The purchase of shelf company was arranged by our solicitor, Mr Greg Lay of Young & Williams. He was communicating with Mr Sullivan who had the carriage of the file to sort out the transfer of shares to his own company and to myself. I requested Mr Lay to hold my shares in Trust while I was sorting out the setting up of a family holding company, LBJ Investments Limited.

It was for that reason alone that I signed the trust arrangements to protect Mr Lay or his staff. The shares were eventually transferred to LBJ Investments upon its establishment and attached are copies returns to the Registrar of Companies showing that Property Investment Consultants and LBJ Investments as having 2 shares each in the company.

30.06.99 K16,207.70 Daugo Drive - Stamp Duty

Prior to the 30th June 1999, I entered into an Agreement with the Papua New Guinea Banking Corporation to purchase a property at Daugo Drive under the home ownership scheme of the Bank. The Bank had fully funded the purchase and I was expected to pay for the stamp duty and other transfer fees.

This payment was made out of the PMFNRE trust account and later reimbursed by the funds received on the 16th July 1999 from Hunter Limited of K275,000.00.

Mr Sullivan had the carriage of the file of Hunter Real Estate Limited and was the only signatory to its bank account. I was well aware that we had recently transferred a sum over K300,000.00 received from Court proceedings against the Mr & Mrs Keith Donald, former managers of Hunter Real Estate Limited.

I asked Mr Sullivan to arrange transfer of those funds to the Trust Account of PMFNRE to cover the shortfall in funds held in trust for me.

15.07.99 K20,007.70 Cheryl Caley - Amex 15.07.99 K20,018.00 Cheryl Caley - Living expenses

These payments are addressed together because they were made on behalf of Cheryl Caley. Again, these payments were made out of the PMFNRE trust fund, which was reimbursed by the receipt of K275,000.00 from Hunter Real Estate Limited on the 16th July 1999, next day.

16.07.99 K275,000.00 Hunter - Proceeds from Court

This receipt from Hunter Real Estate is from the Court proceedings against Mr & Mrs Donald transferred to PMFNRE trust account on the 16th July 1999.

16.07.99 K10,833.33 PNGBC - Rental Allowance

This is the monthly payment for rental allowance for Mr O'Neill received on the 16th July 1999.

16.07.99 K2,556.80 Qantas - Airfares

16.07.99 K1,000.00 Young & Williams - Legal fees

Both these payments are related to me and there was sufficient funds held on my behalf by PMFNRE to cover these payments. The balance of the trust funds at the end of July 1999 attributable to me was K229,795.84.



These funds again were the last of the rental allowances received from PNGBC which were received by PMFNRE on my behalf and added onto the funds already held in trust for me. This will bring the total funds available for me to K240,629.17.

25.08.99 K390,000.00 PNGBC - Final payment rental allowance

These funds were paid to PMFNRE again by PNGBC for my final entitlements of rental allowance and again added onto my trust funds held by PMFNRE combined rental a total of K630,629.17.

30.08.99 K1 million ANZ Bank

These funds were for the final entitlements from PNGBC into my personal account in ANZ Bank Boroko and then transferred to PMFNRE Trust Account via purchase of the treasury bills at the Bank of PNG. The treasury bills were issued in the name of PMFNRE and as a result these funds were added onto the trust funds held by PMFNRE on my behalf. This would bring the balance of the funds attributable to me to K1,630,629.17.

30.08.99 K100,000.00 ANZ Bank

These receipt was on behalf of Hunter Real Estate from my personal account in ANZ Bank Boroko and was subsequently transferred to the account of Hunter Real Estate by PMFNRE.

30.08.99 K100,000.00 Hunter Real Estate

These are the funds received from my personal account as stated above which were transferred to the account of Hunter Real Estate.

31.08.99 K300,000.00 Young & Williams Lawyers

These payments were made on my behalf to Young & Williams Lawyers for legal fees.

31.08.99 K120,850.00 Bank of PNG

This amount is for the interest received for the treasury bills of K1 million purchased on 30th August 1999.

At the end of August 1999 all funds attributable to me totalled K1,748,479.19 held in trust for me by the PMFNRE.

13.09.99 K1,235.22 Eda Ranu

This was paid to Eda Ranu for water bills on behalf of myself.

15.09.99 K15,000.00 Blue Haven 42 Limited

This amount was paid to PNGBC on my behalf for the benefit of Blue Haven 42 Limited, a company that I own 50% shareholding. This was covered extensively earlier in the statement.

17.09.99 K50,000.00 Mecca No. 36 Limited

This payment was made to Mecca No. 36 Limited on my instructions and it was basically for Mecca No. 36 Limited to pay to its suppliers. These funds were paid out of my trust funds available with PMFNRE.

17.09.99 K1,183.50 Qantas

This was paid to Qantas Limited for airfares for Caley.

17.09.99 K1,415.00 Avis Rent A Car

Again this payment was made on behalf of Caley for hire car purposes. Again these payments came out of the trust funds held for me by PMFNRE.

21.09.99 K150,000.00 N. Poya

Mr Poya is a major supplier through his company, Voco Point Trading Wholesalers, to Mecca No. 36 Limited and he is also a shareholder of Mecca No. 36 Limited. This payment was made to him to pay various suppliers on behalf of Mecca No. 36 Limited. Copies of suppliers invoices paid can be supplied.

29.09.99 K1,450.00 Avis Rent A Car

This is a receipt of reimbursement for the amount paid earlier on 17.09.99 for unused hire of car for Caley.

29.09.99 K327.80 Eda Ranu

29.09.99 K61.55 Eda Ranu

These amounts were paid to Eda Ranu for water charges on my instructions.

The balance at the end of September 1999 available in the trust funds held by PMFNRE that was attributable to me was K1,530,671.10.

07.10.99 K425.00 KPMG

I believe this was for payment of services rendered by KPMG on behalf of Pangia Enterprises Limited for statutory work carried out by that firm.

12.10.99 K402.60 Air Niugini

Again this was a payment to Air Niugini for travelling expenses paid by PMFNRE on my behalf.

18.10.99 K198.00 A.C. Fox

This was payment for a company search conducted on my behalf by PMFNRE.

27.10.99 K247.67 Eda Ranu

Again this payment was made for water charges incurred on my behalf and paid for by PMFNRE out of the trust funds available to me.

29.10.99 K750,000.00 Resources & Investment Finance Limited (RIFL)

This was a payment authorised by me for the purchase of RIFL when Malcolm Smith Kela did not have sufficient funds to complete the purchase. These funds were eventually loaned to Mr James Dawson who had indicated interest in taking up shares in RIFL. He has since repaid an amount K300,000.00 to me and a balance of K450,000 remains outstanding for Mr Dawson to pay.

At the end of October 1999 the balance in the Trust Account held by PMFNRE on my behalf was K779,397.83.

17.11.99 K20,000.00 Hugo Berghuser

This amount was deducted from funds received by Sir Hugo Berghuser for the sale of his property in Boroko to Mr Jacob Wama and the amount of K20,000.00 was deducted to repay an earlier loan given to Sir Hugo by me.

18.11.99 K402.00 Air Niugini

Again this was paid for airfares on my behalf from my funds in the Trust Account.

19.11.99 K125.33 Cellnet

This was a payment made on my behalf by PMFNRE out of my trust funds for telephone charges on my mobile telephone.

25.11.99 K30,000.00 Peter O'Neill

This amount was paid to me out of my trust funds to my ANZ Bank Boroko bank account.

The balance as at the end of November 1999 remained at K768,870.50.

07.12.99 K402.60 Air Niugini

Again this was travel expenses incurred by me and paid by PMFNRE out of my trust funds.

08.12.99 K1,000.00 L. Senar

This amount was paid to assist in the funeral expenses of a friend namely Mr Lucas Senar who passed away a few days earlier.

09.12.99 K110.00 Hitron

This was a payment for television cable charges paid on my behalf by PMFNRE out of my trust funds.

13.12.99 K1,000.00 ANZ Visa

This was paid for ANZ Visa Card expense incurred by me and again paid by PMFNRE as part of my trust funds held on my behalf.

14.12.99 K275.00 Aviat Club

I believe in absence of documentation that this payment was paid on my behalf for subscriptions of membership to the Aviat Club.

23.12.99 K3,197.40 Air Niugini

This payment was made on my behalf by PMFNRE out of my trust funds to meet the cost of airfares.

28.12.99 K176.00 Eda Ranu

28.12.99 K38.78 Eda Ranu

28.12.99 K98.78 Brian Bell

28.12.99 K665.60 Air Niugini

28.12.99 K269.50 Port Moresby Locksmith

These are expenses for water charges, electrical repairs and maintenance, airfares and repair of locks incurred on my behalf and paid by PMFNRE out of my trust funds.

28.12.99 K50,000.00 Highlands Traders Limited

This is the first payment received from Highlands Traders Limited for the sale of business of Mecca No. 36 Limited (South Super Stores Limited) for an amount of K2 million.

I negotiated the sale of the business of Mecca No. 36 Limited and not the shareholding of the same company to Highlands Traders Limited at the request of the major shareholder of Mecca No. 36 Limited, Mr Jack Awela.

Mecca No.36 Limited was in debt to Pangia Enterprises Limited for an outstanding balance of K1.6 million for the earlier sale of shares by Pangia Enterprises to Mr Jack Awela. He had earlier paid through a transfer of shares in two companies that he held namely Nama Coffee Exports Limited and Toanamo Apartments Limited.

Nama Coffee Exports Limited was to have been transferred to LBJ Investments Limited for an agreed value of K150,000.00 and the Toanamo Apartments shares were transferred to LBJ Investments for an agreed amount of K250,000.00. In effect Mr Awela had paid Pangia Enterprises Limited a total amount of K400,000.00 in 1999 for 67% of the shares of Mecca No. 36 Limited transferred to him in 1998.

The transfer documents and contracts of sale are being sought to provide copies to the Commission.

The balance as at 31st December 1999 of the trust funds held by PMFNRE on my behalf after taking into account all the transactions above remain at K811,636.34.

03.01.00 K33,146.59 Highlands Traders Limited

10.01.00 K30,000.00 Highlands Traders Limited

These two payments were paid to PMFNRE by Highlands Traders Limited at my direction are the proceeds of the sale of business of Mecca No. 36 Limited and they were also made at the direction of Mr Jack Awela to reduce his outstanding balance of K1.6 million owed to Pangia Enterprises Limited.

11.01.00 K28.26 Telikom

This amount was paid to Telikom for telephone charges incurred by me and paid out of my trust funds held by PMFNRE.

11.01.00 K20,000.00 Highlands Traders Limited

Again this is a receipt for proceeds of the sale of the business of Mecca No. 36 Limited.

12.01.00 K425.65 Telstra

These were for telephone charges incurred on my mobile telephone and paid for by PMFNRE out of my trust funds.

26.01.00 K50,000.00 Highlands Traders Limited

This is a further receipt of funds due to Pangia Enterprises by PMFNRE for the sale of the business of Mecca No. 36 Limited.

The balance as at the end January 2000 after taking into account the above transactions was K944,329.52.

01.02.00 K29,262.04 Anglican Trinity School

This was paid for school fees on behalf of my children to the above school out of the trust funds held by PMFNRE on my behalf.

01.02.00 K2,000.00 PMFNRE

This was a payment made out of my trust funds to PMFNRE for an advance of K2,000.00 made to me by PMFNRE.

03.02.00 K250,000.00 Kwik Mit Limited

This was a payment to Kwik Mit Limited for a supplier named Imak International Pty Limited of Sydney who has been supplying frozen goods to Mecca No. 36 Limited. These payments are made on behalf of Mecca No. 36 Limited based on the arrangements made with Mr Jack Awela during the sale of his business.

Mr Jack Awela continues to own Mecca No. 36 Limited which basically is a property owner that rents to Highlands Traders Limited. The rentals are paid directly to the Bank to reduce its Bank Loan.

09.02.00 K30,247.30 Highlands Traders Limited

Again this is the amount received from Highlands Traders Limited as part payment on the sale of the business of Mecca No. 36 Limited.

10.02.00 K90,000.00 Hunter Real Estate Limited

This was an amount received from Hunter Real Estate Limited for the balance of funds available at its bank account at the Bank of Hawaii. These funds were transferred to the trust account of PMFNRE at my direction.

15.02.00 K2,000.00 LBJ Investments Limited

This is an amount advanced to LBJ Investments Limited out of my trust funds held by the PMFNRE.

17.02.00 K50,000.00 Highlands Traders Limited

This amount again is the amount received on sale of the business of Mecca No. 36 Limited to Highlands Traders Limited.

22.02.00 K120,000.00 Baradeen Pty Limited

This amount is my share of the contribution made for the purchase of Remington Limited from Baradeen Pty Limited. The total purchase price was K200,000.00 and the other K80,000.00 was contributed by Mr Mohammed Sultan. I have since paid Mr Sultan out and now own all the shares in Remington Limited. The actual transfers of the shares in this company took place this year.

23.02.00 K50,000.00 Highlands Traders Limited

Again this is the amount received by PMFNRE on behalf of Pangia Enterprises Limited and Mecca No. 36 Limited for the sale of the business of Mecca No. 36 Limited.

24.02.00 K674.93 Ela Motors

This amount was paid for repairs and maintenance of my personal car by PMFNRE out of the trust funds held on my behalf.

The balance as at the end of February 2000 after taking into account all the receipts and payments for that month is K760,639.85 was held in trust for me.

03.03.00 K5,640.40 Air Niugini

This was paid for travel expenses incurred by me and paid for PMFNRE out of my trust funds.

16.03.00 K50,000.00 Highlands Traders Limited

This is a receipt of the proceeds of the sale of the business of Mecca No. 36 Limited to Highlands Traders Limited.

16.03.00 K9,570.43 American Express

This payment was made out of funds held by PMFNRE on my behalf to American Express International for expenses incurred by me.

23.03.00 K25,000.00 Highlands Traders Limited

23.03.00 K25,000.00 Highlands Traders Limited

Again these two payments were made by Highlands Traders Limited to the trust account of PMFNRE for the purchase of the business of Mecca No. 36 Limited.

29.03.00 K5,000.00 Peoples Democratic Movement

This payment was made on my instructions to Peoples Democratic Movement out of the funds held for me by PMFNRE as a political donation.

The balance at the end of March 2000 held by PMFNRE in trust for me was K840,429.02.

03.04.00 K41,511.69 Highlands Traders Limited

Again this amount is a receipt from Highlands Traders Limited for the sale of the business of Mecca No. 36

Limited.

06.04.00 K13,500.00 Pangia Enterprises Limited

This is a receipt of 10% deposit on sale of a house in Boroko owned by Pangia Enterprises Limited. These funds were deposited into the trust account of PMFNRE.

13.04.00 K600,000.00 Investment Corporation of PNG

This was a payment made to the settlement of the purchase of Manamatana Apartments and K600,000.00 represents my share (that is 50%) to complete the settlement.

28.04.00 K85,000.00 Highlands Traders Limited

This amount was received by PMFNRE on behalf of Mecca No. 36 Limited and Pangia Enterprises Limited for the sale of the business of Mecca No. 36 Limited.

At the end of April 2000 the funds held in trust by PMFNRE which were attributable to me had the balance of K380,429.02.

01.05.00 K100,025.00 Imak International Pty Limited

This was payment made to the supplier of Mecca No. 36 Limited out of the trust funds held by PMFNRE on my behalf.

02.05.00 K57,000.00 Cantory Pty Limited

Again this payment was made to Cantory Pty Limited, a supplier of Mecca No. 36 Limited by PMFNRE at my direction.

02.05.00 K80,000.00 Mecca No. 36 Limited

15.05.00 K4,100.00 Mecca No. 36 Limited

These were funds received by PMFNRE from the account of Mecca No. 36 Limited to be held in trust in order to pay for the suppliers of Mecca No. 36 Limited.

15.05.00 K50,000.00 Highlands Traders Limited

This is a receipt of funds for the purchase of the business of Mecca No. 36 Limited to the trust of PMFNRE.

31.05.00 K70,497.16 Imak International Pty Limited

Again this is the payment to a supplier of Mecca No. 36 Limited from the funds held in trust by PMFNRE on my behalf.

The balance as at the end of May 2000 held in trust by PMFNRE on my behalf is K287,018.55.

19.06.00 K20,000.00 Highlands Traders Limited

This is an amount received from Highlands Traders Limited for the purchase of the business of Mecca No. 36 Limited.

The balance as at the end of June 2000 held in trust by PMFNRE on my behalf is K307,018.55.

10.07.00 K111,333.41 Pangia Enterprises Limited

This amount was received into the trust fund of PMFNRE for the final settlement of the sale of a house in Boroko owned by Pangia Enterprises Limited.

26.07.00 K20,000.00 Highlands Traders Limited

04.08.00 K20,000.00 Highlands Traders Limited

24.08.00 K20,000.00 Highlands Traders Limited

This again were funds received from Highlands Traders Limited by PMFNRE into their trust account for the sale of the business of Mecca No. 36 Limited.

The balance at the end of August 2000 held in trust by PMFNRE on my behalf is K478,351.96.

This is the complete reconciliation of all the funds held in trust for me by PMFNRE and the payments and receipts of these funds.



Most of the above transactions that are being discussed have been mainly from ledger 18 which has been reconstructed by the counsel and I have never sighted the original of this ledger. I have selected to discuss the transactions that relate to me or those that I have knowledge of in this statement.

The references to transactions from Carter Newell Lawyers and further reference of PON/PO to transactions relating to funds received from Carter Newell Lawyers, I have no knowledge of those transactions and therefore cannot provide any explanation. Carter Newell Lawyers have never acted for me personally and I have never given instructions to them in respect of those funds.

The other minor transactions that Mr Reeve has included in ledger 31 that relate to me are discussed as follows:-



All these expenses totalling K 72,828.93 for this exercise will be generally accepted as being related to me and therefore are deducted from the total balance of K478,351.96 which is sufficient to cover all the expenses, leaving a balance of K 405,523.03

The other entries in ledger 31 are not related to me and I have no knowledge and therefore have not been included in this statement.

The entry of K40,000.00 paid to Linda Babao was discussed earlier in the statement.

It is my belief that PMFNRE trust account owes me the above amount of K478,351.96 unless a full reconciliation of funds are provided to me. I state again that I have never received a full reconciliation of all the funds held in trust on my behalf by PMFNRE and therefore my explanations of the transactions are based on the review of the presentation by the Counsel Assisting the Inquiry.

The entries to the ledgers that are stated in the transcripts have been, to my knowledge, entered by Mr Ken Barker and therefore his testimony needs to be cross-examined. This is more important given the facts that the Counsel Assisting the Inquiry has presented it making references to link me to the funds received from Carter Newell Lawyers.

I have no knowledge of the funds received from Carter Newell Lawyers, by PMFNRE and further, I have no knowledge of the origins of those funds.

The above statement is based on memory and limited documentation other than the transcripts that is available to me.

.....
PETER O'NEILL

Dated the 26th day of November 2001.

THE CHAIRMAN: So, it remains now what to do. Mr Reeve, I would ask you to give consideration to any law existing now in Papua New Guinea which would possibly enable evidence to be taken either here or in Australia whether by telephone or by appearance which will enable Mr Barker to be properly cross examined in a way which would make his answers subject to the laws of Papua New Guinea. Then we would give very serious consideration to following up on his evidence because clearly some of it is relevant. Then on balance in its present form including all the contents that it contains it is just not acceptable. And there is no way we would accept it in this form whether it is from Mr Barker or anybody else. But if it can be done in Australia we would consider it whether the cost of doing so would warrant it. If it can be done here by telephone, we will certainly give it serious consideration as long as we can be sure that his evidence can be properly tested by us and by other people who are affected by his evidence including Mr O'Neill himself.

MR REEVE: Well, I will certainly make some inquiries with the Attorney General about what the state of the law is and whether he has any knowledge of avenues which could be used.

THE CHAIRMAN: All right, thank you. And Mr Wilson if you are able to be in contact with Mr Barker through his lawyer or direct or in any other way to discuss other ways of getting the evidence from him which you feel is required for your client then we encourage you to do so.

Now, in the meantime, Mr Reeve I understand you are ready to cross examine on Thursday?

MR REEVE: I should be, might I just say that I have endeavoured to open two channels of communication, the first with the lawyers in Brisbane and the second, Mr Jerewai, who I understand is the lawyer of choice in Papua New Guinea. And it may be something will come of that. If it does, I will let both the commission and Mr Wilson know.

[11.32 am] THE CHAIRMAN: All right. We do not take this ruling lightly because the commission has a duty to enquire, and we do not just accept things on face value. We go searching for information, and as you can see we have often done that. But, we also have a duty that what goes forth into the public domain goes forth fairly and is not affecting other people unjustly and without them having a chance to test it. And this statement falls well short of just about every rule that I can think of, in its present form. Mr Wilson, do you have anything else that we can deal with now?

MR WILSON: No. There is the statement by Peter O'Neill admitted into evidence with those exceptions.

THE CHAIRMAN: Do you want to be heard on these two exceptions in view of the ruling? They are on page 3 and page 10.

MR WILSON: No, they relate directly to the- - -

THE CHAIRMAN: The mention of that statement.

MR WILSON: Yes, to the statutory declaration. And if that is removed, nothing more can be said. We will be well to direct inquiries to Tucker and Cowen ourselves and endeavour to get to the point of an affidavit which may increase the veracity of the statutory declaration and endeavour to contact Barker. From my instructions we do not have any direct link to him at all. And in fact most of this is a revelation to Mr O'Neill of what has gone on here, and even the discovery of the statutory declaration did not come to us directly. So we have got no line of communication at all. But, suffice it to say, Barker could be helpful to Mr O'Neill, and for that reason we are anxious that we can improve the present position and we will endeavour to do so. But with his fear of physical harm, if he should return, and moreover of being prosecuted it seems difficult to imagine that he will return, unless some inducement can be given to him.

THE CHAIRMAN: I might add that when Mr Barker failed to return, we made many enquiries about him.

MR WILSON: Yes.

THE CHAIRMAN: And we never received any indication indicating that he that been subjected to threats. We were told that he was on leave, he was on holidays, that he was due back at the firm, every other- - -

MR REEVE: Waiting for his work permit to get finalised.

THE CHAIRMAN: That is right; I forgot that one, but there were many different reasons that he gave, but not one of them was that he was in fear of his physical health or life.

MR WILSON: Well, I would like to give him the benefit of the doubt on the death threat.

THE CHAIRMAN: Certainly.

MR WILSON: They are a common enough thing, but to fear sufficiently not to come back when police protection can be given to him maybe able to be overcome.

THE CHAIRMAN: Well, I will now go out of our way to re-look at the passages which Mr Reeve referred to previously.

MR WILSON: Yes.

THE CHAIRMAN: We are going to make a ruling- - -

MR WILSON: On those matters, yes.

THE CHAIRMAN: That he should be referred to perjury because if it is perjury committed before the commission, I think we can refer him immediately to the commissioner for police. And it maybe- - -

MR REEVE: I think the attitude that was taken was that the commission would wait until the whole of the available evidence was there and I think as you said earlier Chairman, we kept being told that Mr Barker will be back in next week, next month, he has gone on three months holiday and we are waiting, waiting and waiting.

[11.35 am] And I would say with respect that if he were to come back, then obviously he would be asked to show cause why he should not be prosecuted and then be heard on it.

THE CHAIRMAN: All right.

MR REEVE: That does not of course protect him from the tax office, I will have to say that.

THE CHAIRMAN: Nothing we can do to protect him from the tax office.

MR WILSON: Death and taxes.

THE CHAIRMAN: Is there any other business before the commission now? Otherwise we will adjourn until Thursday.

MR WILSON: There is only problem with Thursday, a growing problem so far as- - -

THE CHAIRMAN: We can make it Wednesday. Not long enough, Mr Reeve says.

MR REEVE: Well, I do not want five weeks, I only want two days.

MR WILSON: I object to the comment about the five weeks philosophy. It is that stage- - -

THE CHAIRMAN: I do not want to enter into the discussion about the five weeks. I thought I indicated to Mr Reeve before that we could proceed without that.

MR WILSON: It is just Thursday itself, I got a real need to go to Goroka on Friday, that is all I know because of a number of matters that have come up beyond my control. They have closed the Goroka airport because of the missing navigation lights. It all turns on whether the Lae and Hagen airport can provide substitute lights, whether we can even go to Goroka but assuming we can, I have got a definite fixture on there for - - -

THE CHAIRMAN: For Friday?

MR WILSON: For Friday.

THE CHAIRMAN: Lucky it is not Thursday then.

MR WILSON: Yes, it is a matter of when to go.

THE CHAIRMAN: We will resume on Thursday.

MR WILSON: If we were to go on the Thursday then we are going to spend the whole day according to Mr Reeve.

MR REEVE: I did not say that.

MR WILSON: Well, you may so there is a possibility. There is a flight to Goroka at 3 o'clock on Thursday afternoon.

THE CHAIRMAN: We will do our best to help you get on it, Mr Wilson.

MR WILSON: Thank you, I am most grateful.

THE CHAIRMAN: If not Judge Gore used to go up by horse, I think. Why do we not start early on Thursday, Mr Wilson?

MR WILSON: That is fine. I will give an indication to the commission as to what is happening in Goroka before Thursday.

THE CHAIRMAN: Okay, well, I am happy to start early.

MR WILSON: It is up to Mr Reeve whether he is ready but I am quite happy to start at 8.30.

MR REEVE: I think we just stick at 9.30. I have a once in a lifetime commitment on Wednesday evening.

THE CHAIRMAN: Well, we will start at 9.30, Mr Wilson, if you could be here at 9.30.

MR WILSON: Yes, I will endeavour to be here. I will be more punctual than usual.

THE CHAIRMAN: We will have a much better time to get him through. Okay, thank you. Adjourn till 9.30 Thursday the 29th.

AT 11.39 AM THE COMMISSION OF INQUIRY WAS ADJOURNED UNTIL THURSDAY 29 NOVEMBER 2001 AT 9.30 AM.

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