

TRANSCRIPT OF PROCEEDINGS

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COMMISSION OF INQUIRY INTO THE SALE OF PAPUA NEW GUINEA BANKING CORPORATION

20 Mr Marshall Cooke, Q.C. Chairman
Mr Cyprian Warokra Commissioner

AT WAIGANI, WEDNESDAY 5 MARCH 2003 AT 9.30 AM.

(Continued from 4 March 2003)

30 [9.30 am] **DANIEL ALFRED WEISE; recalled:**

MR VARITIMOS: Mr Littlemore to continue.

XXN: MR LITTLEMORE (cont'd)

40 Q: Good morning Mr Weise. I was asking you questions yesterday when we adjourned about your qualifications and experience to make the assertions you have in your evidence and we got up to 1988 and the end of your employment with the Bank of Papua New Guinea. Where did you next work?

A: I was in my position. I was on secondment from Canberra from the prime minister's department in Canberra while I worked at the Bank of Papua New Guinea.

Q: And you were only there for a matter of months, were you?

50 A: At the Bank of Papua New Guinea?

Q: No, at the prime minister's department?

A: Since the beginning of 1984.

[9.32 am] Q: You were there in 1988, correct?

A: Yes, and then went back to the prime minister's department.

Q: For a matter of months, was it not?

A: Yes.

Q: Then, where did you go?

10 A: In the middle of 1989 I joined the Queensland Treasury Department.

Q: As?

A: As a director.

Q: Of?

A: The economics branch.

20 Q: How long did you last there?

A: How long was I there? Until the middle of '93.

Q: And then?

A: And then I have been working as a consultant for the Asian Development Bank, the World Bank and AusAID projects off-shore since then.

30 Q: Did one of those include an engagement in Samoa?

A: Yes.

Q: Did you place any press advertisements in Samoa?

A: No.

Q: Personally?

40 A: No.

Q: Did the placing of a press advertisement have anything to do with the termination of your appointment in Samoa?

A: No.

Q: Do you swear that?

50 A: Yes. I have no idea what you are talking about. I do not even know anything about a press advertisement.

Q: What was the reason given for the termination of your appointment in Samoa?

A: I do not know.

Q: You do not know? Are you serious?

A: No reasons were given.

[9:34 am]

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Q: Not by any one?

A: Well I do not know what - I do not know but under the - - -

Q: Your engagement was terminated prematurely again was it not?

A: No, not necessarily.

Q: What do you mean by that?

A: Well look, the contract terms when you leave these projects they allow people to finish you when they like.

Q: How long was the engagement said to be for?

10 A: It was on a monthly basis but the Samoan engagement did end earlier than I had expected, yes. And it was in some controversial circumstances.

Q: And what were they?

A: I do not know because they would not - - -

Q: You know they were controversial?

20 A: No. No, under the terms of the contract people tend to protect themselves when there is nothing in the contract that allows them to give a reason.

Q: I am not asking you for generalities.

A: No I was not given a reason.

Q: You told the commission that your contract was terminated in controversial circumstances?

30 A: That is right. No I did not say that.

Q: That is exactly what you said.

A: I said it was in controversial circumstances that I finished there.

Q: What were those controversial circumstances?

A: I do not know.

40 Q: How can you say they were controversial then?

A: Well because it was - it was sudden, it was public.

Q: What became public?

A: But the reasons were not given to me because the contractor that I worked for which was the big Australian firm Sagric did not have to give reasons under the contract for termination and in fact they do that for legal reasons because they do not want to be taken to the Administrative Appeals Tribunal in Australia under Australian law. So I was not given a reason. I can surmise some reasons. I have been - you know, obviously asked and discussed with people what might have been the reason and the reasons given for - - -

50 Q: My question to you was what became public?

A: I do not know. Well I mean I do not - there were things in the paper I guess but I did not put anything in the paper nor did I speak to any journalist.

Q: What do you mean when you say I guess?

60 THE CHAIRMAN: Could I just clarify, who was employing you in Samoa?

A: I was employed by Sagric International to do a large treasury department reform program that I had designed and implemented.

Q: So you worked- - -

A: And that was three quarters the way through.

Q: You were not working for the government of Samoa?

A: I worked for the contractor and the contractor worked for Ausaid. Ausaid signed an agreement with the government. So one way or another I was reporting my - the person that I was reporting to was the Deputy Secretary who was in charge of the programme, Deputy Secretary of Treasury.

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[9.36 am] MR LITTLEMORE: Can you spell the name of your employer.

A: Which one of those chain.

Q: The one you just mentioned, SAGRIC or something

A: SAGRIC.

20

Q: How do you spell that?

A: S-A-G-R-I-C. It is a- - -

Q: That is an Australian corporation.

A: Abbreviation. Yes, it is an abbreviation. It is a big Australian corporation that operates in the Asia - - -

30

Q: Did you have a visa to enter Samoa.

A: Yes, I have.

Q: Was your visa withdrawn.

A: It was withdrawn, yes, at the time.

Q: Was it publicised?

40

A: I have a visa to go back to Samoa anytime I like. It is not withdrawn. It was withdrawn for that project, not to travel back to Samoa, but to work on that project. But I have been back to Samoa a number of times.

Q: What reasons appeared in the newspaper for the termination of your contract?

A: I do not recall because that is a long time ago.

Q: It is not something you would forget Mr Weise, is it?

50

A: Well, when you work in this game where you take on team leadership roles on governance issues in developing countries is controversial. There are a lot of issues like that. No, I can tell you what I believe the reasons are but that is speculating.

Q: I did not ask you that, I asked you what were the reasons that appeared in the newspapers?

A: I do not know. I do not recall.

60

Q: Do you make so many appearances on the front pages of newspapers that can not remember.

A: I am sorry, I do not remember what was in the newspapers because I was not there, I was not in the country and I do not have the newspapers.

Q: Yes, but you volunteered to the commission.

A: No, I mean if you have the newspapers read them out. newspapers were. I mean do not see what relevance my whole history has to this inquiry. I really do not, but never mind go ahead.

Q: Well, unfortunately for you Mr Weise despite your wishes you are not a member of this commission of inquiry, are you?

10 A: What do you mean? Can I get a - despite my wishes what is learned counsel referring to here?

[9.38 am] Q: To your initial appointment as one of the counsel assisting.

A: That was not my wish. I had no knowledge of that appointment, sir, and I withdrew as soon as I was approached by the commission. So, please, you know, the accusations, the hearsay or whatever you refer to as important is not.

20 MR SHEPPARD: My objection is on the question of relevance. I can understand questions about qualifications but going into who was going to be on this commission or not, I fail to see the relevance.

MR LITTLEMORE: Yes, I do not press that question at this time.

A: I would like to withdraw please. You know, this is not a public meeting.

Q: Well, you are not getting one, Mr Weise.

30 A: It is up to the commissioner.

Q: I note that you in your statement make no challenge whatever to the evidence given here by Mr Rod Mitchell. That is true, is it not?

A: I do not know what the evidence of Rod Mitchell is.

Q: You have taken no interest, is that right?

40 A: No. I have been too busy to follow the transcripts, I have read, people have mentioned things to me but I have not studied the transcripts of Rod Mitchell, I have not looked at it, no.

Q: Has it been reported to you by your lawyers what Mr Mitchell had to say about a meeting he had with you at Rickshaw's restaurant.

A: I got the original transcript of one testimony here given to me about that yes.

Q: So you have studied that part of the evidence.

50 A: Yes, but I do not know what else he said or done.

Q: And you have raised no challenge to that evidence have you in your statement of evidence?

A: Well, why should - the time people asked me to do a statement on the terms, I saw no relevance at all.

Q: Would you answer my question? You have raised no challenge to the evidence of Mr Mitchell concerning the meeting he had with you and what you said to him at Rickshaw Restaurant, correct.

60 [9.40 am] A: No challenge where. I have raised no challenge in my statement to that. Correct.

Q: Why not?

A: Was is it relevant? I am not going to get into this discussion at all. I can only - if you ask me some questions, I will attempt to answer them but - - -

Q: Is your reputation of any importance to you?

A: My reputation is extremely important but I am not going to get into the political debates that you people want me to get into.

10 Q: I am not asking you- - -

A: I work for the government. I do not respond to political attacks. I do not respond to the media despite what is put in it. I do a job and I do it well. I am not in the politics game.

Q: So you say Mr Weise. Is it not true that in relation to the termination of your employment in Papua New Guinea you expressed bitterness and anger to Mr Mitchell.

20 A: I am sorry. When - are you talking about Samoa or you talking, sorry, sir.

THE CHAIRMAN: I think this is addressed to the question of the Rickshaw Restaurant evidence, is it.

MR LITTLEMORE: Yes.

THE CHAIRMAN: With Mr Mitchell. You recall we had some discussion at the time about the relevance of that.

30 MR LITTLEMORE: Yes.

THE CHAIRMAN: I think I should raise it again. I just do not know where this fits in to the picture.

MR LITTLEMORE: The first thing we would observe with respect is that counsel for Mr Weise does not take that point. The next thing we observe is that there are issues of credit with respect to this witness. That is plainly the case.

THE CHAIRMAN: Yes. I mean, on what issues.

40 MR LITTLEMORE: The scope generally.

THE CHAIRMAN: Yes but surely he has given some evidence about aspects of the privatisation of the PNGBC which was the subject of our inquiry. It seems to me that unless there is a challenge to some of the facts which he says in relation to that, how can his credit be affected at all?

[9.42 am] MR LITTLEMORE: I am sorry we anticipate an overlap between the evidence of this witness and that of Mr Yama as to the attribution of - I am sure the commission is aware of the material of Mr Yama. Certainly counsel assisting is aware of it that we are most
50 interested to challenge and there is a remarkable - - -

THE CHAIRMAN: Yes, and that is Mr Yama, is it?

MR LITTLEMORE: Yes, but there is a remarkable overlap between the two and the - - -

THE CHAIRMAN: Well, it escapes me at the moment.

MR LITTLEMORE: I beg your pardon?

60 THE CHAIRMAN: It escapes at the moment, the overlap.

MR LITTLEMORE: We are going to have to ask you Mr Chairman to bear with us on this rather than come back later and ask Mr Weise to return on a future date. We would ask

you to hear the evidence now before Mr Yama. One of them has got to come first dealing with a commonality of this suggestion of impropriety in respect of the PNGBC privatisation.

THE CHAIRMAN: Well, the only evidence of impropriety this witness has given in testimony has been in relation to the Westpac letter, is not it?

MR LITTLEMORE: Yes. But if he chooses - if he has made statements in the past, that does not and he does not choose to revive them here or retail them here, that does not preclude me from discrediting those statements.

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[9.44 am]

THE CHAIRMAN: Well, in respect of what he says about the Westpac letter.

MR LITTLEMORE: No, in respect of what he said about my client.

THE CHAIRMAN: Well, I think - I do not know. But surely- - -

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MR LITTLEMORE: This is where we have a major point of difference, I must say with respect, that we make no secret of the fact that we say that this commission was established mala fides. So far as the terms of reference touching upon the conduct of my client goes, there has not been a shred of evidence and will never be, supportive of any positive finding in respect of any term of reference potentially touching upon my client.

THE CHAIRMAN: Well, we do not know yet, do we, because we have not got to the end of the inquiry.

MR LITTLEMORE: We anticipate that there will never be.

THE CHAIRMAN: Will never be. Yes, well- - -

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MR LITTLEMORE: There cannot be. And, we have underlined before, Mr Chairman, the significance of counsel assisting declining to suggest or even ask in a neutral way of my client whether there is any basis for any suggestion of impropriety, imprudence or illegality on his part in respect of this privatisation.

Mr Chairman, the terms of reference themselves are defamatory of my client. He is entitled to put them to death, and that is what I am here to do. There will never be a case of any, even imprudence mounted here. We confidently assert that.

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Now, there have been, according to the evidence before this tribunal, assertions of fact made by this witness contrary to my client's interest. We know that this witness had a role in the formation of guidance, as he would put it, for the establishment of this Commission of Inquiry. He now retreats from any of the things that Mr Mitchell said about him, comments he made about my client. Well, discretion has long been the better part of valour but that does not mean we do not fire upon the retreating forces and that is what we seek to do.

[9.46 am]

THE CHAIRMAN: Mr Sheppard, do you want to say something about it?

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MR SHEPPARD: Chairman, I do. It may well be the case that Mr Littlemore on behalf of his client has every right to put to death as he puts it the allegations against his client. In so far as this witness was concerned, he in effect did that when he elicited from this witness the answers that there was nothing that this witness could offer by way of evidence against Mr Littlemore's client except to have concerns over the letter to the Westpac Bank. So except for that one issue so far as this witness is concerned, everything has been put to death on behalf of his client. What we are seeing now is that the dead corpse of those allegations being kicked around. The purpose of the inquiry is to elicit facts. There is no point in having elicited the necessary facts to make the witness uncomfortable on matters of credit and other extraneous historical matters.

[9:50 am]

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Once the witness has suggested in his evidence that he has no allegations, no evidence whatsoever to offer except in relation to his comment on that Westpac letter, that is really the end of the matter. How much further can the inquiry go? What is happening here is simply the governor of the bank is upset because he has had some ideas that Mr Weise was behind some things and wants to savage him. That is not the purpose of this inquiry.

THE CHAIRMAN: Yes I am inclined to agree, it is not the purpose of the inquiry to allow people to take advantage of the proceedings to hit back at other people. We are only concerned with trying to elicit facts.

10 MR SHEPPARD: That is really my point and it really does not matter. If all the propositions that Mr Littlemore is putting to this witness are proved, it does not matter whether Mr Weise was sacked from Samoa in controversial circumstances so far as this banking inquiry is concerned. That simply goes to his credit. But so far as Mr Littlemore's client is concerned, he has done everything he can in terms of the facts by eliminating all possibility of any evidence coming from this witness except in relation to that one letter.

[9.53 am] MR SHEPPARD: There is one other point I want to make. I understood in relation to the memo from Rickshaws restaurant. There is an exhibit, exhibit 117 which is heavily interlineated or blacked out copy of a memo made some time after this lunch. And it contains five paragraphs that remain in evidence. I will be putting those five paragraphs in due course to this witness and eliciting his comments.

20 THE CHAIRMAN: It is very hard, Mr Littlemore, it is very hard for me to see any relevance in pursuing this line of inquiry.

MR LITTLEMORE: It is a matter for you, Mr Chairman. It is a matter for you.

THE CHAIRMAN: Considering the only fact this witness has called in question in respect of your client has been the writing of the Westpac letter and your client has already given evidence about that anyway.

MR LITTLEMORE: As I said - - -

30 THE CHAIRMAN: And a number of other people have given evidence about it as well.

MR LITTLEMORE: We are bound by the view that the commission takes.

THE CHAIRMAN: See, it is not entirely - it is not a case that Mr Weise's evidence is the only evidence about the Westpac letter. In fact, what his view is about the Westpac letter may or may not - - -

MR LITTLEMORE: Maybe quite unimportant.

40 THE CHAIRMAN: May not influence the commission at all because we will be looking at the totality of the evidence and what other people have said, including what your client said about it.

[9.55 am] MR LITTLEMORE: As you please. Have you ever provided information whether in a documentary form or otherwise to Mr Peter Yama in respect of the privatisation of the PNGBC?

A: Never.

50 Q: You ever had conversation with him?

A: I do not know Mr Yama, I have never spoken to him, never corresponded to him, never met him.

Q: What about any member of his staff?

A: I do not know who his staff are.

60 Q: Do you know any person who purports to be a member of the anti privatisation alliance?

A: No, I might know those people but I do not know that alliance. In fact I have never heard of the anti privatisation alliance.

Q: So you know no person who has purported to be a member of that, whatever it is, group?

A: No. I might know the people if they are in some other capacity but they have never purported to me, come to me and said, I do not know who, what you are talking, I never heard of the group.

Q: Have you ever seen this document or a copy of that document?

10 A: No.

Q: Thank you. Can it be returned. You said yesterday - - -

MR VARITIMOS: I am sorry Mr Littlemore, do you mind if you just note- - -

MR LITTLEMORE: No, I will identify the document. I think it is an exhibit.

MR VARITIMOS: Yes.

20 MR LITTLEMORE: And it is entitled "Confidential Brief Re PNGBC Limited Sale Process Directorships And Shareholdings."

[9.57 am] MR VARITIMOS: For the benefit of the record I am confident that that is - that looks like the copy of the document which was attached to Mrs Kamit's statement- - -

MR LITTLEMORE: Yes.

MR VARITIMOS: Which was tendered this week.

30 MR LITTLEMORE: That is correct.

THE CHAIRMAN: Yes, all right.

MR LITTLEMORE: Now you said yesterday that at the very early stage in relation to this Commission of Inquiry, Mr Weise, you had a request from the prime minister's lawyer. Who was that?

A: Thoring Vivan.

40 Q: And at his request you drafted what you called some very general matters?

A: That is correct.

Q: On how to put the inquiry together?

A: Yes, that is correct.

Q: Including, a draft of some terms of reference?

50 A: Yes, there were some points I think they were very brief and they related to determinations about breaches of the act and these matters.

Q: Do you have a copy of that document that you drafted?

A: No, it was an e-mail. I was not in PNG at the time. This is some time ago and I- - -

Q: So the prime minister's- - -

60 A: I have searched for that but I have not been able to find it.

Q: The prime minister's lawyer would have a copy?

A: I am not sure.

Q: Well, you e-mailed it to him, did you?

A: Yes, I think so at that stage. That is all that was provided.

Q: Who were you then employed by?

A: I was not employed.

10 Q: How did it come that the prime minister's lawyer would approach you for that function?

A: Well, since I was asked to leave PNG in January 2001, and prior to that numerous - quite a number of prominent Papua New Guineans sought my technical advice.

Q: I am not asking you that. How was it that the prime minister's lawyer came to approach you for advice in respect to this Commission of Inquiry?

20 A: Well, because a number of people, including the shadow treasurer, Masket Iangalio was seeking my advice on technical terms.

[9:59 am] Q: Do you say that to your knowledge Mr Iangalio recommended to the Prime Minister's lawyer that he approach you?

A: I do not know.

Q: Did the Prime Minister's lawyer - - -

30 A: I mean people in fact - - -

Q: When he approached you say why he was approaching you? Did he say I have been referred to you or recommended - - -

A: No I do not think so. This was, you know loose people, loose group of people that were working with us, so my technical advice. In fact a number of the parties at that time asked for advice.

Q: Who were the members of this loose group of people?

40 A: People ask for my advice from everybody from the Pangu party leadership, Chris Haiveta all the way through to Masket Iangalio. I mean I knew Papua New Guinea well, lots of people asked. John Momis from Bougainville asked my advice on the Bougainville agreement.

Q: You said there was a loose group of people in relation to this commission of inquiry.

A: I mean loose as in not connected.

50 Q: They are not a group if they are not connected are they?

A: No I did not say a loose group of people connected to the inquiry I just said I was asked for advice from a loose group of people as in not connected to each other.

Q: But the only one who asked you for any advice in respect of this commission of inquiry was the prime minister's man is that right?

60 A: No I am not sure whether he asked or whether somebody asked me to provide him some advice. All I recall at that time is jotting it down. I took some legal advice from a law firm in Melbourne who had helped me with the NPF Inquiry terms of reference which I had been involved in and I do not know whether that is why they asked me and they provided some general advice to me and I passed it on.

Q: Did you have a job at that time?

[10.01 am] A: No. I was unable to get work.

Q: This is in year 2001.

A: No. This is in 2002.

Q: You gave the advice on the establishment of this commission of inquiry.

10 THE CHAIRMAN: No. That is not what he said.

MR LITTLEMORE: I am sorry. Have I misunderstood?

THE CHAIRMAN: He gave some loose points.

MR LITTLEMORE: The commission of - I see, thank you. In 2002.

THE CHAIRMAN: Was that before or after the election? You were talking about the shadow treasurer.

20 A: I think it was after the elections but before the appointment of the government.

Q: Yes.

A: Or before the appointment of, I do not know. I think it - I would be guessing and I think that it was around August or something like July.

MR LITTLEMORE: Was Mr Rex Paki one of the people to whom you were giving advice?

30 A: No. I never provided him advice but I was in consultation with Mr Paki, yes.

Q: About this commission of inquiry.

A: I cannot recall.

Q: That is a yes, is it.

MR SHEPPARD: He said I cannot recall.

40 MR LITTLEMORE: Yes. That is a diplomatic failure to recall, is it.

A: No. Well, I am not known for my diplomacy unfortunately.

Q: You can but try Mr Weise.

A: I, yes.

Q: What about Mr- - -

50 A: I am trying. I am trying.

Q: Very.

A: Hard.

Q: Mr Peter O'Neil what about contact with him, have you had any contact with Mr O'Neil last year.

[10.03 am] A: Minister O'Neill, yes I had some contact with a lot of ministers. He is one of them, yes.

60 Q: On what subject did you have contact with him?

A: I mean, I fail to see the relevance of all the people I talk to on this earth. I mean, he is a cabinet minister in this government.

Q: Did you have contact with Mr O'Neill in relation to this commission of inquiry?

A: No.

Q: Are you quite sure of that?

A: Yes, I am quite sure of it.

10 Q: Have you provided documents to any person outside the Prime Minister's department or office in relation to any subject that you believe was relevant to this commission of inquiry?

A: I do not think I have provided any documents to the prime minister's office.

Q: Answer my question.

A: Well, you said outside of that.

20 Q: That is what I said.

A: I mean the briefing I provided had been to people that have not been in the prime minister's office.

Q: Just answer the question I asked you, would you?

A: Yes.

30 Q: You have, to them have you provided documents?

A: For over what period? I have provided an enormous amount of briefing to an enormous number of people. That is what I said.

Q: In relation to this commission of inquiry?

A: In relation to this commission of inquiry, no. Only one to my knowledge, Vivan and some discussions.

40 Q: With whom?

A: I think I have had a discussion with, probably with Florian Gubon and probably not much more than that.

Q: How long were you unemployed in the year 2002?

[10.05 am] A: I do not see myself as unemployed. I am a contractor. There are times when you are in between jobs.

50 Q: How long were you in between jobs in the year 2002.

A: From the time I finished with the World Bank, I had worked for various clients in Australia. In between I can give the dates if you like.

Q: Did you earn money for most of the year 2002 or not most?

A: 2002?

Q: Yes.

60 A: Well, is this relevant?

THE CHAIRMAN: This is bordering on the irrelevant Mr- - -

MR LITTLEMORE: It is only bordering on it so I guess I am entitled to an answer, Mr Chairman.

THE CHAIRMAN: Well, I think you might have slipped over the boarder.

MR LITTLEMORE: Is that a question you find hard to answer, answer Mr- - -

THE CHAIRMAN: No, that is not the question. The question is whether he should answer.

10 MR LITTLEMORE: Yes, thank you.

THE CHAIRMAN: No, I do not think it is relevant.

MR LITTLEMORE: How did you come to be appointed as counsel assisting this inquiry?

A: I do not know.

Q: You do not know, nobody ever discussed it with you.

20 A: No.

Q: Just came absolutely out of the blue, did you, like knighthood.

A: I beg your pardon.

Q: Nothing.

MR VARITIMOS: You get off pretty well.

30 MR LITTLEMORE: I know, he is not a citizen, he does not get one. Just totally out of the blue somebody sent you a letter that said you have been appointed.

A: No. In fact somebody did not send me a letter. In fact I had no knowledge of the appointment. And the first time I knew of the appointment was when I was contacted by the Commissioner here to come and see him. And in which case the first meeting if you recall commissioner I resigned.

Q: Okay. Was that- - -

40 A: I had in my advice.

Q: Do we get you on earth Mr Chairman.

A: You need to recall that in my verbal advice to people I had recommended against this inquiry. I had recommended that if the government wanted to review this issue then they should send in a small accounting team for a few weeks to work out whether the transaction was appropriate. I was not in favour of this inquiry.

[10.07 am] Q: You were not in favour of the privatisation commission conducting the
50 privatisation either were you?

A: I am sorry, I do not know what you are talking about.

Q: Is that a complicated question?

THE CHAIRMAN: At what point in time?

A: You are jumping - - -

60 MR LITTLEMORE: When it was proposed to privatise the PNGBC, you had a conversation with Sir Mekere Morauta, did you not?

A: I had a number and a lot of conversations with Sir Mekere.

Q: On that subject?

A: Yes.

Q: The proposed privatisation?

A: Yes, there were a lot on that, yes.

10 Q: And the position that you took was that the privatisation process should not be conducted by a commission but by the World Bank. Is that right?

A: Do not be ridiculous.

Q: I beg your pardon?

A: Do not be ridiculous.

Q: I put to you sir that you are now giving dishonest evidence.

20 A: How can the World Bank conduct an inquiry? World Banks do not conduct inquiries. World Banks do not do privatisations.

Q: What about you personally. Did you propose to Sir Mekere that you should conduct the privatisation?

A: Personally?

Q: Yes.

30 A: Of course not.

Q: Why do you say, of course not?

A: How is that possible? Why does an employee of the World Bank, how is it possible that I would do a privatisation personally?

Q: You were on contract with the World Bank, were you not?

40 A: Yes.

Q: You could have left that contract and taken up another contract, could you not?

A: No, you could not if you - you cannot take up a contract with a government for a length of period; a period after you left the World Bank.

Q: I see. So you absolutely deny ever proposing to Sir Mekere Morauta that either you personally or the World Bank should be in charge of the privatisation process?

50 A: Of course. The privatisation process was designed with the Government.

Q: Just answer my question will you.

A: Yes, of course I do deny.

Q: I say that is a - I put to you that that is a dishonest answer.

[10.09 am] A: It is up to you.

60 Q: No, that will be up to Sir Mekere Morauta, will it not?

A: Well, you will have to call him if you want to refute that. At no meetings - there were witnesses at all the meetings, other people.

THE CHAIRMAN: At least those minutes would have been taken, were they?

A: Well, probably not. I would have recorded the meetings.

Q: No. But somebody from the prime minister's department.

10 A: The formation of the program was done in a very amicable way with the IMF and the World Bank and the government. Government invited the World Bank into the country. We worked hard on this program, we got agreement on the program about what were the priorities. It was very much favoured by the government. It was in fact - it was the reason why that they asked me to be the resident coordinator because of the relationship and the cooperation I had with the government in the formation of this program which at the time was seen to be very successful.

MR LITTLEMORE: Do you say Mr Weise - - -

THE CHAIRMAN: And the prime minister appointed an international advisory group too.

20 A: Yes. We worked closely with them as well.

MR LITTLEMORE: Do you say Mr Weise that it would have been quite inappropriate for you to propose a role for you whether qua-Daniel Weise or qua-the World Bank's representative to be in charge of the privatisation process for PNGBC?

A: Of course.

Q: And have you ever acted inappropriately in relation to Sir Mekere Morauta?

30 MR SHEPPARD: What does inappropriately mean, may I ask?

THE CHAIRMAN: That is a pretty broad question.

MR LITTLEMORE: In a way that you see as inappropriate.

MR SHEPPARD: Conduct himself - - -

THE CHAIRMAN: Mr Sheppard, do you object to that question?

40 MR SHEPPARD: Mr Chairman, the question is so vague and so general.

MR LITTLEMORE: Well, I will come to it. I withdraw it.

MR SHEPPARD: Thank you.

MR LITTLEMORE: You gave an interview to the ABC Four Corners program about contact that you had had with Sir Mekere Morauta, did you not, when he was prime minister?

[10:11 am] A: I gave - I did an interview with Four Corners programme, yes.

50 Q: Yes, in which you claimed to have telephoned him and told him that the World Bank was keen on supporting a government led by him, did you not?

A: Words to that effect, yes.

Q: You boasted of having done that did you not, without the authority of the bank?

A: I did not boast.

60 Q: You asserted that you had done that without the authority of the bank did you not?

A: Yes I did that without the authority of the bank.

Q: Completely inappropriate conduct was it not?

A: No I was not working for the bank.

Q: If you were not working for the bank, why would you refer to yourself and the bank as we?

A: Because I was working on PNG for periodic contracts of the bank. This is in between those. So I was working on PNG. I would have expected the bank to continue that employment but the contracts were short term contracts and that was in between.

10

Q: Why did you refer to yourself and the bank as we?

A: Well, that is a turn of phrase. I mean that is because I was close to the bank.

Q: It implies the present continuous does it not?

A: No it was without doubt a private conversation and it was - I did not represent the bank.

20

Q: Did you ring him to advise him of the bank's position in respect of his aspiration to lead the government?

A: I was approached - - -

Q: Answer that question.

A: Yes well I will tell you.

30

THE CHAIRMAN: Was this in 1999?

A: This is 1999.

Q: 1999.

A: I was approached by the governor of the Central Bank, your client at a function at the Airways Hotel and I was introduced to the Prime Minister's wife by him. And I was asked by those two, could the World Bank assist if the Prime Minister was elected. That is how the introduction occurred. And subsequent to that I had a number of conversations, well, I do not know a number, maybe one or two conversations with the Prime Minister's wife.

40

[10.13 am] Q: I am not asking you- - -

A: And I advised and- - -

Q: About conversations with third parties.

A: And in that process I advised on what the World Bank might be able to do.

50

Q: I am not asking you about conversations with Lady Morauta. I am asking you about conversations with Sir Mekere Morauta.

A: No. I do not believe I had a - I do not recall other than that. But it was Lady Morauta that put the telephone conversation through to Sir Mekere. Because at that time when people were held up at the house in that election period there was no access to that. It was Lady Morauta that put the telephone conversation through.

60

Q: You rang to advise Sir Mekere that the World Bank would be keen on supporting a government led by him, did you not.

A: No. That - well, that is exactly what they had asked me to do.

Q: I am not asking what you were asked. I am asking what you said.

A: Well, if that is words to that effect, yes. But I did not say they would. Well, I said they might or they would but we could. We would be interested in the reforms that Sir Mekere stood for.

Q: What you told the ABC was you took the liberty of calling him- - -

A: That is correct.

10 Q: To advise him.

A: That is right.

Q: You used the word 'advise' that the bank; that is the World Bank would be keen on supporting a government led by him.

A: That is correct.

[10.15 am] Q: And that you did not operate with the authority of the bank to do that?
20

A: That is correct. That is exactly correct.

Q: And you said that that was probably an inappropriate thing to do?

A: Well, yes, because I cannot represent the bank. But having working for the bank for a number of years before that, through the Skate regime and the difficult period with the bank with our previous resident- - -

30 Q: I simply asked you whether you said that was inappropriate; whether your own conduct had been inappropriate?

A: Yes.

Q: And you went on, did you not, as the transcript shows, to say, quote, "We", not the World Bank or I, "we had a person we thought could lead Papua New Guinea with the right economic policies."

A: That is right. That is correct.

40 Q: We?

A: Yes.

Q: That is the bank and you?

A: Well, the people in the bank - I was close to the people in the bank. We talked - we discussed this at great length.

50 Q: Quote, "We thought that that was the time probably at least to shed some light on the World Bank views about the sort of support we could do PNG with a government that wanted to do something." Correct?

A: Yes.

Q: In other words, holding yourself out to the audience of the ABC four corners program as speaking for the World Bank. Correct?

60 A: I had the support - I mean these things cannot be done officially obviously. I mean the World Bank - you know Jim Wolfensohn from the World Bank is going to give me authority, but we had- - -

Q: Especially if you are not working there?

A: We had a team of people in the World Bank. I was on that team, but I was employed - because we were not engaged in PNG, because the previous government did not have the World - did not want the World Bank here, I was on a contract. There was a short term contract that worked back to back. There were periods in between when I did not. But we were closely working as a team on PNG. I had written a voluminous account of PNG called the Country Economic Memorandum. We were closely involved in- - -

10 Q: Do you resile from your earlier evidence, Mr Weise, that you were not then employed by the World Bank when you made that call?

A: Well, I was. Well, it depends on how you define the contracts. I was not working- - -

[10.17 am] Q: Do you resile from your earlier evidence that you were not employed by the world bank when you made that call?

20 A: I was not employed - I do not think I was on a contract in there. The contracts were short term contracts based on missions to Papua New Guinea, missions to Washington and some work that I had done in between.

Q: What sort of a meddling busy body who is not employed by the World Bank would ring the aspirant prime minister of a country to assert to him what the World Bank's attitude to his being elected was?

THE CHAIRMAN: As I understand it he was asked by your client?

A: That is right.

30 Q: And introduced to Mr Morauta and as a result of that he gave the view.

A: That is exactly right.

MR LITTLEMORE: A mere introduction?

THE CHAIRMAN: Well, I presume an introduction and some discussion. I think the witness said that.

40 MR LITTLEMORE: That may be. I think we have gone as far as we need to go with that with respect. You commented on the Westpac letter, the so called Westpac letter of Mr Kamit dated 2 July 2001 on the four corners programme, did not you?

A: Yes.

[10:18 am] Q: And you said this: "It" that is the letter "allowed the government to influence outcomes all the way through the process". That is what you said is it not?

A: If you say so, I do not have a transcript.

50 Q: Well you may take it I am reading from the transcript. Assuming I have read it accurately.

A: Yes.

Q: Do you withdraw that assertion?

A: No I do not withdraw the assertion.

60 Q: Do you seriously say a letter which was not acted upon by Westpac "allowed the government to influence outcomes or the outcome of this privatisation." Is that a serious assertion you make?

A: Yes.

Q: That is in respect of a company that was never a bidder for the bank, correct?

A: Well I did not know that at the time.

Q: At the time you gave the interview?

A: I only knew that just recently. Neither did anybody else that I have spoken to about that.

10 Q: We are not concerned with that Mr Weise.

A: Who is we?

Q: The commission of inquiry and those representing parties. Mr Weise, what were the circumstances of the termination of your employment by the World Bank?

A: I was not terminated by the World Bank.

20 Q: I did not say that, I said the termination of your employment. That is something that you can do or they can do or the effluxion of time can do.

A: Well I was not terminated. The word 'termination' is highly inappropriate. My contract concluded.

[10.20 am] Q: There was an effluxion of time and no new contract was offered to you. Is that what it was?

A: No, on the contrary I did not seek any contract.

30 Q: So it would be quite false to say you resigned?

A: You only resign from a position. It was a contractor. I had finished the contract.

Q: It would be quite false then to say you resigned?

A: Of course.

Q: But that is what you told the ABC you did?

40 A: As in resigned from my arrangement with the World Bank, as my contracting arrangement, but not resigned from employment.

Q: Despite all your last three answers, you did tell the ABC that you resigned from the World Bank, did you not?

A: Yes, I resigned from a continuing arrangement with the World Bank, yes, but not from employment. I was not employed.

50 Q: It is the same thing, is it not?

A: No, it is not.

Q: I see. Did you not wish to hold yourself out to the audience of the ABC as high minded individual who resigned when the World Bank did not back you?

A: That is not true.

Q: They were the words the ABC used about the termination of your employment?

60 A: Yes, and what was my response. The World Bank - when the government in January 2001 terminated my visa as the resident rep here, the World Bank went strongly in support of me. In fact the World Bank press releases raised the issue of corruption in the process by the - - -

Q: Mr Weise I am not asking you about that.

A: Well, I am- - -

Q: Can I just- - -

THE CHAIRMAN: I think you let him answer the question, Mr Littlemore.

10 A: Yes. And, the World Bank brought me back on a contract, which is the second phase to continue the monitoring of the program, but from the Sydney office. When that contract - towards the end of that contract it became known to me that the World Bank was under a great deal of pressure to disburse the money to PNG. A great deal of political pressure from Australia and I said I would not be prepared to buckle under that pressure and therefore we had an agreement that we would let the contract finish. And I said I did not want another contract, and therefore I would resign from any continuing arrangement with the World Bank in PNG.

[10.22 am] MR LITTLEMORE: You told the ABC that the World bank did not back you.

20 A: At that time.

Q: For that reason you resigned.

A: That is correct. That is what I just said then.

Q: But- - -

A: That the World Bank did not back me in my position as maintaining the monitoring of the conditions of the loan agreement.

30 Q: It was not the case that you had a disagreement with the World Bank about the path they were taking.

A: I did not have a disagreement up to that point because I was in fact you know the team leader in country for this thing. I mean my advice was taken all the way up to the end until the pressure on the bank got so great that they asked me to in effect you know go easy. And I was not prepared to do that.

40 Q: It would be false to say that you did not agree with the path the World Bank was heading for quick disbursement of the money.

A: That is correct. No, not the quick disbursement, for disbursement of the money in breach of the conditions of the loan agreement.

Q: Now, let me just ask you. Do you say it would be false to say that you did not agree with the path that they were heading for quick disbursement of the money.

A: Well, whose are they?

50 Q: Well, the World Bank presumably.

A: Well, I mean everybody - I mean if I was with the World Bank at that time, you mean I disagreed with the path that the country director was taking.

Q: For quick disbursement of the money.

A: No.

60 Q: Well, I will just read to you your words from the ABC.

A: Well, but that is- - -

THE CHAIRMAN: When was the ABC four corners interview. What was the date of that.

A: Sometimes in, you will have the date there.

MR LITTLEMORE: May last year, we think, please pardon me a moment. 24 June it was broadcast. These things take some time to put together. So - -

THE CHAIRMAN: And no doubt a lot of editing went on too.

A: Yes.

10 MR LITTLEMORE: Oh yes.

[10.23 am] THE CHAIRMAN: So, that is 24 June 2002.

MR LITTLEMORE: That is the date of the transcript which is available on the ABC's website.

THE CHAIRMAN: All right. And Mr Weise, you had your or you started to have your disagreements with the World Bank about the release of the money, what date?

20 A: Compliance with the conditions.

Q: Pardon?

A: Compliance with the conditions.

Q: Compliance with the conditions. Well they were the conditions of the sale of the bank?

30 A: Yes. And this was the year before that, I remember.

Q: So, this would have been in 1999 - 2001.

A: This is in May and June 2001.

MR LITTLEMORE: So, what you told the ABC was not truth, is that what you are saying?

A: It was the truth.

40 THE CHAIRMAN: I just want to get to the bottom of this.

MR LITTLEMORE: I am sorry.

THE CHAIRMAN: May, June 2001 was the period when you disagreed with what was happening.

A: Yes. With the country director.

50 Q: With the country, right. Now, what was the - well, the advertisements for the sale of the PNGBC had gone out by then.

A: Yes.

Q: What was the non-compliance or what was the condition that had not been complied with that was concerning you?

60 A: Well, nothing to do with PNGBC sale because I had signed off on it. I had signed off on the information memorandum and we had agreed to release the floating tranche moneys. But the disagreements - so that period was successful. And up to that time of the information memorandum I had no problem, apart from some management issues in the privatisation commission earlier, with the process. I think the process and the probative process and the role of the Central Bank, everything was fine. And I had signed off on that. The disagreement started when they started to put pressure on the release of the second tranche which was the final tranche of the loan money.

Q: And what was that conditional upon?

A: Well, a whole, probably 20 conditions.

Q: All right. Any of them related to the bank?

[10.24 am] A: No. And I had signed off on the information memorandum but attached to the
10 second tranche was large chunks of Japanese money and on the side parallel to that was the release of Asian development monies. And they were going to be led under pressure at the time of the heated election campaign and there was a lot of pressure including from the Australian government at senior levels to release that money when many of the conditions had not been met.

Q: Could you give some examples of the conditions that had not been met?

A: There were significant breaches of the rural development fund arrangements which
20 was the political slush fund referred to here. There were significant breaches of the forestry conditions. There were significant lags in terms of the HR and payroll system that was to be implemented. There were serious fiscal macro economic issues that were not in compliance in terms of the budget deficit. I have not got it in front of me but there were many and I assessed at that time that perhaps only 50 per cent of the conditions were going to be met. And therefore very serious to release that sort of money under political pressure in an election campaign and I object to my credibility being attacked because I have had a reputation here. I have been very very tough on seeing economic reforms done.

Q: The election started in June 2001?

30 A: Yes, by the end of 2000 but the budget of 2001, the November period 2001, they were in full swing election. In fact they were in full swing election campaign even at that time.

[10.25 am] MR LITTLEMORE: When did you resign from the World Bank?

A: Here we go again.

Q: Just answer the question.

40 A: I left - I finished my contract with the World Bank I believe round about August, in August 2001.

Q: After that did you travel - did you return to Australia?

A: Yes. I went backwards and forwards from PNG after that.

Q: Who paid for that?

A: I did.
50

Q: What were you coming to PNG for after you had left the World Bank?

A: I came to PNG to set up a company to operate to develop the PNG based consultancy.

Q: Did you do that?

A: I set up a company, yes, to do that.

60 Q: Is that the company that is mentioned on the front page of the newspaper this morning?

A: I have not read the newspaper this morning. I have seen the headlines but I have not had time to read it. I have been in meetings all morning on privatisation matters.

Q: Mulroy Limited it says.

A: That is the company, yes.

10 Q: Not Pty Limited.

A: No. Mulroy Limited is a PNG company.

Q: PNG company. A company which seeks a K1.4 million contract from the government of Papua New Guinea.

A: Yes. That is false.

Q: What is the figure?

20 THE CHAIRMAN: Is that relevant for us to know?

A: Well, the figure is less than half that.

Q: What was the period when your- - -

30 A: And that figure, excuse me if I - sorry. If you want to answer that question. A contract was put in for a daily rate because it was a short term contract. Now, somebody has multiplied the daily rate by 365 days. The daily rate is half that paid to most people that have been employed by the privatisation commission and probably about a 10th of what you get.

MR LITTLEMORE: There is no need for you to make a pitch here for your money, Mr Weise.

A: Well, you mentioned the 1.4 million, see. You mentioned the 1.4 million which is a false headline and I am responding to that.

THE CHAIRMAN: Mr Weise, just when was the date when your visa here was cancelled.

40 A: In January. I had a visa to come, a valid business visa to come backwards to forwards to PNG after that. I came back numerous times and January 2002.

Q: Your work permit visa, when was that- - -

A: No. I - - -

Q: Which visa was cancelled to make you leave?

50 A: No. I had a multiple entry business visa at the time which allowed me to travel back and forth for business but not employment.

Q: Yes, right.

[10:27 am] A: So I set up a company but there was no employment yet on that company.

Q: Yes but when was it that you fell out with the government and the visa was cancelled?

60 A: The visa was cancelled the first time when I was with the World Bank as the resident coordinator in late January 2001.

Q: When was that?

A: In late January 2001 and then when we renegotiated with the government, the World Bank to allow me to travel backwards and forwards - to lift that ban then I travelled on a multiple entry business visa over that period and continued to travel to PNG after I left the World Bank in August and up until January 2002 when I was removed from the airport in PNG despite still having a valid business visa and put on a plane to Cairns with no explanation.

Q: Right thank you.

10 MR LITTLEMORE: So the reason you travelled to Port Moresby after August of 2001 was to set up your consultancy is that right?

A: That was half the reason.

Q: What was the other half?

A: That is personal.

20 Q: What a romantic interest was it not?

A: Dear oh dear. You know.

THE CHAIRMAN: Mr Littlemore, really do you need to descend to that sort of level?

MR LITTLEMORE: Descend! I would have thought that would be to ascend.

THE CHAIRMAN: I mean it is very very interesting I am sure but is it relevant to anything that we have to decide.

30 MR LITTLEMORE: But please bear with me, I undertake to make it relevant. Mr Weise.

A: I find no humour in this at all.

Q: Well that is your problem. Mr Weise did you have any interest in economic reform of the government of PNG when you were travelling back and forth, is that why you came. Is that your other half of your reason?

A: No.

[10.28 am] 40 Q: No.

A: No, I am answering your question. I had lengthy discussions with Father John Momis on Bougainville and I had a tentative contract to work with him - a tentative expression of interest from him that he wanted to contract me. I had a letter from him to work on the Bougainville reforms. I thought that may have been acceptable to the government of the time given that you cannot get much further away from Moresby than Bougainville and I thought that would have been a nice reasonable compromise to allow me to carry on work up here.

50 Q: So it would not be true, would it? It would be somewhat hyperbolic and self serving to say that late in 2001 you were still travelling to Port Moresby pushing for reform when the PNG government moved to restrict your activities further?

A: Yes, that would be wrong, yes.

Q: That is exactly what was said in the Four Corners program, is it not?

A: Well, pushing for reform on Bougainville I mean I believe in the reforms that I have worked on for a long time in Papua New Guinea. I believe in them strongly.

60 Q: Would it be false to say that late in 2001 you were still travelling to Port Moresby pushing for reform when the PNG Government moved to restrict your activities further?

A: Yes, that would be incorrect to say that I was pushing. I was not pushing, but I was keen, if I had said, I do not know what I said, I have not got the transcript of the Four Corners, but yes I was looking for a contract to work on my specialisation which is economic reform so if I had- - -

Q: Looking for - you were not looking to reform anything, you were looking for work, were you not?

A: Well, you cannot reform anything unless you get work.

10
[10:29 am]

Q: I see. And the PNG government moved to restrict your activities further, is that what you told the ABC?

A: Well you got the transcript there. I do not have it in front of me.

Q: Is that what you told the ABC?

A: I do not have the transcript in front of me. I cannot- - -

20

Q: Is that what you told the ABC?

A: I do not know exactly whether that is the words that I was said, I am sorry.

Q: Words to that effect?

A: Well they banned me from the country in January 2002. If that is a restriction, that is a restriction.

30

Q: So you held yourself out to the audience of the ABC as some sort of white knight did you not? You were the champion of reform and these evil people threw you out and moved to restrict your selfless pursuit of the welfare of the people of Papua New Guinea.

A: Are you reading from the transcript are you?

THE CHAIRMAN: I think that is gilding the lilly.

MR LITTLEMORE: That is a little hypervolic?

40

THE CHAIRMAN: Yes it is. I think you should rephrase that question if you want to ask- - -

A: I did not approach the ABC. The ABC approached me to do an interview.

MR LITTLEMORE: Well I am not concerned with that.

50

A: I had no experience of doing interviews. I did not know what they were going to ask or what they were going to do. In fact from February for four months I said no I do not. I have made no press comment through all these attacks on me from the previous government, no press comment whatsoever. The ABC pushed me and pushed me. What changed my mind about appearing in the ABC programme was the information told me that the Australian authorities were tapping my telephone. And that at the time of the Tampa incident where denials were occurring in the Tampa and I was very concerned about the mistreatment of illegal immigrants I saw this as a public interest thing and that is what convinced me to go on the program. The ABC had been pressuring me for three months. I did not know what questions they were going to ask. I had no notion of that and I appeared on that program honestly and gave what I thought was my view.

60

Q: The Australian government was tapping your phone.

A: I had information from the Australian government that they were intercepting the phones.

Q: Who?

A: I am not going to tell you that.

Q: This is a fanciful piece of paranoia is it not?

THE CHAIRMAN: Well I do not think so. Well, Mr Littlemore it is common knowledge, is it not, that the Australian government monitors every telephone and fax call from PNG.

[10.33 am] MR SHEPPARD: It is called echelon.

THE CHAIRMAN: Pardon?

MR LITTLEMORE: I hope not.

MR SHEPPARD: It is called the echelon system.

THE CHAIRMAN: Yes.

20 MR LITTLEMORE: I am in trouble.

A: A senior person from- - -

THE CHAIRMAN: So be careful what you say on your telephone.

MR LITTLEMORE: Do you say your calls from PNG or your calls made from Australia were monitored by the Australian government?

30 A: I was informed by a senior person in the embassy what was happening.

Q: What embassy?

A: I am not prepared to give the name of that because I am sworn not to. It is a breach of Australian security.

THE CHAIRMAN: But is that the calls between your telephone in Australia and calls in New Guinea or vice versa?

40 A: No, from New Guinea.

Q: From New Guinea, yes.

A: Well, between Australia and here.

Q: Yes.

A: Yes.

50 MR LITTLEMORE: Would that be the American Embassy that you are talking about?

A: The Australian Embassy.

Q: Australia does not have an embassy.

A: The Australian High Commission.

Q: Oh I see. Are you sure it was not the Russian Embassy?

60 THE CHAIRMAN: Well, Mr Littlemore, come on.

MR SHEPPARD: Mr Littlemore undertook to make this relevant and I am waiting for him to make that undertaking good.

MR LITTLEMORE: And amusing.

THE CHAIRMAN: Come on, can we move on. Can we move on? We have other witnesses as well.

A: My reputation - this is not amusing to me. It is a joke to you.

MR LITTLEMORE: Well, did you not tell Mr Mitchell that the Australian government was conspiring against you?

10 A: No, I do not believe I said the word conspiring against me, no.

Q: No, but, it was part of a network that wanted to get rid of you?

A: No, I do not think I recall saying that. But there is a, I believe and I may have - I do not recall fully every word of the conversation with my friend Rod Mitchell.

Q: You were saying though. You went on to - you cut yourself off.

20 A: But there is a group of people that are trying to - that were behind the removal of me from the country on two occasions, that is not paranoia. On two occasions there was an enormous amount of misinformation put in the media at the time, of which I did not respond to at all to correct because the advice from the World Bank - legal advice is that we do not respond in the media. There is a lot of people - there are a few people I have spoken to since I have been back, have all been warned not to speak to me or provide me with employment. So there is a group of people that are working towards that. And you know you even see the headlines this morning which is false information.

[10.35 am] Q: Is Mr Bart Philemon one of this group that is seeking to pick the motion?
30

A: No, certainly not. I have been friends with Mr Philemon for a long time.

Q: He named him to Mr Mitchell, did not you as one of his powerful network that was out to get you?

A: Certainly not.

Q: You have not moved to challenge that, have you or anywhere else?

40 MR SHEPPARD: There is no evidence of that before the commission.

A: Certainly not. I mean Minister Philemon is somebody I have spoken to recently.

MR LITTLEMORE: What about your relationship with the world bank, what is the current status of that?

A: I keep in contact with my superior that I work to in the bank, regular contact.

50 Q: Have you been trenchantly critical of the bank's performance in this country?

A: No.

Q: I want to read something to you.

A: I am critical of the second tranche release of the bank's programme. I am critical like nearly every commentator on the aid program in Papua New Guinea. There are many many failures and many many lessons to be learnt. Many lessons.

60 Q: Have you or have you not been trenchantly critical of the World Bank's performance in this country?

A: In what forum are you quoting?

Q: In the public forum by means of your interview on the four corners program?

A: I was very very concerned about the release of the monies to Papua New Guinea in the election period which may I add were clearly proven to have been wasted. And everything I said on that program in terms of fiscal excesses were clearly proven.

10 Q: This was what you said, is not it. People should ask the bank, that is the World Bank to investigate the matter because this is precisely what the demonstrations all over the world are accusing the bank of doing, putting countries in debt and not aiding and abetting regimes that are not reformist that are not trying to get the economy to grow and then forcing them to repay those debts. This is what the bank is criticised for and I think Papua New Guinea and the recent loan is a very good example of what the bank should not be doing?

A: That is exactly correct.

Q: That is a trenchant criticism of the World Bank, is not it?

[10.37 am] A: That is a criticism of that loan of the people who are operating that loan in Papua New Guinea.

20

Q: You are saying it is a good example of what the World Bank should not be doing?

A: That is exactly right and the World Bank management should take note of that.

Q: Yes, that is the cross examination, if you please.

THE CHAIRMAN: Any one else wants to ask?

30 MR ANDERSEN: Yes, I do have some questions. I will be a little time. I saw Mr Egan and is client were in before. Mr Weise and myself are both residents of town. I am happy if there is a need to interpose people. I am happy to go along.

THE CHAIRMAN: No, we want to finish Mr Weise. I do not want Mr Weise coming back.

A: Yes, please I have many things to do.

40 MR VARITIMOS: Could I just get some indication in relation to Mr Egan. I have sent him upstairs and they are having copious amounts of coffee upstairs, but he is very happy with that. Could I just get some indication of how long Mr Andersen might be.

MR ANDERSEN: I would think that I would be done by lunch time possibly significantly less.

THE CHAIRMAN: That is an awfully lot of questions.

MR ANDERSEN: Well, I said possibly significantly less, though.

THE CHAIRMAN: Touching on the bank, touching on your client.

50 MR ANDERSEN: Touching on my client, yes. I certainly do not - my approach to matters is somewhat different to my friends I have some very specific questions relating to specific statements he has made in his short statement which I feel are unsupportable and if he reads them and reconsiders and agrees with me, we will not take long.

MR VARITIMOS: I will just get a message to Mr Egan that he can have some more coffee.

XXN: MR ANDERSEN

60 Q: Mr Weise, I represent the BSP in this matter. Going to your statement, could I take you to the second page and the third paragraph. You state there about half way down that paragraph the World Bank was uncomfortable with PNGBC raiding assets to shore up its own balance sheet from insolvency. When you say the World Bank was uncomfortable, do you include yourself in that?

A: Yes, well I have answered that before. Yes, I mean the World Bank was myself and in discussions with my superiors.

[10.39 am] Q: You will accept for the moment that on the nature of the arrangements between PNGBC and Motor Vehicles Insurance Trust were that there was a creature called The Banking Corporation Corporatisation Act passed and pursuant to that legislation and other legislation, firstly the banking corporation the statutory entity was devolved to a successor company, that successor company was devolved, sorry, was amalgamated on 31 December 1998 with the Motor Vehicles Insurance successor company thereby creating as at 1 January 1999 a single monolithic entity comprising both the Motor Vehicles Insurance Trust successor and the PNG Banking Corporation successor. Does that accord with your recollection?

10 A: Yes.

Q: So, when you say that you are uncomfortable with PNGBC raiding the assets of the MVIL, what assets were you referring to.

20 A: Well, at the time, this was at the time when it was under - MVIL was under liquidation.

Q: Which was at approximately what time and month or year?

A: I think November 2000. Remember 2000, is that your recollection as well.

Q: It covered that period certainly.

30 A: Yes. Around about then and there were- - -

Q: That specific creature is the Motor Vehicles Insurance Limited.

A: That - was that - or MVIT or MVIL at that time.

Q: If you will take it from me that MVIT was corporatised - - -

A: Yes.

40 Q: Into a company- - -

A: Yes.

Q: Which is then amalgamated with Motor Vehicle with the PNGBC Limited- - -

A: That is right.

Q: As it then was. There was this new creature called the Motor Vehicles Insurance Limited- - -

50 A: That is right.

Q: Initially established which then launched into the business of third party Motor Vehicles Insurance- - -

A: That is right.

Q: Without having a license or an authority to do so without having any assets whatsoever.

60 A: That is correct, yes.

Q: Then there was a further legislation which provided that some of the former MVIT assets would go to MVIL.

A: Yes. But you would be aware how complex all these transactions were and how many of them were not completed, fully assigned, titles were not issued transfers. So at the time when these two entities were separated, it appeared and I am an outsider from at the time of the World Bank looking at these processes. The information we got from various parties and mainly the project managers that were working on these entities were that the assets had not been assigned to MVIL and PNGBC. That there was considerable debate about which assets belong to which entity.

[10.41 am]

The link that you used is the PNGBC raiding the assets. There is obviously a connotation in that language you have chosen that there was somehow something improper going on that they were - - -

A: No, well, not improper in commercial - you do a company raid and things are not necessarily improper, but I mean you would be aware at the time I think you had some involvement of the intense legal work, of the intense legal work that was going on and debates between the liquidators, lawyers, PNGBC's lawyers, the privatisation. I think at some stage there were three or four QC's up here arguing about assets and assignments and things. It was very intense. And PNGBC of course was trying to get the best deal for itself. Trying to get, because of its capital from the due diligence reports, was very weak. So, we would have expected PNGBC to try as hard as it could to get whatever assets it could. On the other hand the World Bank's position was that it had a responsibility to see a privatisation program for all the assets of Finance Pacific. So, it was important not to take excess assets from MVIL into PNGBC and leave MVIL insolvent. But that was the liquidator's job to ensure insolvency of that. So, our point at this time was to ensure that due process and due regard to the assets of both entities were taken.

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Q: Which is a very sensible approach of course and explained in a very balanced way but I take it then that perhaps the language of raiding that you have used, would you say that was appropriate language still?

A: Well, I mean in a commercial sense it was appropriate. I am certainly not saying anything improper was done but remember, this was very intense, very legal arguments, I mean this was powerful what was going on here. And it involved the assets of the State. so commercially rating was probably a correct term.

40

THE CHAIRMAN: Mr McIlwain I think described it as being 'plundered'. Well, he said it was plundered by the government. The bank was plundered by the government.

MR ANDERSEN: Yes, they are very very different transactions. I would certainly that - - -

THE CHAIRMAN: Well, I think it was all in connection with the Motor Vehicles Insurance business.

[10:43 am]

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MR ANDERSEN: At an earlier stage of the process. Clearly there was this strange conglomeration that occurred at the end of 1998 which brought them altogether. At about that time there was also I think the plundering to which Mr McIlwain refers which comprised of two things. One was a payout of about K50 million I think to the government and a transfer of a K50 million liability relating to Air Niugini which was occurring in 1999 from recollection and I think that is right and I think that is what Mr McIlwain was referring to. Then we had a circumstance in - when it transpired that there had been this awful mix up of the assets and there was a need to unwind the transactions relating to MVIL as it was then called and PNGBC, there was retrospective legislation passed which required the parties to somehow agree a split of the assets which as I said was a difficult thing. We were not actually involved in that but a difficult thing. But not a raiding. That was a consequence of the earlier plundering which meant that there were not enough assets to go around and both parties had to be difficult.

60

A: That is correct. I agree with what you said.

Q: On page 3 of your statement, the third paragraph but just - sorry, go on.

A: If I could just continue. I mean the issue - I had no problem with the intensity of the debate or what people were trying to do because one person represented one interest another represented another, we had overall responsibility, the bank to ensure that that programme met certain due processes and left certain solvencies in place.

[10.45 am]

10

And we were very very and we helped facilitate the liquidators removal and by getting agreement by participating in some of these discussions. And that is how I got to know the liquidator who is Mr Rex Paki that is where I met him. Because we were trying to get a resolution of this. We tried very hard to get a resolution. And having got the resolution which was the deed that was sent down with the attached balance sheet split and my concern was under that deed the PNGBC then never acted upon its agreement to do certain things. And that is my concern on that issue about the MVIL loan and the review of the investment portfolio and a number of things like this and that is my concern.

20

Q: I will certainly come to the MVIL loan as it relates to the BSP's position. Page three of your statement in the third paragraph. Now, you say there that the trigger for the release of the US20 million tranche was a satisfactory information memorandum and placement of sale advertisement, but the main condition you put that forward as being the most important thing for the World Bank clearly presented in the minutes of negotiation was for the majority share sale of PNGBC to be a reputable international bank?

A: Well, when I say the main condition that is the fundamental underlying condition was for there to be a foreign strategic investor which we used that language because that to us, you know, we did not want to target a bank, but that was our belief from that was that we were looking at a reputable international bank.

[10:47 am]

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Q: And I think you said at your evidence at 10.21 am this is today that you ultimately signed off on the information memorandum that was put around.

A: There is nothing I signed. As the officer and resident here for the bank, whose duties, terms of reference was to monitor this and do this - - -

Q: You gave it your approval without being a signatory to it?

40

A: Yes I approved it and in conjunction with my superior who was out here on mission we signed off on that, recommended to the management of the bank that this was appropriate. This is after a lot of negotiation, a lot of give and take on a number of issues.

Q: And is there anything in the information memorandum that says that this sale must be to an international reputable bank as opposed to a domestic reputable bank?

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A: No. I mean this was why that was put in the minutes of negotiation because it is - you know, on the surface it is not appropriate for the World Bank to dictate things that are not of a sovereign nature but on governance matters like this, it is something that we would negotiate privately with the government and get agreement on.

Q: So you are saying that it was your desire that notwithstanding the approved information memorandum being sent to various parties including my client - - -

A: I did not know that.

60

Q: That nonetheless you would have taken the view that, although it did not disclose the fact that a non international buyer would not be acceptable, really you were going to - that was not going to happen and that was being hidden from readers of the information memorandum. Is that what you are suggesting?

A: I am sorry.

Q: The information memorandum does not say that this is restricted to international investors?

A: Of course not, no.

Q: But you are saying that it was an understanding - - -

A: Yes.

10 Q: That it would not go to an international investor?

A: Yes. It was more than an understanding, it was a signed legal agreement. But it was a confidential agreement with the government.

Q: And you were personally quite happy for the information memorandum to go to such people who were domestic banks such as the BSP excluding, something that you regarded as terribly important and which would have meant my client was completely wasting its time.

20 A: I could not get involved in the process of who was bidding and who was not, other than to try and monitor compliance against the loan agreement and the attached minutes of negotiation so it was a matter for the government who had agreed to do that for the government to make that decision. It is up to the bank to tell the government. The government can chose to breach conditions and agreements. We do not order them to do it.

[10.50 am] Q: Your office signed off on the information memorandum. Surely, it was quite open for you to say, but hey, you have not included the main condition therefore we are not going to approve this information memorandum?

30 A: No, because it was a condition in the minutes of negotiation.

Q: I put it to you that to the extent it was a condition by approving the information memorandum in the way that it did, effectively the position was accepted that it could be given to domestic investors?

40 A: That is correct because it was up to the government then if they wanted to do that, to get back to us and say why they were in breach of the minutes and to make a case. This is not something like a normal bank where we do not - a lot of these things are negotiable with the government.

Q: And the outcome of that negotiation was the information memorandum in its form that it finally went out which does not exclude domestic banks was okay?

A: The information memorandum was okay, yes.

Q: I will put it to you that that is a necessary- - -

50 THE CHAIRMAN: The information memorandum contains that statement that you are aware of, a statement that the governor of the bank or that the bank would be allowed to continue for two years after the bank was sold without meeting the capital adequacy prudential standards. Did you have any part to play in that particular clause going into the information memorandum?

A: Yes, we did. I do not know whether that was the cause of the governor's consideration to put it in but we made representations in our discussions on the information memorandum.

60 Q: All right, to whom?

A: To the government and we deal with the government and our counterpart for correspondence is the treasury secretary, not the governor. The governor is the IMF but we made representations that if a reputable strategic international partner or whatever, an international bank we would assume in this case were to be

making a bid and given the capital adequacy deficiency in the bank that a provision should be allowed for time to build that capital.

[10.53 am]

And that should be in the information memorandum. I have got my notes, my instructions that I have put in the notes, in those notes to government. Not instructions, you know recommendations.

Q: Yes.

10 A: That these things are done.

Q: All right. Now when does it - have you still got a copy of those notes?

A: Yes.

Q: Now, I wonder if you could produce those for us?

A: Now, I understand that those notes were attached to the cabinet to the NEC decision.

20

Q: To the NEC decision.

A: Yes, to the NEC submission.

Q: Yes. Was that just a note of the conditions. Was not a formal briefing note. All right, if we can find it for you. I think I have it here.

[10.55 am]

A: I have them here if you want.

30 Q: Have you? Yes, all right if you will just pass it up.

A: Pass them.

Q: Just check and see whether - I know I have seen something attached to the submission to cabinet.

A: I think the part on the capital adequacy is in our telex down the bottom.

40

Q: No, we have not seen that, so I would get you to tender that Mr Varitimos.

A: I do not have any of the World Bank files so- - -

Q: No.

A: These are notes that I have that, you know, they do not have the covering letter on who has exactly sent it.

Q: Yes, there is a covering letter I noticed there to the Prime Minister's department.

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MR VARITIMOS: I would seek to tender a letter from Mr Daniel Weise to the director, Department of Prime Minister and NEC dated 30 January 2003 enclosing an information memorandum. I seek to tender that as exhibit 300.

[10.57 am]

THE CHAIRMAN: That will be marked as exhibit 300.

EXHIBIT 300 - LETTER FROM MR DANIEL WEISE TO THE DIRECTOR, DEPARTMENT OF PRIME MINISTER AND NEC DATED 30 JANUARY 2003 ENCLOSING AN INFORMATION MEMORANDUM

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THE CHAIRMAN: Was that one of the concerns that you had with the process, or did you have any concern with the process when you discovered that there was only ANZ, BSP and Hanover bidding for the bank?

A: I did not know, you know, you hear who the bidders might be. But I did not have any confirmation at the time who were the bidders. I understood there was a bidder from Singapore but I do not - that is the other information I had but I do not whether they bid. We knew that there was an Elders, we knew ANZ and Westpac were - well, we thought Westpac were bidding.

Q: All right, thank you. Yes, Mr Andersen.

10 MR ANDERSEN: Just looking through your notes in the telex on the question of capital adequacy, your telex states that there is a requirement in the information memorandum, a statement from the Central Bank, you included in the IM the statement recognising the capital deficiency subject to a reputable bank taking up the privatisation allowed 12 to 24 months to bring it back to the normal levels. Again, there is no mention of an international as opposed to a domestic reputable bank.

20 A: That is right. And that is for sovereign reasons. I mean, this was not meant, you know, the World Bank deals with governance issues. When you do a governance reform program you are trying to reform corruption and mismanagement. Of course your client is the government. So it is a very sensitive thing to try and do in a program to ask the government to reform itself. So, issues of sovereignty come very much into that, about what the bank can tell people to do and what they can get agreement from the government to do. Notions of asking the government to exclude domestic banks - we did not think there was anybody that was going to bid anyway, domestically. But that is why that was put in the minutes of negotiation and not in the loan agreement.

[10.59 am] Q: Mr Weise, does not fly completely in the face of your evidence that there is a written document signed by the government, the document that we have not been able to see, to the effect that it must be to an international bank.

30

A: No. Yes, well- - -

Q: Those positions are completely contradictory. You are saying that it is too sensitive to say to a bank in writing, say to the government in writing that it cannot be a domestic person. But, at the same time you say that there exists a document in writing signed by the government counterpart that it does not include the intentional requirement. Which is it?

40 A: There is not a contradiction there. Sensitive matters of national things are put in the minutes of negotiation that was signed by the bank and the treasury secretary in this case.

Q: And you say that the main condition clearly presented in the minutes of negotiation - I am quoting from your statement.

A: Yes.

50 Q: "Was for the majority sale to a reputable international bank." So are you resiling from your statement and are you saying that in fact the statement that we have not seen but which was signed does not restrict it to international banks?

[11.01 am] A: No. I am saying the minutes of negotiation which I have just got a copy and I had not looked at it for a long time says that it is to be an international strategic investor. But we, which I have just checked there because I have just got this sent to me. Which we assumed in our language in terms of dealing with the bank was an international reputable bank. But it might have been a finance company or something, you know, we did not want to pin it to a bank. But that was the language we used.

60 THE CHAIRMAN: Yes. I see Mr Sheppard wants to say something.

MR SHEPPARD: Yes. Thank you, your Honour. Mr Littlemore called for those documents.

MR LITTLEMORE: That document.

MR SHEPPARD: That document and- - -

MR LITTLEMORE: I am sure Mr Andersen wants to- - -

MR ANDERSEN: I certainly- - -

MR SHEPPARD: The Commission had directed for it to be produced. I understood the witness just to say that he had them there with him so- - -

10

THE CHAIRMAN: Have you got them here then this morning?

A: Yes. Now, I need some legal counsel about - you have to order me to give them to you, I think.

Q: Yes. I directed yesterday that they be produced by you. While Mr Varitimos is getting ready to tender those just wait till Mr Weise has got them. Mr Weise- - -

20

A: Also attached to that is the loan agreement.

Q: Mr Weise, the recent - I think you did just remind me. I think you did yesterday say what the rationale was behind the expectation that a foreign strategic investor would be involved in purchasing the share in the bank. What was the rationale behind that?

[11.02 am] A:

The reform of the financial sector - let me go back. This was a governance promotion adjustment loan. That is the title on the loan agreement. It was about reforming governance, of which the financial sector was a large component. We had done a number of reviews and I had been a main author of those reviews about what Sir Anthony and other people have said have been plundering the financial sector in Papua New Guinea. And I do think there is much disagreement with that; huge amounts of money have been plundered, whether it is from Investment Corporation, MVIL, PNGBC as the chairman has said even here, the idea was to clean up all the financial institutions. And I put together a programme that had elements of all of that, which was superannuation reform and that is why we started the NPF. We encouraged the government to do the NPF Commission of Inquiry and clean that up. We were behind that. In fact I was behind that. We did the stock market. We supported the stock market reforms. The reforms from Central Bank instruments; the reform of the debt market that we had proposals to do and the reform of the sale of the financial institutions. It was not possible to think at the time that we knew that local groups would try and take control of these things so this was put in deliberately to ensure that those groups that we were trying to get privatised were not going to somehow reassemble and take control and- - -

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THE CHAIRMAN: Yes, to shuffle the deck as it were.

A: Reshuffle the deck and this is what - but of course the bank sets its conditions. Conditionality loans from the World Bank are highly sensitive around the world; imposing conditions on governments.

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[11.04 am]

What we do is agree to government with conditions, but we try and hold governments to those conditions. Some sensitive matters of detail are put in the minutes of negotiation. Some of the detail about what is to be done that underlie the condition, but the World Bank legal documentation, the agreed minutes are part of the legal documentation.

Q: So with regard to the sale of the bank you say right oh well you put out your information memorandum and you see what interest you get and I suppose if you get no interest from foreign strategic investors then the government and the World Bank have got to review that position?

60

A: Yes.

Q: To see if- - -

A: Or if we got- - -

Q: But I suppose - well, to the extent of saying well we have not got any interest from a foreign strategic investor then I suppose there are several options either you say well you do not go ahead with the sale or you see what local interest you have got and determine then whether you go ahead with that sale?

10 A: And this is why the condition- - -

Q: If the price is appropriate?

A: Yes, that is correct. This is why the condition is not the sale of the bank. Because we do not want to put the government, I am sorry, we- - -

Q: The World Bank.

20 A: Yes, if I can speak for the World Bank, but not being with the World Bank having resigned and so forth. This is why the condition is not the sale of the bank because the bank would not want to put the government into a fire sale situation where they are forced to sell to somebody because of that. The condition was the release of a good quality information memorandum and the advertisements. And that is what the tranche release was from. What followed after that if you got poor quality banks or if the government decided that they were not good enough that was all right or if you got - even if you got an application from a local bank, if the government wished to accept that I would have thought that the government would come back to the bank and say this is the reasons why we did this in breach of that condition. I mean we are a partner to the government in these things. We talk about these things all the time, we compromise.

30

[11.06 am] Q: You would expect that it would be done before the government would approve the sale?

A: Yes, I believe that before NEC approved the sale that they would have checked with the legal requirements of the bank and if there is any difference in that they are a sovereign government, PNG can do what it wants but it has loan agreement conditions. Where it does something different from that agreement, it is incumbent upon them I believe to talk to the bank about getting a bank position to change that. In this case the bank may or may not have done that, by that stage I was not a party. I do not know whether they did do that but it is not that the main condition, why I said main was that it was the philosophy of the whole program was to clean up the financial sector in Papua New Guinea. And that is why it was a main condition. It was not a main condition in the documentation but it was a main condition of the philosophy but it was a sensitive issue because it impinges on sovereignty and those matters are sensitive.

40

MR ANDERSEN: And do I hear you say that you actually were not involved with the World Bank at the time of the actual completion of the sale and the approval of that?

50

A: Yes, that is right, nothing to do with the world Bank then.

Q: So you are not in a position to talk as to whether the World Bank was in fact subsequently consulted about this?

A: Absolutely not any position to do that.

Q: But you can say that the information memorandum excluding this important condition was approved by your office?

60

A: Yes.

Q: Let us move to the question of the non core assets and the treatment of them.

[11:07 am] The Pacific Place. You have gone to some trouble in your statement to explain why subsequent bids for Pacific Place were not accepted and I think you gave in your evidence yesterday, I suggest that you thought that it was worth more than the 32 odd million that was being mentioned previously. Is it not fair to say from all that that the value assigned to it in the sale and purchase or the amalgamation documentation by my client the BSP of 30 million was certainly at the very least fair and more accurately on your view understated its value.

10 A: I think that was fair. I believe the additional value of Pacific Place could have come about by an improved tendering process, an improved capital investment. I mean IPBC has spent a lot of money on improving the management and by better marketing so but certainly fair and given that there was a previous tender and the highest bid was under that by the POSF although in a very limited market. That was fair. Replacement cost of the building is 100 million. So you know but that is Moresby at the moment.

Q: Do you know NFL House, that was actually sold prior to the settlement of the sale.

20 A: Prior to settlement but in the deed of amalgamation.

Q: Sold by PNGBC, not by my client BSP but the pre-existing PNGBC on behalf, in effect on behalf of the privatisation commission.

A: No I do not know that statement.

Q: Well if I say to you that at amalgamation a cheque for the sale proceeds was handed over from PNGBC to the privatisation commission in lieu of the building itself, you are not in a position gainsay that.

30 A: At settlement or at the time of amalgamation?

Q: At the time of amalgamation.

[11.09 am] A: No, I do not. My comments relate to the NEC decision to ensure all probity, independent probity adviser was attached to those sales. I have no evidence before me to say that anything was inappropriate in those sales. All I know is they were assets that were in the deed of amalgamation, I believe, correct.

40 Q: In the deed of amalgamation it said those will be handed over. I think if it says if it is not sold - - -

A: Whatever. But it seems to me that the time of contract or the deed of amalgamation those assets were to be part of the sale proceeds and they were subsequently sold and the cash was handed to - well, the cheques were handed to that. They were sold without, I believe independent probity advice.

Q: Can you point me to anything that says that any sale of assets by the PNGBC needed to be subject to probity advice?

50 A: Well, if the assets were not part of the proceeds then that is fine. I do not have a problem. But if they were part of the proceeds and the information I have from, you know the project advisers which is what I am going on, is that the assets were on the list that were part of the bid evaluation. And NFL Haus, Oregon shares.

Q: Are you prepared to accept that as between the date in which the BSP was selected as the approved bidder and the date of completion of the amalgamation, the building NFL Haus was actually sold for significantly or should we say, at least the valuation shown as ascribed to it in the bid documentation.

[11.11 a60] A: No, I think the amounts in the bid documentation were exactly the amounts that were received, were not they?

Q: No, in fact it was a little bit more.

A: A little bit more.

Q: But if you are not in a position to know then- - -

10 A: Well, I accept that. No, I am not in a position to know that. I only have the information before me now in terms of acting as advising the trustee of these assets now. And these assets were handed to us by the project team as the proceeds from the sale. So I have gone through each one of the assets to try and establish file compliance, the titles, of things like this, and people have informed me, well, these were sold. So to close the file on these assets, we have asked what was the process and the probity so we can close the file.

Q: But there is no suggestion that they were sold at an under value or the amount ascribed for the value of them in the bid document was an under-value anyway?

A: No, I have - well, I have done no analysis on that whatsoever to make any statement either way.

20 Q: And does the same hold true for the Orogen shares?

A: Yes.

Q: And for the Highlands Pacific shares?

A: Well, the Highlands Pacific shares were not sold. We hold those in our portfolio.

Q: And you have looked at the current value of those shares?

30 A: Yes.

Q: And is it fair to say they are worth some millions more than the value ascribed in the bid document?

A: There is no question. They were transferred at market value at the time because they quoted on the Australian stock exchange. If they are worth more now, then it is probably due to the depreciation of the kina. In real terms they are probably not worth more, but in kina terms yes.

40 Q: And the other assets Hagen Haus, Garden Hills, the Corporation Costs and the MVIL inter-company debt, the value ascribed to those in the bid was the value in the PNGBC accounts?

A: That is correct.

Q: And is it not fair for BSP to ascribe those values if that is the accounts that have been signed off by the vending organisation?

[11.13 am] A: I do not have a problem with your client in this respect on those amounts put in there. I mean the problem was with in my view, in my professional view looking at this is the assessment of the value of that from the privatisation commission's point of view.

50

Q: But the assessment of Pacific Place, VFL House, Oregon shares, the HPL shares, the assessment of that is fairly straight forward.

A: Yes.

Q: And you are happy with the assessment of that?

60 A: Yes. Apart from the fact that I have been not able to establish whether these assets were sold after the contract or before. And whether therefore if they are after, whether they should have been subjected to independent probity advice. That is my only issue there.

Q: So, in relation to the balance of the assets for Hagen Haus, Garden Hills, corporatisation costs, MVIL, your problem is not with the BSP your problem is with the evaluation done by the evaluation committee and presumably advisers in putting a value on that.

A: That is correct. I mean I have a dispute over the amounts but not a dispute over BSP recording those amounts. They make commercial decisions but I dispute the amounts of the value.

10 Q: And if your view of the amounts is correct then the pre-amalgamation accounts of PNGBC if they were to be true and fair should also be written down.

A: Yes.

[11.15 am] And in that briefing note you would see that those assets have been asked - back all that time ago those assets were asked to be provisioned or written down.

Q: And so that would reduce the value of the PNGBC?

20 A: Yes.

Q: Whoever the buyer was?

A: Whoever the buyer was and that is why it was an important issue because the capital cover was so small, the regulatory capital cover. Mini amounts of 5 or 10 million were very important, very important to solvency.

30 Q: But the net result of that is that that if you applied the Dan Weise view of the valuation of it, you are, and you are saying well gee gosh the lower value should have been ascribed in the valuation you really would have had to have taken that up with other bidders as well and say hey guys well look we have put this in the accounts at this value, but they are not really worth that, go and reconsider your bid in light of that?

A: Possibly, but we resolved some of those after that information. It was agreed that for instance the Corporatisation costs and the group head office costs were in fact government guaranteed under the Banking Act. And that guarantee allowed them to be put in at a good value in the accounts. And now I am following that up as trustee of the trust to actually make a claim on that government guarantee.

40

Q: So in relation to the- - -

A: But I doubt whether we will get anything.

Q: So in relation to the corporatisation and group head office costs you are happy that ultimately they are valued at full value and you will get for the value?

A: No, only the Corporatisation costs, the group head office costs our legal advisers from Blake Dawson Waldron is we will not be able to recover anything from that.

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[11.16 am]

Q: And Finance Pacific has got no money, is not that right?

A: That is right.

Q: And is not there- - -

A; So this is why - it is not problem of BSP or PNG recording them at their commercial value. It was a problem - my view, problem of our evaluation of putting them in at full value for bid comparison.

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Q: And the defaulting entity you say, you are saying, would not have paid the money was also a subsidiary of the vendor.

A: Yes.

Q: So it is one of your own group companies effectively. So in order- - -

A: Well, not really Finance Pacific, I mean these things are really complex, as you would know. Finance Pacific assets were transferred to the IPBC as successor to the Privatisation Commission, but not the liabilities. And in the Bromley case to the courts, the courts ruled that- - -

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Q: You can not really do that.

A: You can not really do that, but the liability should have also been transferred. That was meant to go to appeal, but it was paid out. And we have a number of other cases Rimbink Pato's cases and Paul Toua's case arguing along the same lines for many millions.

Q: Yes, and- - -

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A: So we are not sure whether we own Finance Pacific or not. We own the subsidiary to Finance Pacific, but we are not sure whether we own Finance Pacific. So this is still a legal cloud, a very messy set of transactions.

Q: Well, I think it is pretty clear that ultimately the shareholding of Finance Pacific vests in the Privatisation Commission albeit what ever the assets and liabilities may be as- - -

A: Well, my understanding is the files and everything is still with BSP. We do not have any information that this is still - it does not vest in us. There has been no vesting notice I believe to vest the Finance Pacific on us, only the assets.

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Q: Well, the ultimately picture from that is that in order for you to have a view that the loan to Finance Pacific is worthless is that that a state entity has to default on its loans.

A: Yes.

[11:18 am]

Q: And as a matter of government policy would you recommend that?

A: No. The state did pay out the Bromley case. It was not the privatisation commission. The state was the one that put the monies in trust in the court.

40

Q: So it is - in an evaluation process, I put it to you it is actually quite sensible to say, yes we are going to get something sooner or later.

A: I doubt it but we will try but if you have more success than I have of getting government guaranteed loans paid out from treasury then we will hire you.

MR SHEPPARD: You could not afford him.

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MR LITTLEMORE: I will give you my card.

MR ANDERSEN: Page 7 of your statement, the last paragraph, actually I will take you through the second paragraph first. You say halfway through that paragraph, according to the KPMG team, the evaluation assessment placed some weight on the government's desire for cash up front but this optional desire was not conveyed to the other bidders. Now you do not actually say there that it was conveyed to the BSP but your inference is that it was but the other bidders were treated differently. Do you stand by that statement?

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A: No - this is in discussions with KPMG that this information is based on so - - -

Q: So to the extent that your statement infers that it was somehow passed on to BSP you resile from that inference.

A: This was an additional offer by BSP in negotiations.

Q: I understand what that is. That statement is a very clear one. The government had a - KPMG as stated by you to have considered that the government needed cash in a hurry.

A: Yes KPMG- - -

[11.20 am] Q: In your statement you say this was not passed on to the other bidders. The inference is that it was passed on by KPMG to the BSP, that is clearly the inference?
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A: Yes.

Q: Do you have any evidence that that actually occurred?

A: From KPMG.

Q: Do you have any evidence?

20 A: In their discussions with BSP. I would have no written evidence or anything like that, no.

Q: Do you have any evidence, I do not qualify it by saying written or from, do you have any evidence that that happened?

A: No. In my discussions with KPMG and the negotiation with the bidder, the notion of cash up-front became an important point.

30 Q: In your negotiations and discussions with KPMG, have you got any- - -

A: Yes, in my discussions with KPMG in recent times, not back then and trying to- - -

Q: Have you got any evidence that KPMG said to the BSP, the government needs money quick as opposed to not saying the same thing to any other bidders?

A: Only their word.

Q: So who in KPMG told you that this happened?

40 A: Ian Cameron. He did say, but he told me in the discussions with them it became very apparent that the government wanted cash up-front and that was what they led.

Q: That is a slightly different thing, it became apparent. I put it to you that everybody in the commercial community and anybody who read the newspapers at that time would be well aware that the government was looking for money?

A: Yes, but it was not part of the bid evaluation criteria.

50 Q: Certainly but that is a separate question. I am talking about- - -

A: They are all banks and they can all find other funding instruments.

Q: I am talking about the inference that there was some form of communication with BSP of a material matter which was not communicated to the other bidders. That is the inference of your statement and I put it to you that that is just not true?

[11.22 am] A: Well, that is an inference. I did not say that that was the case.

60 Q: That is fine. If that is not what you are saying then just say I do not say that it happened.

A: No. No. What I am saying in the statement is that I would have some concerns and that matter probably should be put to KPMG about what information was conveyed in these discussions.

Q: To the extent that you infer that it actually happened- - -

A: That is the inference, that is the inference I received in my discussions with KPMG. That is the inference I had. That is why it is in here as an inference.

10 Q: We will take that up with KPMG to find out if that actually happened.

A: Yes. Yes, I mean, they may or may not say.

Q: I will also put it to you that any man and his dog knew that the government was keen for cash and that was perfectly apparent from just the ordinary commercial information circulating in the media and through discussions in the commercial community.

20 A: Yes. But these are banks. If Banks knew they could provide a loan with their proceeds, I mean, they all would have done that presumably. I mean any bank would have done this.

Q: Of course they could. Of course they could.

A: But most banks would not do it because it would be obviously judged as no benefit to anybody.

30 Q: The question of - it would have some benefit - if you get an interest free loan it has a benefit. If you have a desire for cash that exceeds the - - -

A: An interest free loan from your own shareholdings.

Q: Except this is not an interest free loan from its own entity. It is from a separate bank, the BSP.

A: Of which we have a 25 per cent shareholding.

Q: Sure. It is- - -

40 A: It was of great concern to the regulators, a great concern.

Q: That is a different thing, is it not.

A: No. Because I would assess this- - -

Q: When you say that- - -

A: I would assess this the same as the regulator would assess it.

50 Q: Sure. That is- - -

A: What impact would it have on the viability of the bank because of our 25 per cent shareholding.

[11.24 am] Q: Obviously any amount of money that goes out from the bank will have an effect in some way or other on its capital position. But in relation to the evaluation of the bids, that is obviously a matter for the KPMG and the evaluation team.

60 A: But they evaluated this - the critical point is, from my point of view, this is not an assessment of me about this process. This is an assessment from somebody working as trustee of this asset. You know when I go down the list I have got to record that in the general business trust. I have got to say, is it nothing, is it just - what consideration. And then I find out that I have to record it as a liability. Now KPMG right up to this day claim that it should not be recorded as a liability,

that it was an advance payment out of future dividends. Now everybody, including ourselves and the central bank, including BSP, would need to record that as a loan. And therefore they did not record that as a liability. They put it and added it to the proceeds. It should not have been in there at all, except, perhaps, for the interest savings. You could have present valued it and got an interest saving, but you would have to take that off the impact that it would have on the viability of the bank, which is a negative.

10 Q: And all those evaluation criteria of course are not a matter for the BSP.

A: No.

Q: But your statement that all bidding banks could have provided an additional - or loans is absolutely true, is it not?

A: Yes.

Q: Any one of the bidders could have offered that?

20 A: Yes. But of course in commercial reality none of the bidders would have done that because they would see it as of no value. But if somehow somebody thought that the bidder evaluation team was valuing that at full value and not the liability and advising Cabinet that this was just added on to the proceeds, we have a problem with the evaluation, not a problem with BSP offering that. Unless, of course, there was information. But that is something for this inquiry to determine, not for me, because I am not a party to it. But it is strange that one bank would come back at a second bite and offer a loan and the others did not because they - all the others could have done it just in two seconds. So it is strange and therefore is a discrepancy in the fact that the evaluation team did not record it as a liability but recorded it as full proceeds must mean that it should be investigated.

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COMMISSIONER WAROKRA: This is a question that I raised with some of the witnesses earlier. The 8.8 million additional supposed - 8.8 million advance payment for dividends, where did the source of request, if there was any, come from? Did that come from the privatisation commission, if it was a loan to the commission?

40 A: I do not have any records or any evidence to suggest to you where it comes from. It just seems to me to be highly irregular. And the evaluation of it was even more irregular. And given that we do not have any minutes that we are able to produce to you of the evaluation or privatisation is even more irregular. So I am just raising these as concerns. You can draw what you like. I am not making any statement of fact about who did what.

Q: The 8.8 was considered part of the purchase price. How could that be if it is a loan and there is a liability attached to the repayment of that amount?

A: That is exactly the point. And as acting as an advisor to the trustees, I have to say in our balance sheet because the previous regime left us with no accounts, hardly at all we have to record this as a liability because we have to repay it.

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[11.28 am]

Now, my first question to the project management team was, can you provide the legal documentation for this transaction? And they were not able to. They continued to maintain it was not a loan, it was just an arrangement. But then what alerted me to this was Noel Smith's statement in the paper that this was a loan so I went back to the team and said, this is recorded as a loan in BSP, please provide me with the legal documentation so I can record it in the trust. And to this day I have not got the legal documentation. I am sure the BSP has some documentation, but I do not know when the repayments are made, what is the structure and they go back and say well you know some details are in the deed of amalgamation, but I do not to this day have anything from BSP on our files. That does not mean to say they do not exist because our records are very poor, but I have no legal documentation about when we repay this and what do we do if the dividends do not cover it in three years, I presume that there is a bullet payment

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at the end of the three so we actually have, you know, a liability that is quite serious.

THE CHAIRMAN: I think you should talk to Mr Varitimos about that because we have a document which was the loan agreement executed by the government. I think it is by the Governor General because of the size of it which contains conditions for repayment, but you can get a copy of that from Mr Varitimos.

10 A: Thank you. It is nice that some documents flow the other way.

Q: Yes, so it is an exhibit, but I cannot just recall off the top of my head what exhibit number it is.

MR ANDERSEN: But you have given evidence that you saw some public statements by Mr Smith setting out what the nature of the payment was. So there is no suggestion there was any attempt by BSP to hide this in any way, shape or form or do anything other than treat it as exactly what it is.

[11:30 am]
20 A: No.

Q: And to the extent that your inference that because the evaluation committee evaluated it in a way which you say is inappropriate, you appear to be drawing an inference that it is highly irregular with an inference that BSP was involved in that process. I put it to you, the mere fact that the BSP is going out publicly saying well this is what we think it is, suggests that to the extent that there was any inappropriate evaluation by KPMG, it was not in any way, shape or form done as part of a conspiracy or part of an agreement, or part of some improper arrangement with the BSP?

30 A: I have no evidence to suggest that.

Q: And indeed the fact that the BSP was quite open about discussing it suggests quite the contrary?

A: Well except that it was a long time after the event.

Q: The fact that it is quite prepared to discuss it publicly suggests that they are not trying to hide it?

40 A: Well I mean what people disclose - - -

THE CHAIRMAN: It was said a long time after the event.

A: What people disclose a long time. Remember a lot of people bought shares in BSP and these information are critical to the market for shares. A long time after the event this was disclosed and at the time of the inquiry so I am not even inferring any now. All I know is that this information was not disclosed to the IPBC or the trustees that this was a liability on our records.

50 MR ANDERSEN: When you say it was not disclosed to IPBC what you are saying is that the previous management did not tell you about it?

A: Previous management did not have the records nor the current project team working on these assets. This is not, again, I am not saying that this is any inference on the BSP. But the inference - - -

Q: That is what I want to hear.

60 A: But the inference was drawn, the inference in there, my statement, was drawn from the inference that I received from the KPMG team.

[11.32 am] It was pressure for cash because, and there is another inference that you could get from this as well. The 8.8 never went to the government. It went to the

privatisation commission. And it was used to pay KPMG's outstanding bills. So I am not making an inference there. But that is irregular as well, that most of the proceeds went to the State but a portion of the subsequent proceeds went to the commission to pay outstanding creditors. Now, what I am saying to that is that these are concerns that we have in reviewing the operation of the IPBC. Now, they are not inferences but they are matters I believe that people should review.

Q: But they are not inferences about the BSP.

10 A: No. Not anything I have on the BSP, that is correct.

Q: Good. The last paragraph on page 7, you say, the important point here however is that these benefits relating to the inclusion of loan funds and the proceeds and the government guarantee were substantial benefits to BSP which were not offered to other bidders. I put it to you that that infers that that was offered to BSP.

A: Well, BSP negotiated this. These were in discussion with BSP subsequent to the initial bid being placed. These were not in the initial bid I understand.

20 Q: But it is not as if KPMG or the privatisation commission gave a special offer to BSP as opposed to everybody else. What they did was they said to all possible bidders, here is the information memorandum, come up with your bid. Two of those bidders came up with non-conforming bids. One of them was the ANZ. The ANZ has presumably access to the highest possible level of commercial and tactical astute advice. They choose to come up with a structure that suits them. BSP came up with a structure that suited them. Both of which were non-conforming, which is a black mark against them but you hope that the total benefits of the package are sufficient to make your proposal most suitable.

30 A: Yes, correct. Yes, provided everybody has assessed it commercially correct.

[11.34 am] Somebody provides an offer and it is not- - -

Q: But to the extent that what you are saying was not offered to the other bidders, nothing was offered to any of the bidders. It was up to the bidders to come up with their package, was it not?

A: But there was a government guarantee associated with this.

40 Q: There was a guarantee that was sought by one of the bidders at least?

A: That is right.

Q: And it was open to any of the other bidders to seek the same thing, was it not?

A: Was it? I am asking you, was it?

Q: Of course, it was.

50 A: Yes, but did people get back to the other bidders and say to them that we are prepared to evaluate any loan proceeds at full value and proceeds.

Q: There is no suggestion that that was - I think you have said that there is no suggestion that that information was ever communicated to BSP, you have given no evidence to that?

A: No, I said, I have no evidence either way on that. But it is irregular in the privatisation program, it is irregular to offer this. It is not irregular to offer it, it is only irregular to offer it if you know that it is of benefit and it is of only benefit if somebody evaluates it incorrectly.

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Q: And you have said that you have absolutely no evidence that suggests that this methodology of evaluation was communicated to BSP either in advance or otherwise?

A: Yes. But it was not. My information is that it was not communicated to the other bidders.

Q: So it was not communicated to anybody?

A: No, I do not know that.

[11.36 am]
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But if you were to question ANZ and asked them, you know, did the project team say we are placing now a high value on cash up front and if you provide us with a loan we will evaluate that as full proceeds, you would have had 50 million. And on that basis ANZ would have won the bid. But they were never informed of that. And if you would have also said, and we will give you a government guarantee as well, they would have jumped at it.

Q: And you think the ANZ Bank is not capable of working out that a government guarantee is a good thing and asking for it?

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A: No, the ANZ Bank- - -

THE CHAIRMAN: No, I think the question is the evaluation.

A: Evaluation.

Q: Trying to get the bids to measure up, as apples for apples. And that is what the witness- - -

MR ANDERSEN: I will come to that. Because- - -

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A: I keep saying, I do not infer anything to the BSP deed incorrectly here, but it is irregular.

Q: But the next thing that you- - -

A: And was a benefit to BSP.

Q: The evaluation is irregular. Nothing that BSP did was irregular?

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A: No. And the benefit was in BSP's favour.

Q: And to the extent that the evaluation was incorrect, if that is in fact the case, that is still no irregularity whatsoever on the part of BSP?

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A: Well, nothing that I have any information on. But we have learnt subsequently, and the only time I have been at this inquiry is - apart from - one other time is listening to Sir Anthony. It was news to me to find out that there was some sort of implicit bias towards a local bid, in his testimony yesterday. I just caught the end of it, and I do not know whether that is out of context. But, you know, if that was the case and if there was a benefit given to a local party, that did not appear to be given to other people a beneficial approach even. Now the other party might have been completely unaware of this. But, where somebody has received the benefit of a bidding process that the others did not know, that was not of a commercial base, it should be investigated.

Q: So would you put this in the same category as your suggestion that this should only be sold to an international bank and that that should not be disclosed to the bidders?

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A: No, no, no.

[11.38 am]

No, not at all. This was a clear benefit. The evaluation of this was a clear benefit to BSP. Nobody should receive clear benefits in a bidding process. It was not because they offered something of benefit, it was because it was assessed as being of benefit when it was not.

Q: KPMG no doubt will have some words to say about that in due course.

A: That is all I am saying. This is not a - if there was no discussions with BSP, that anybody could provide evidence and this is not a matter of concern to BSP.

Q: If there is no discussions full stop.

10 A: I am saying if there was, then this is not an issue for BSP, this is an issue for the evaluation team and I accept that. This is not a criticism of BSP but where a benefit has been received, it should be reviewed when the others had not received it. I am sure the ANZ would be very interested in talking in this inquiry about that benefit.

Q: The next line you say is that, 'nor was the cost deducted from the proceeds used to compare bids.' So that is the cost of the government guarantee and the cost of the - - -

20 A: The 8.8.

Q: Nor was BSP's balance sheet and net worth adjusted down because of the asset transfers?

A: That is right.

[11.39 am] My technical opinion.

30 Q: Can you point me to anything, anywhere that suggests that the evaluation team or BSP included in their evaluation of the worth of the merged entity the excluded assets. Is there anything that you can point to which suggests that?

A: That they have not done that?

Q: That they have included the excluded assets in their evaluation of the merged entity?

A: No, this is the not excluded. This is in - first of all in the assessment of it. To value the bid you had to value the 25 per cent shareholder.

40 Q: Of course I understand that.

A: Now if assets or if a benefit was given, and you said it was a benefit, then that 25 per cent would have been reduced in value. Correct?

50 Q: And you accept that? I am putting to you that there is nowhere any assessment, certainly not by BSP nor one that I have seen produced by other people, by KPMG, that ascribes to the balance sheet of the merged entity, you used the word balance sheet, you used the words net worth, and it is BSP's balance sheet net worth. Clearly it is the post amalgamation position you are talking to. Certainly I have seen nothing from BSP and nothing from any of the other entities suggesting that anybody at any time put the excluded assets into the merged entity's balance sheet. And you are saying they should have been excluded. Well, they were excluded.

A: No, no, no. But they were not- - -

THE CHAIRMAN: No, his point is on the evaluation of the 25 per cent.

60 MR ANDERSEN: Yes, and- - -

THE CHAIRMAN: The value of the 25 per cent that you hold.

MR ANDERSEN: Exactly. And he is saying, nor was- - -

THE CHAIRMAN: Well, you have got to take into account that- - -

A: No, I am talking about the evaluation there. That in the evaluation of BSP's balance sheet, that was not adjusted down. I am not saying BSP did not adjust it down. This is not directed at BSP at all. It is directed at the evaluation of the 25 per cent shareholding.

[11:41 am]

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They valued that at market value prior to the non core assets even being removed. The value on our evaluation sheet which you may not have that information, I hope you have not got the evaluation information.

MR ANDERSEN: What you say is that BSP's balance sheet, you are not talking about its market value in the wider community, you are talking about its balance sheet. That is a very specific thing.

A: Yes that is all right.

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Q: Adjusted down because of the asset transfers, you are inferring that it was calculated as if the assets were in its balance sheet.

A: No from the IPBC's point of view, it did not adjust down the balance to take into account.

Q: So you are saying that the IPBC evaluated it as if the BSP balance sheet, post amalgamation still had the included assets in it.

A: Yes.

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Q: The excluded assets in it.

A: Yes. And you say that you agree that that is a problem if that was the case.

Q: I think you will find that that is wrong frankly. Do you have any documentation that supports this evaluation?

A: No. I have asked for the copies of the due diligence of the merged entity and it was not done. I am not saying BSP has not made the adjustment. Of course BSP is making adjustments. I would expect them to do that and the Central Bank to make sure that they had done it.

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Q: Well clearly this is something that we will extract from - - -

THE CHAIRMAN: But the value of 25 percent as I understand it was calculated simply on the basis of the number of shares that the privatisation commission would have in the merged entity multiplied by K6.5 which was the subscription price at which people bought the shares.

[11.43 am]

MR ANDERSEN: Yes.

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THE CHAIRMAN: That is how it was valued for the purpose of assessment.

MR ANDERSEN: But that is a very different thing from saying that the assets were still included in the balance sheet. Because the share price going forward is essentially a function of - obviously there has been a lot of discussion about methods of valuing banks.

THE CHAIRMAN: Well, I think it is implicit in that that there was not much consideration about the balance sheet at all, it is just a case of the number of shares multiplied by 6.5. And that was taken as the value of the 25 per cent. Now this witness says that might not be the correct way to assess the 25 per cent value.

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MR ANDERSEN: The appropriate method for calculating the value of the residual share holding moving forward as across each of the three bids, clearly that is a matter the evaluation committee needs to turn their mind to. On one hand, what is the value going forward of 50 per cent of just PNGBC owned by the Kiwis, what is the value, what is it 11

per cent of ANZ PNGBC going forward managed by the ANZ, what is the value of 25 per cent of BSP PNGBC going forward managed by BSP. They have got to make an evaluation of those.

A: That is exactly right.

Q: The methodology of valuing the future worth of those alternative parcels of shares is a function of a whole range of things, most notably what profits do we think we are going to make going forward. That is not a balance sheet issue.

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THE CHAIRMAN: But from the point of view of the assessment the ANZ Bank in their bid put out how they did it. They put a value on PNGBC, added to that the value of ANZ and the Bank of Hawaii merged, and that gives you a total value for the amalgamated bank.

[11.45 am]

Then they said, well, we are going to give the Privatisation Commission 11 per cent or whatever it is and then just do a figure of 11 per cent on that. Now, that is how they worked out the value of the share that the government held in the amalgamated bank. With regard to the BSP bid, there was never any value put forward in the BSP bid. There was never any value of the PNGBC, and Mr Smith refused to tell the evaluation committee how he arrived at that. So, the only way in which you could work out the value of the remaining shares, the 25 per cent in the amalgamated thing, is to take the number of shares that is going to be issued and multiply it by what other people had subscribed for the other shares, 6.5. And, that is how the evaluation committee did it, as I understand it.

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MR ANDERSEN: Yes, I understand that is how they did it. But, in terms of how they value going forward the shareholding of the bank, it is not a balance sheet.

THE CHAIRMAN: No, I do not think they did it like that at all.

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MR ANDERSEN: Exactly, and- - -

THE CHAIRMAN: Mr Weise is criticising that method of assessment.

MR ANDERSEN: He is saying that nor was the BSP balance sheet adjusted down. Well, certainly, it was never incorrectly adjusted upward, would be a more accurate way of putting it. It was certainly never done that way by the BSP.

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THE CHAIRMAN: Well, his criticism as I understand it is of the assessment that was made to determine the value of the 25 per cent which was then incorporated in the sale price for the bank.

MR ANDERSEN: His criticism here is about the balance sheet. He has not referred here to the valuation of the shareholding. The shareholding and the balance sheet, of course, can be significantly different things.

[11.47 am]

THE CHAIRMAN: You ask him about that but I - - -

MR ANDERSEN: I have been asking about the balance sheet.

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THE CHAIRMAN: He says you should have had a look at the balance sheet. There was not any balance sheet, we know that. There was not any balance sheet at that time and the evaluation committee, KPMG did not do it that way.

MR ANDERSEN: That is a different thing. If what he is saying is the appropriate test for evaluation, it was balance sheet not value going forward then he should say so. But what he said is, BSP's balance sheet was not adjusted.

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A: I could add another word in there and saying that in the evaluation they did not even adjust the balance sheet in their evaluation. Not that that was the only thing that they would determine the valuation on. Of course you do not value just from the balance sheet but it is not a bad start to at least have the correct term.

THE CHAIRMAN: Do you think the evaluation committee should have looked at the balance sheet of the amalgamated bank?

A: And a number of - they should have valued the 25 per cent shareholding at market value given the rearrangement that the amalgamation deed envisaged plus the guarantee plus the 8.8.

MR ANDERSEN: And if the evaluation committee had worked out the value of the balance sheet of PNGB- - -

10 A: No, the value of the bank that they had at least adjust the balance sheet.

Q: Please listen.

A: Sorry.

Q: If they had looked at the balance sheet of the PNGBC without the excluded assets immediately prior to the amalgamation, I put it to you they would have rated the bank, PNGBC as utterly worthless?

20 A: No, I do not follow what you are saying.

Q: You are saying that the balance sheet test is important. The balance sheet of the PNGBC- - -

A: No, I did not say anything about the balance sheet test. I said, that when an asset changes and you are valuing the shares then you at least have to adjust in your evaluation the assets on the balance sheet.

Q: But you are saying that- - -

30 A: I am not using a balance sheet test. I am saying that you have to do it first.

[11.49 am] Q: The statement here is that the balance sheet was not adjusted downwards, and the chief commissioner very- - -

A: By the evaluation team.

40 Q: Very, very appropriately pointed out that they did not look at the balance sheet test as being the appropriate one. And, I say to you that that was a very sensible method of evaluation because if they had valued the PNGBC the instant prior to amalgamation with the excluded assets excluded on the balance sheet, the balance sheet would have been more or less zero. So the balance sheet test for this type of business is not necessarily the smart or appropriate way to evaluate it.

50 A: Of course it is not. I mean I am an economist. I know how to value things. But, you would have - to do your test you would at least look at the balance sheet items as part of your valuation. Now I do not talk about a balance sheet test in here nor did the commissioner mention the balance sheet test. What I am saying is when assets change, and assets are returned as part of the sale, it is not the PNGBC's balance sheet that is needed to be adjusted, it is the merged entity's that they should have adjusted the balance sheet. This is the evaluation team, and then proceeded to put in place a valuation model.

Q: But when you say the merged entity's balance sheet should be adjusted, the merged entity's balance sheet is what its balance sheet is.

60 A: That is right. And I am sure that BSP did do the adjustments. It is just that the evaluation team did not look at the adjusted balance sheet and then from that apply market valuation techniques. This is a matter for them. I do not see how it, you know, if BSP - this is not directed at BSP.

Q: What you are saying is that- - -

A: I am sure you have adjusted your balance sheet properly.

Q: What you are saying is that nor was BSP's balance sheet and net worth adjusted down, a change down in net worth.

[11:51 am]

That implies that the net worth is based on the balance sheet and if you base the net worth on the balance sheet of PNGBC without the excluded assets immediately prior to amalgamation it was virtually worthless. So that is not an appropriate methodology.

10 A: If you have an asset that changes you are valuing a model and you have a balance sheet and a valuation methodology and an asset change you will make the adjustment in your balance sheet and change your model from then on. But to say that it is irrelevant you know it is not. The balance sheet is very relevant to an evaluation. It is not the valuation, it is not the net assets test that you are using but if your net worth changes it will change your valuation methodology. Regardless. All other things being equal.

Q: And you are saying that they did not adjust it downwards so you are saying that the evaluation committee used a balance sheet for the merged entity that included the excluded assets.

20

A: I am saying that they did not even bother to look at the balance sheet, let alone adjust it down. This is my inference of course in my technical judgment about what I have on file. I mean they may answer, you have to ask them the question.

Q: But you have gone on oath and said that the net worth, nor was BSP's balance net worth adjusted down. That is your sworn evidence?

A: Yes.

30

Q: So it is rather different from what you are saying now.

A: No I am sorry. It is not different from what I am saying now but this is a - you do not want me to write 6 pages on this do you on valuation methodology just to make a point. But I hope I have clarified the point and it is not different from what I am saying now. It is not - - -

[11.53 am]

40

Q: The proposal that the ANZ or the New Zealand group be "offered" some of the things that were proposed by BSP in its bid. But in fact that is what you are suggesting is it that the sale process should have been some sort of Dutch auction whereby the best bits of the various bids get shown or discussed with other bidders and said well, look there have done this over here, can you do better than that.

50

A: No, not necessarily. Only if it is part - not part of the evaluation criteria. There is an additional matter that is not in the evaluation criteria that is arranged then it probably should go back to other bidders. You know for on going bids now that we are doing, on going tenders, I will say explicitly in the bid that, you know, assets sale I mean assets returned should not be part of this bid. I will make it very explicit in future, if the board adopts my recommendations on it. Because this is very messy to compare things.

Q: And well, let us talk about the return of assets. It was quite open to the ANZ to suggest the same thing, was not it?

A: It was not only- - -

Q: Well, was not it? It was open to the ANZ to suggest the same thing.

60

A: Yes, of course it is open to it. It is open to the ANZ to do a whole lot of things that were outside the valuation criteria. But most commercial people do not do that. Because there is no point.

Q: They call it a - it is called a non-conforming bid, I believe.

A: Yes.

Q: And there is no doubt- - -

A: These were seriously non-conforming bids.

Q: And.

10

A: Which is another issue for the tender process.

Q: And in making its conforming bid the ANZ offered a less cash amount and kept that 70 or 80 million worth of assets which the Privatisation Commission got the benefit of.

[11.55 am] A: Of course. I am not saying that the non core assets are not of benefit.

Q: And if you had said to the ANZ, well, make your bid but we are not going to let you keep Pacific Place, we are not going to let you keep those shares, we are not going to let you keep those, the bid would have gone down, would it not?

20

A: Of course.

Q: Of course it would.

A: Yes.

Q: So, if you are comparing apples with apples and oranges with oranges and saying, well, the ANZ bid, if there had been an exclusion you have to assume that the ANZ bid would have gone down significantly. You take a K30 million hard asset out of a K60 million balance sheet.

30

A: That is right.

Q: Of course their bid is going to go dramatically downwards.

A: Of course. Of course those assets are of value but what needs to be done then is, you must - the remaining entity is a different set of assets under both proposals.

40

Q: And the question is, did the evaluation - - -

A: And therefore, and if the bank's viability was put at stake in this then the value - the value as you said before, is not just based on the net worth, it is based on a value of bank that is close on insolvency, it is probably valued a lot less than a stronger balance, more than the net assets. And, if this bank, by returning assets was less solvent than the other bank, as clearly the Central Bank, in its determinations judged, and correctly, then of course you have to make - it is a fairly complex calculation because it involves doing then a due diligence both on the individual banks prior to it and on the merged entity.

50

Q: And there is no question at all that the merged entity was insolvent, is there?

A: Well, I do not know. I have not looked at that.

Q: Well, you have signed a statement in which you say that the execution by the officers of PNGBC and BSP, that it was solved that they were individually solvent, should be looked at.

[11.56 am] A: Yes. I mean, we - yes, the solvency should have been looked at in determination of value of the 25 per cent shareholding.

60

Q: Their individual positions get merged, do they not.

A: I did not say they are insolvent. I said the solvency of them, particularly the PNGBC at that time needed to be looked at.

Q: In your - - -

A: An under capitalised bank if we - - -

Q: Please. In your own comments on the proposed information memorandum some months previously you had specifically said that the Central Bank should make a public statement recorded in the information memorandum that a somewhat less than the full capital requirement would be acceptable for a period of time.

10

A: For a reputable bank.

Q: BSP, is a reputable bank, is it not.

A: Well, I do not know.

Q: You have been in the finance sector here for how many - - -

20

A: I have not looked at the balance sheet.

Q: Years and you do not know that BSP is a reputable bank.

A: I have not looked at the BSP balance sheet for the last few years. I know that BSP's balance sheet has grown very rapidly over that prior period which would indicate to me that we should look at it carefully. Especially given that the economy is in deep depression and that other bank balance sheets are contracting. I do not know.

30

Q: There is plenty of evidence before the commission that there has been a good organic growth over a period of a decade or more matched with very, very strong capital adequacy very strong compliance with all possible tests.

A: I do not - I am not saying either way. I have not looked at it. So do not ask me to make an opinion on solvency on something I have not looked at. It may well be.

[11:57 am]

Q: But you were quite happy that the decision makers whoever they might be, when you were talking about preparing the IM, you were happy to leave it to the decision makers down the track to decide whether or not it was appropriate for a bidder to be given a relaxation of the capital adequacy requirements. You were quite happy with that. It was in your proposal.

40

A: Well I mean I come from a background where I have been involved in a lot of regulation. I would only be happy with that if the bank was - not only reputable but was backed by a very strong parent because an undercapitalised bank controlling 60 percent of the banking system here is a very high risk. A very high systemic risk to the financial system. So the decision to do that in the information memo was very much tied to a belief that we would be getting bids from strong international banks.

50

Q: But what you were happy to sign off and say the information memorandum can go out, included the opportunity for a bidding bank to say well this is what we propose to do and this will have a less than 100 percent compliance with the capital adequacy requirement and leave it up to the proper decision makers to exercise their judgment.

A: Yes and I had confidence in the central bank to look at it.

Q: That is me.

60

THE CHAIRMAN: How long will you be Mr Sheppard?

MR SHEPPARD: Between 20 and 30 minutes.

MR VARITIMOS: I think Mr Egan wants to say something.

MR EGAN: Mr Chairman and Mr Commissioner, my name is Egan. I seek leave to appear in due course with my learned friend Mr Kerenga Kua on behalf of Mr Noreo Beangke. So I formally make that application now. Before I ask, in terms of matters of procedure, what is proposed in relation to the examination of Mr Beangke.

THE CHAIRMAN: Well it will proceed as soon as we finish with Mr Weise which will be this afternoon. If Mr Sheppard is as good as his word, that will be about 10 to 2.

10 MR EGAN: 10 to 2. Now and tomorrow?

THE CHAIRMAN: Tomorrow after, well tomorrow at the conclusion of Mr Yama's evidence for the rest of the day.

MR EGAN: Very well and it is not proposed to continue on Friday.

THE CHAIRMAN: No we will not be sitting on Friday and we will be adjourning on Friday until next Tuesday morning. Does that help?

20 MR EGAN: Certainly, thank you.

THE CHAIRMAN: All right we will adjourn now until 1.30.

LUNCHEON ADJOURNMENT

[1:30 pm] 30 MR VARITIMOS: Chairman, Commissioner, I would seek to tender the documents or some documents that were referred to prior to lunch and in particular the agreed minutes of loan negotiations between the Independent State and the International Bank together with attached documents as provided by Mr Weise.

THE CHAIRMAN: All that will be marked exhibit 301.

EXHIBIT 301 - MINUTES OF LOAN NEGOTIATIONS BETWEEN THE STATE AND INTERNATIONAL BANK TOGETHER WITH ATTACHED DOCUMENTS

40 THE CHAIRMAN: Now Mr Weise could I ask you about those. I see the dates on the minutes seem to suggest that they were - the negotiations were going on in May or - -

A: Of 2000.

Q: May 11 to 15 2000. Had there been prior discussions between the government and the World Bank about this proposed loan prior to that time?

A: Yes, numerous discussions.

50 Q: And when did the discussions start?

A: About - when the government invited the World Bank and IMF to commence a program, I think it was in September I think, September of 1999, we came out. It could even be August 1999.

[1.32 pm] Q: So, these minutes are really the culmination of quite a deal of work that had been done beforehand?

60 A: Yes, this is - the team of government officials travels to Washington in the normal course of things and signs the loan agreement but in the days preceding the loan agreement signing they discussed the finer - the certain finer points and then they are documented in the minutes and the final agreements.

Q: All right, and I see that in the list of participants in the negotiations there was a representative of the Secretary of Finance and Treasury, Mr Tarata, was the head

of the delegation and among them was Leo Bankani from the Bank of Papua New Guinea.

A: I was not at the discussions I was back in Moresby.

Q: Now, the other thing that I want to ask you about, do you recall - I asked you earlier today about meetings with the International Advisory Group between 24 and 27 January 2000?

10 A: Yes.

Q: Have you been able to dig up any notes that you had of those meetings?

A: Yes, I have.

Q: Could you produce those for Mr Varitimos and he will tender them.

A: I will just see whether I have got them, sir.

[1.34 pm] 20 Q: Do your notes indicate who was present at the discussions that you had?

A: I am sorry sir?

Q: Do your notes indicate who was present at the discussions or not?

A: I am not - I have got a set of notes but I think they are from the advisers themselves. No, I do not have them with me, but I will get them to you.

30 Q: All right, thank you. Now I wonder if you could just from memory, could you tell me, was the percentage of the bank to be sold discussed at those meetings?

A: Yes. I am not sure. I have not - I did not read the notes. I saw a note that I dug out last night.

Q: And the method of sale to be used for selling the bank, was that discussed during those meetings as well?

40 A: Either those meetings or soon after the meetings with the advisers. But certainly from my point of view on the bank, we had discussions with the advisers on the method and the size of the issue. And out of those meetings and out of a bit of a conference we had here with various parties, the Cabinet submission came that made the decision on the trade sales and the 51 per cent.

Q: Who were the people who participated in these discussions with the international advisory group? Were they representatives from treasury?

[1.36 pm] A: Yes.

50 Q: Do you recall who they were?

A: I believe they would have been - this is from memory. Simon Tosali who is the deputy secretary who tends to lead the missions on these matters. There would have been representatives from the Central Bank, ourselves, the IMF.

Q: You do not recall who it was from the Central Bank, do you?

A: No. There is a usual group of people that do things but I might be coloured in my - by being used to talking to groups of people.

60 Q: Yes, all right. And was there representatives from the Prime Minister's Department at those meetings?

A: I am not sure about that.

Q: Can you recall whether Dr Jacob Weiss was present at those discussions?

A: Yes, Dr Jacob Weiss would have been, I am not sure but he was - I cannot recall the faces in that meeting. From the World Bank side we had representatives from the IFC, the International Finance Corporation who were with us, we had quite a large number of people. And there would be file notes on who was present but I do not have access to those.

10 Q: Who do you think would keep those file notes?

A: The World Bank would have those files.

Q: Would you expect the Central Bank would have some notes?

A: Unless their staff made notes on their meetings.

Q: And some reports you would expect be made back to the governor of the course of the discussions?

20 A: I cannot. You would expect people to report back on important things but I cannot confirm that.

Q: If you find those notes, you can forward them to Mr Varitimos, thank you.

[1.38 pm] A: That is the section of the minutes that I had highlighted the international advisers' assessment that the bank was worth K300 million. And I had that circled on the notes. I am sorry, I have not got them with me but I will bring them, I have them.

30 Q: Yes, Mr Sheppard

XXN: MR SHEPPARD

Q: Can the witness be shown exhibit 301? That is the document that you were directed to produce during yesterday's proceedings.

A: Yes.

40 Q: And as I recall the purpose of having that document produced was to corroborate your evidence that it was a consideration so far as the World Bank was concerned that the successful bidder, they would like to consider the successful bidder to be an international reputable bank?

MR LITTLEMORE: I object. The actual words of the evidence are in the statement. The main condition - this becomes important, this is why we needed to see this document - the main condition of the World Bank was for the majority share sale to be to a reputable international bank. When the commission sees it, you will see it is not a condition at all, never mind a main condition. It is a mere expectation subject to exigencies.

50 [1.40 pm] THE CHAIRMAN: Well, that is probably a matter of construction.

MR LITTLEMORE: Sorry.

THE CHAIRMAN: That is probably a matter of construction.

MR LITTLEMORE: But my friend's question would not to- - -

60 THE CHAIRMAN: Well should be rephrased.

MR LITTLEMORE: Yes.

MR SHEPPARD: And what I am asking you is to point out the relevant passage in that document so that our attention can be drawn to it.

A: Okay. Minutes of negotiation is a legal document attached to the loan agreement. And they are agreed to with the government. They refine the details of the conditions, as you can see in the document there are additional. This is what we mean by a condition.

MR LITTLEMORE: I object. Would the witness please respond to the question and point out which paragraph it is.

10 MR SHEPPARD: I was perfectly happy with his response.

MR LITTLEMORE: No doubt.

A: So as you see the document there are a number of paragraphs providing the background of the details of the things you do to meet the conditions.

THE CHAIRMAN: All right.

20 A: And paragraph 21 says it is expected that a controlling stake of the Papua New Guinea Banking Corporation, PNGBC group will be sold to a foreign strategic investor, barring unexpected changes to the market environment for financial institutions. And that the process of bringing the PNGBC group to the point of sale will entail the following steps to be accomplished in close consultation with the bank.

MR SHEPPARD: And that is the minute that you were referring to yesterday

A: Yes.

30 Q: During Mr Littlemore's cross-examination.

A: That wording, foreign strategic investor, was altered by the legal department to not to put on the government a specific institution. But because we were talking in this condition about the Finance Pacific group

THE CHAIRMAN: Yes.

40 A: Which include insurance arms and all that. But for the bank there was no doubt in all the discussions we had and I was party to all the discussions that we were talking about.

MR SHEPPARD: And what was the number of that item?

A: Number 22.

Q: Thank you.

A: Paragraph 21.

[1.42 pm] 50 Q: Oh, and, just while we are on that point, there was also some questioning about the words in the information memorandum. Can you take a look at this exhibit? It is exhibit 12 and, in particular, I want you to look at paragraph 6.6, the last paragraph of that.

A: Yes.

Q: So, can you just read that out for the commissioners.

60 A: "Accordingly, the Central Bank has agreed to consider allowing the sale of a controlling interest in PNGBC on the basis that PNGBC will meet a 10 per cent risk asset ratio test within two years of sale. The purchaser will need to satisfy the Central Bank."

Q: Thank you. What was the date of that particular information memorandum?

A: 18 April 2001.

Q: Can you explain how that came about?

10 A: We had been in discussions with the project managers and various people on this point about the PNGBC's insolvency situation or solvency situation. And, we did not wish to detract from the sale proceeds by having a purchasing bank come in and have to recapitalise the bank immediately. We thought that if it was a reputable well-backed international bank and there would be no need for that; and we thought that we could raise the value of proceeds to the government by allowing some time.

In my notes to the government and requests on this issue, I made that quite clear that we wanted to see something in the information memorandum about that rather than leave it vague and have banks uncertain about what they had to do in relation to compliance with regulatory capital.

[1.44 pm] Q: 20 Now, you mentioned in your evidence that you had been awarded a university medal from the University of Queensland. What is that?

A: Well, in response to the questioning about my qualifications I noted that I had a First Class Honours from the University of Queensland and was awarded the university medal, yes.

Q: Yes, but, why were you awarded that medal?

30 A: For outstanding performance from the university. There is only a few given away a year.

Q: Is it not the case that there is one in each faculty is awarded to the top student?

A: No, it is less than that. It is even less than that.

THE CHAIRMAN: It works on a grade point average.

MR SHEPPARD: Then I do not need to elicit that from the- - -

40 THE CHAIRMAN: No. And you get a university medal or you qualify for a university medal I think if you have a grade point average of what was - it varies from 5.6 to 6 or something, or 6 might be the- - -

A: No, minus 6.9.

Q: So it is a very high bracket.

MR SHEPPARD: Yes, that is the point I am trying to make.

50 A: It also entailed- - -

THE CHAIRMAN: It is uniformly throughout the course.

A: It also involves the awarding of the Commonwealth scholarship and Fellowship Plan Award which allows you to do post graduate studies at a university in the UK, which I took up and studied my masters degree in the UK.

MR SHEPPARD: The reason I am asking you is of course I have no idea. Did you do any post graduate studies if you had that opportunity?

60 A: Yes.

THE CHAIRMAN: Yes, at a university in England, was it not?

A: Yes, the university - two years at the University of Sussex.

MR SHEPPARD: What was the highest degree that you achieved anywhere?

A: The Master of Development Economics, or Master of Arts (Development Economics).

Q: Now development economics is about compliance and- - -

A: It is about issues and turning the economic development of developing countries.

10
[1:46 pm]

Q: Is compliance with rules and regulations a major aspect of that - - -

A: It is an aspect. I have been involved in governance aspects, regulatory aspects for a long time. My career at the treasury department in Queensland saw the reform of all the building societies and credit unions in Australia and the establishment of the Australian Finance Institutions Commission in Brisbane and that was instigated and led by myself. So, I have been involved in regulatory issues for a while.

20

Q: And does it involve too the analysis of mergers and acquisitions involving, say, State - - -

A: Yes, it involves financial institutions.

Q: See, the difficulty that I have in understanding this particular transaction is, you gave evidence that you are aware that the BSP was in a reasonably sound position prior to the transaction under review here. And, you also confirmed that the balance sheet of the PNGBC, the asset which was being sold came to next to nothing, and in fact if you took out those non core assets the banking asset would probably be zero or in a negative situation, is that correct?

30

A: That is correct.

[1:48 pm]

Q: And yet ultimately we are told that BSP spent approximately 240 million on purchasing such an asset. Was it approximately that amount of money?

THE CHAIRMAN: They spent what, the purchase price?

MR SHEPPARD: Yes.

40

THE CHAIRMAN: Was only 82 million cash.

MR SHEPPARD: 82 million in cash.

THE CHAIRMAN: The rest of it is all book entry.

MR SHEPPARD: Plus various - - -

50

MR ANDERSEN: The list of assets on the project evaluation bid had 217 million plus 25 percent which was valued about 70 which is 240 for the 100 percent of the bank.

MR SHEPPARD: Yes that is the figure I was using. But whichever figure you use and I do not want to get bogged down in numbers, BSP is purchasing something that has a book value or a balance sheet that equals next to nothing for 80 odd million kina plus. Is that the evidence?

A: That is correct, yes.

Q: And at the conclusion of the transaction, what was the solubility or solvency of the BSP merged entity?

60

A: I have not - as I said before I have not seen the accounts but I should imagine it was considerably less than it was previously and presumably below regulatory capital.

Q: Well as a medal winning economist, why would somebody do that?

A: Well that is a good question. I mean that is a decision for the board of BSP but it is true, in mergers and acquisition literature you have not much chance of a success if you are a small entity taking over a bigger entity. Particularly in the financial sector and particularly if you are not backed by an international parent. So it is a risk here and I believe that the central bank in their analysis of this raised many of these concerns.

[1.50 pm]

But it was important for the banking system, it being 60 per cent of the banking system that this arrangement, this merger was going to be viable because otherwise the consequences for the system were quite severe.

Q: Thank you. Can you make any comment about what made the purchase viable?

A: No, well, I mean on the numbers we have before us, the purchase is viable not only because of the sharing of the capital of Bank South Pacific which was much higher but because the bank may have - I assume that people projected that the bank's cash flows had prospects of picking up and they saw value in the business as opposed to the net assets.

20

Q: I see. And was that something to your knowledge that KPMG alluded to in their information memorandum?

A: There was information put in there about the current accounts. But the accounts did improve over 2002 and 2001, there was an improvement.

Q: Are you aware of the value that KPMG put on the PNG entity?

[1.52 pm]

A: The PNGBC in their valuation documents, I am aware but I do not have it before me in front of me.

Q: Somewhere between 12 and 30 million, was not it?

A: Yes, it was very low at first.

THE CHAIRMAN: 5 million was the lowest.

MR SHEPPARD: 5 and?

40

A: It was very low which is the reason why we needed to have a considerable amount of additional probity because we are not only concerned with getting proceeds from the sale but we must have been concerned about - we should have been concerned about the effect on the banking system in Papua New Guinea.

Q: And do you have any concerns about the effect of this transaction on that banking system?

50

A: I understand from recent data that the bank has improved its profitability and I mean it is a hard market here. It is quite in a recessed state but I have not seen that. I have not seen the accounts to make a judgment on the sustainability of that.

Q: Thank you. Can I refer you to the letter from the Governor of the Bank of Papua New Guinea of 2 July. Now, that is the letter that you said you had some concerns about during your evidence.

[1.54 pm]

A: Yes.

60

Q: You also said you have also seen and heard about the letters from Westpac, particularly the internal memo where Westpac appeared to have lost interest in participating in the bid. In answer to a question, you said that nobody knew about Westpac's attitude at that stage. Are you aware whether Mr Kamit knew about the

Westpac letter at that stage. At that stage, the time that he wrote that letter on 2 July.

A: Do you think I was aware that he was aware of the previous Westpac letter.

Q: That is what I am asking. Are you able to say whether he was aware or not?

A: I can only report what the KPMG team said to me, that when they approached the governor he said he made a mistake, he did not see what he was signing.

10

Q: I see.

A: You can question KPMG on that.

Q: Thank you. Now, you also gave some evidence regarding the dividend or loan, whatever one wants to call it, of 8.8 million.

[1.56 pm]

Do you remember the sequence involving that?

20

A: Yes.

Q: Can you list or enumerate your concerns about that particular transaction or that aspect of the transaction?

A: We went over in some detail with counsel Florian on this issue.

Q: I am trying to give you a more- - -

30

A: But my concern now is, I have a liability in the trust, the general business trust of 8.8 million. And an expectation that if dividends do not meet that and I do expect them to meet that that we may be required to pay monies back to BSP at the end of the three year period. I have not seen the details of the loan agreement but I was very much concerned that in the evaluation process this was placed along with assets and valued at full value without recording the liability. And it is a bit like the court- - -

Q: What effect does that have?

40

A: It has the effect that it was not a benefit other than if you want to do a calculation on interest saved by getting an interest free loan but that would have been offset by the dilution of viability or capital standing of the bank in the 25 per cent shareholding that we had. But probably in net terms it was probably some small margin of value but the real concern was that it appeared to be in the proceeds list adding to the value which was compared with other bidders.

[1.57 pm]

50

And the other things that were in there, you know, like the corporatisation privatisation costs, head office costs and Finance Pacific, they had many liabilities attached to them. And taking on that asset we have probably K10 million worth of legal action against that as well. So, to select some indemnity but not put the liabilities in there is also a legal action we are likely to lose given that the case was settled, the previous case was settled. So, these aspects from our trustee status now of those assets that concern us about how we record these amounts in the trust because when we go to dispose of them if we get a lot less, we will have to explain to the auditors and everybody why our performance is so poor.

Q: You mentioned I think that that K8.8 million was actually paid to the privatisation commission, is that correct?

60

A: My understanding is and I assume you have the bank account information supplied to you that that was paid to the privatisation commission.

Q: And are you able to - - -

A: Through the accounts, through the settlements accounts.

Q: Yes. Are you able to say what happened to that money?

A: We used that money to our meet our creditors, to meet an equal amount of creditors.

[1:59 pm] Q: 8.8 million with creditors.

10 A: Yes we had 24 million creditors outstanding on 1 July. Unauthorised expenditure against budget against the Public Finance (Management) Act. 8.8 was used to pay that down to 15. When the new board of management came in we still had 15 million worth of creditors. In effect some claims still to your learned friends and so we still have 13 million outstanding today.

THE CHAIRMAN: The KPMG fees for stage 1, stage 2 amounted to 8.178 million as a matter of fact.

MR SHEPPARD: Accounted for - - -

20 THE CHAIRMAN: KPMG, Blake Dawson Waldron, consultancy fees for stage 1 and stage 2 of the sale of the bank totaled K8,178,856.41.

MR SHEPPARD: Ian Cameron gave evidence here that approximately 7.4 of that was to KPMG or some similar number. Do you recall paying that?

A: I do not have the numbers in there but the KPMG accounts were large and a significant amount of money were paid to them.

30 Q: These were the consultants?
A: KPMG were the consultants.

Q: That estimated the value - - -

A: The strategic advisers to the bank and people who advised on all the bid evaluation processes and the transaction.

40 Q: These were the advisers who advised the privatisation commission that the bank was worth somewhere between 5 and somewhere above K35,000,000?

A: That is correct.

[2:01 pm] Q: And yet it was sold for a significant amount more than that, was it not?

A: Yes.

Q: Do you know how they got it so wrong? It could not have been because they were underpaid, could they?

50 A: Nobody in privatisation in PNG has been underpaid.

MR LITTLEMORE: That is including yourself.

60 A: Except me. No, I do not. And having put a value on that and knowing that - and this goes back to the probity advisers role - and knowing that public entities who have had a history of non-performance on a commercial basis; an absolute history. You have only got to look at the NPF's Inquiry report, of the POSF's audit report that we did. And to know that these public entities are bidding for the value of the bank significantly higher than the valuation should have led the probity officer to believe that an extra layer of probity should have been put in here to at least confirm that proper processes in terms of their statutory responsibilities had been undertaken.

Q: Yes, thank you. Now I want to turn to a lunch that you had at one stage with Rod Mitchell at Rickshaws restaurant. Can I show you a copy of exhibit 117.

[2.02 pm]

Now, you will see that only a small portion of that has been admitted into that exhibit as being relevant. Can you just tell the commission what the first paragraph that was admitted there says?

A: It explained that I was uncomfortable having lunch with him.

10

Q: Well, can you tell us who organised this lunch?

A: Well, I was not in - if this is a diary note, I do not see a date on that other than August. But, I was not in the country in August; I came back.

Q: It says about August 2002?

A: Yes, I believe the lunch occurred in September. So, it is strange that a diary note does not have a date on it. Secondly, it was Mr Mitchell who arranged the lunch. That is one of his favourite places, which I never go.

20

Q: Were you friendly with him then at the time?

A: Yes.

Q: That was because of your association with him in the NPF Inquiry?

A: Mr Mitchell and I had worked very hard to get value back into NPF members' accounts. We worked closely. We both put out jobs on the line. It was a very, very difficult phase. It was hard to get money from the government, as you can imagine, and we worked hard. It culminated in my playing a large role in the superannuation reforms; in fact writing the legislation.

30

Q: So, were you uncomfortable about having lunch with him?

A: Certainly not.

Q: Can you understand why he might say that he was uncomfortable about having lunch with you?

40

A: No.

[2.04 pm]

Q: Did he say that to you?

A: No.

Q: Did he tell you- - -

50

MR LITTLEMORE: I object. In fairness, the rule in Brown and Dunn is that this little exercise of contradiction cannot take place unless it has been put to Mr Mitchell first. Now the rules of evidence may not strictly apply, but the rules of fairness do. And the rule in Brown and Dunn is simply a rule of fairness. This is not an opportunity to come back in this back doorway. If Mr Weise did not instruct his counsel to take issue with Mr Mitchell, it cannot be done this way, not fairly.

THE CHAIRMAN: Well, witnesses come and go and they say things that are unexpected. For example, I do not think anyone expected that Mr Mitchell was going to give evidence of the sort that you led from him.

60

MR LITTLEMORE: Some did.

THE CHAIRMAN: Well, certainly not - I would suspect certainly not Mr Weise. So you cannot complain really. I do not think it is a case of Brown and Dunn really.

MR VARITIMOS: Could I just for the benefit of Mr Littlemore advise that Mr Mitchell has been requested to come back in relation to a statutory declaration that he has provided after the provision of his evidence where he wished to state some other matters which were contrary in part to his evidence, but not on this issue I should say.

MR LITTLEMORE: Oh he will.

MR VARITIMOS: But he will be coming back and there would be an opportunity- - -

10 MR LITTLEMORE: Well, no doubt Mr Sheppard will feel bound to put these matters to him.

MR SHEPPARD: I will feel bound to follow my instructions, of course, Mr Chairman.

MR LITTLEMORE: And your ethics.

MR SHEPPARD: Mr Chairman, I am in your hands.

20 THE CHAIRMAN: This is not an action between Mr Kamit and Mr Weise. It is an inquiry, and I do not think that particular rule need worry us.

MR SHEPPARD: No.

THE CHAIRMAN: So you can proceed to ask the questions you want.

MR SHEPPARD: Perhaps I can put it this way. By referring to that note, can you tell us what was discussed between you and Mr Mitchell at this lunch at Rickshaws?

[2.06 pm] A: Well, it was a lunch as I thought at the time between people who
30 were friends. He would know he - I had just come in to the country so I assume it was in September. And having been not allowed back in for eight months, and having heard you know rumours around what was happening and he was involved in things, it was a lunch just to discuss about you know what was happening to both of us. And it did not go much further into that. I would have said at the time, that be careful what you say and what you do because look what happened to me. I got banned from the country. It is easy to do. And I advised him to just focus on, you know getting NASFUND up and running because he had done all the work he could now with the NPF inquiry and to - that was my advice to him to move on. As it was what I was intending to do was to move on to try and move
40 back into the policy area and re-establish the good reputation that I had that had been tarnished by this episode. And that was my goal.

Q: Well, you see the things that he has written in that exhibit?

A: Yes.

Q: What do you say about that?

A: No, I have mentioned nothing about the governor of Central Bank.

50 Q: And further down there is something in paragraph 21 for example.

A: I mean I had never said that the governor of Central Bank was corrupt, that is ridiculous. I know the governor personally and prior to this episode considered that I was a friend of the governors as well, that I have no knowledge at all of him being anything like that.

[2.08 pm] Q: And can you tell us who met the bill for the lunch?

60 A: Mr Mitchell.

Q: Have you been out to lunch with Mr Mitchell after this?

A: No, no. But we had a phone call because I heard back that he had been making claims of threats to him from a colleague of mine, a close colleague so I called

him and we had a conversation. And at the end of that conversation he promised that he would not repeat those statements and in fact he would correct them.

Q: Thank you. I have nothing further.

THE CHAIRMAN: Yes, thank you. Just before you go Mr Weise, the peoples unit trust, could you just give me a brief explanation of that and how it works?

10 A: The peoples unit trust was a trust set up by the previous policy framework to - it was meant to, once you sold the assets if there was any bits left over, shareholding such as the 25 per cent in BSP, these shareholders would go into a peoples unit trust, and that various entities down to local government levels could have access or some share holdings in these people unit trust. Then the privatisation commission was to close down. The privatisation commission was meant to be a temporary vehicle to sell all the core assets and anything left over of a nature would be put into peoples unit trust, and as when on various allocations were meant to go into the peoples unit trust from these sales for the benefit of the beneficiaries being the various groups in the community.

20 Q: All right. Are those shares say, for example, the 25 per cent shares in the bank, that would be held by the peoples unit trust in perpetuity or?

A: No, I do not know the full details but investing - government issued vesting notices when they transferred assets in the gazettal notice and in that it had terms and conditions. Some of those terms and conditions were for a proportion of the shares to be transferred to the peoples unit trust.

[2.10 pm] THE CHAIRMAN: Is there legislation that governs the peoples unit trust- - -

30 A: I believe so but I have not fully reviewed the peoples unit trust given that the government has instructed us that the IPBC now will be an on going body to manage the assets of the State and therefore the rationale for the peoples unit trust no longer really exists. So we have not moved much on that to look at that.

Q: Yes, the peoples unit trust does not in fact at the moment have any assets?

A: No, that is correct. And there was a recommendation before NEC this week to actually repeal the legislation.

40 Q: Thank you, you are excused Mr Weise subject to getting in contact with Mr Varitimos about those notes, if you would not mind.

THE WITNESS WITHDREW

MR SHEPPARD: Mr Chairman, I will just excuse myself if I may and make some room at the bar table for others.

50 THE CHAIRMAN: All right, thank you.

MR LITTLEMORE: I will make an application to the commission to excuse us. We understand there is nothing touching upon our interest this afternoon.

THE CHAIRMAN: You do not need my leave to come and go Mr Littlemore but you may leave.

MR LITTLEMORE: As a matter of courtesy, I wanted to seek it, may it please you.

[2.12 pm] THE CHAIRMAN: Mr Varitimos, I see Sir Henry ToRobert is here.

MR VARITIMOS: Sir Henry ToRobert I see is in the room, that is correct.

THE CHAIRMAN: Yes.

MR VARITIMOS: He was here this morning. If I could ask him to come forward for one moment just in relation to his summons, which I note is not returnable for today but I note that he is here. Sir Henry, do you mind coming forward for a moment, please. As I indicated Sir Henry was subpoenaed to appear at an earlier date and he appeared and his summons was adjourned. I have spoken to Sir Henry and he has confirmed that he would be available for 9.30, 19 March 2003. So, I would seek to formally adjourn the return date of that summons until 9.30 am on 19 March 2003. Sir Henry, could you just confirm that you are okay for that date.

10

SIR HENRY TOROBERT: I confirm it, chairman.

THE CHAIRMAN: Yes, thank you. Well, your summons will be adjourned until 9.30 on 19 March 2003 when you will be required to give evidence.

MR VARITIMOS: And, could I indicate too, I have not mentioned this to Sir Henry, but whilst Mr Beangke is giving evidence, I would make an application that - or ask that Sir Henry not be present.

20

THE CHAIRMAN: Yes. I think it might be preferable, Sir Henry if you were not present while Mr Beangke is being examined and it would probably be preferable if you would not discuss his evidence with him at any time prior to your giving evidence on 19 March.

SIR HENRY TOROBERT: Thank you.

[2:14 pm]

MR VARITIMOS: Now Mr Egan is here again appearing for Mr Beangke so I formally call Mr Beangke. So I formally call Mr Beangke.

30

MR EGAN: Mr Chairman, application was formally made for leave to appear before lunch. Is that application acceded to?

THE CHAIRMAN: Yes. You have leave.

MR EGAN: Thank you. I did not think that there had been that formal leave granted.

THE CHAIRMAN: Yes now well I did not think that you needed leave because I think that Mr Beangke has a proper interest in the proceedings but I note your appearance for Mr Beangke.

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MR EGAN: With Mr Kua.

THE CHAIRMAN: Yes.

50

MR EGAN: Mr Chairman and Mr Commissioner, Mr Beangke appears pursuant to a subpoena. I have handed to my learned friend Mr Varitimos certain documents which in part relate to evidence which will be objected to if raised with Mr Beangke. Namely the evidence relating to Niugini Nominees which was the subject of some evidence before you last Thursday and Friday. The basis of that is that any such questioning goes beyond the terms of reference of this inquiry. That the objection was not taken when Mr McIlwain was giving evidence it does not affect the right of myself to make that objection. And I foreshadow the making of that objection if Mr Varitimos ventures into that area. I have given him the documents for the purpose of illustrating to him or giving him the opportunity to examine them and to assess indeed whether there is any point in even asking questions of that nature.

[2:15 pm]

I suppose if we get to that point, I can then make that formal check. I am just alerting my learned friend of my intention in that regard before hand.

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MR VARITIMOS: Mr Chairman, Commissioner, it is correct that my learned friend, Mr Egan, provided to me at about 1.40 pm today, a copy of some documents which, from gleaning through them, appear to relate to or principally relate to Niugini Nominees and an entity MSM Ker Limited. And, my learned friend did not advise me previously that he intended to object to any questions on Niugini Nominees, but he would certainly be correct in anticipating that I proposed to ask this witness many questions about Niugini Nominees.

And, in fact, the quick examination of the documents would in fact support the fact that this witness should be asked questions about that entity.

Could I also say that a direction was given in relation to witnesses that were summoned on 5 December last year by this commission for the provision of statements by witnesses which would include Mr Beangke. Mr Beangke was previously represented by lawyers and properly represented by lawyers. I understand the position from correspondence from the previous lawyers that they were appropriately carrying out compliance with the directions and that Mr Egan has recently been appointed effectively as counsel for Mr Beangke.

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[2:17 pm]

And I had been anticipating a statement from Mr Beangke. I have raised this matter with my learned friend, I do not wish to give evidence on it. But let me say that there has been no statement provided by Mr Beangke at all in relation to any of the terms of reference despite a direction made by the commission last year, and despite what I understand were efforts being made to cooperate with the direction and comply with the direction by his former lawyers.

20

MR EGAN That is so, Mr Chairman. I was not aware that there had been directions made in that regard. And, you will appreciate that I have only very recently come into the matter. I flew into Port Moresby yesterday, and it is only since I have been up here that a whole range of issues have been able to be canvassed in a short compass with Mr Beangke. I advised Mr Varitimos I think on Monday that I would be needing a lot of time to appropriately address all the issues that need to be canvassed. Now, one of the issues that I have not fully been able to canvass is the contents of a statement which - a draft statement, which has been prepared, which is able to be executed by Mr Beangke. But, we would at least need a short period of time, perhaps if the commission could stand down while that formal process could be undertaken.

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THE CHAIRMAN: Well, we could do that tomorrow morning while Mr Yama is giving his evidence.

MR EGAN: Perhaps we can do that.

THE CHAIRMAN: And you will have this evening and tomorrow morning.

MR EGAN: But I am loathe to countenance the execution of the statement which I am not entirely happy with.

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THE CHAIRMAN: All right, I understand that. That is all right.

MR EGAN: And that is the reason why I have not provided any statement to Mr Varitimos.

[2:19 pm]

THE CHAIRMAN: Why do you say that it is not relevant for us to look into the question of Niugini Nominees.

50

MR EGAN: The documents that I have provided to my learned friend indicate that Niugini Nominees was a company which held shares in Credit Corp and those shares were purchased in 1997. There was a bonus issue of shares in 1998. The gazettal of the intention to privatise Finance Pacific was made on 28 March 2001. There is a transaction that involved a number of shares being transferred from Niugini Nominees to a Mr Padapu which was the subject of an intention to do so in February, not at the earliest but at least as early as February 2001. So it pre-dated any formal gazettal of the government's intention to privatise Finance Pacific.

Mr Padapu at that time was not employed by any relevant body that can possibly be or have an influence upon the privatisation process.

[2:21 pm]

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And that is the end of it. He simply, the terms of reference of this inquiry do not extend to the private affairs of individuals. And pre-dating any relevant period. Mr Padapu had nothing to do with Teachers Savings and Loan at that time. Had nothing with - - -

THE CHAIRMAN: He had nothing to do with what? Teachers?

MR EGAN: Teachers Savings and Loan.

THE CHAIRMAN: At what point in time?

MR EGAN: As at February of 2001.

THE CHAIRMAN: What about 1997 or 8 when the shares were purchased by Niugini Nominees.

10 MR EGAN: He was an officer of Teachers Savings and Loan at that time. But that has got nothing to do with your terms of reference. So what we say. I mean you can only act upon with respect the terms of reference by instrument which have been issued to you and if there was something clearly outside and not encompassed by the terms of reference, again with respect you cannot inquire into them.

20 MR VARITIMOS: I appreciate with all due respect to my learned friend that he has only just come into this matter and therefore could not be expected to have an intimate knowledge of all the matters including earlier evidence that has been given. Amongst other things, could I just simply point out to the commission that, which my learned friend may not appreciate but in fact Niugini Nominees Ltd were the third largest shareholder in the entity Credit Corporation and Credit Corporation pre amalgamation was the largest shareholder in BSP. By reason of that of course, it would mean that in terms of money, the entity Niugini Nominees Ltd has a sizeable parcel effectively indirectly of shares or an interest in shares in BSP.

[2.23 pm] This witness has as recently as January this year signed documentation in relation to Niugini Nominees, in relation to issuance of share certificates. In relation to evidence that other witnesses have given, it is correct that my learned friend was not here. It is also correct that no objection was taken to those points despite representation, nor could I suggest any legitimate objection taken. It appears that there were transactions in relation to this entity which occurred after the privatisation process commenced and in my submission - - -

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MR EGAN: Well, where? Where?

MR VARITIMOS: Well, my learned is obviously not aware of NEC policy decisions in relation to the privatisation process which the privatisation process was commencing way back in late 1999, beginning of 2000. These share transfers have taken place after that date. But, I do not wish to disclose certain matters which are apparent and which this witness will be asked.

[2.25 pm] MR EGAN: Mr Chairman, if I could take you to the terms of reference. Do you have the terms of reference in front of you. Term 1 clearly does not relate to Mr Beangke or Niugini Nominees nor could it because it relates to the Privatisation Commission and whether it has performed its functions properly. Term two is whether the consultants and advisers appointed by the Privatisation Commission had relevant expertise. So clearly that can not relate to Niugini Nominees. And if you look at term three none of the sub-paragraphs in relation to the bidding process, the bidding process which took place between March 2001 and 2002 when the amalgamation was concluded, again can not relate to the transfer of any shares in a private company to anybody else before that date. Terms of reference 40 four relates to whether there were any imprudent improper or illegal actions taken by the NEC, the Privatisation Commission, the governor of the Bank of PNG or the management of PNGBC prior to the merger. So that can not relate to Niugini Nominee's transaction. Terms of reference number five, whether there was any irregularity, illegality or collusion in the provision of capital by various organisations enabling the purchase of PNGBC.

[2.27 pm] The provision of capital only took place after March 2001, and again related to the bidding process which only could have taken place subsequent to March 2001 when the process was gazetted.

60 Term of reference 6. Whether there were any improper or illegal actions taken by or on behalf of the Governor of the Bank of PNG in relation to PNG Teachers Savings and Loan Society to prevent its participation in the merger of BSP and PNGBC. Again nothing to do with Niugini Nominees. Term of reference number 7 relates to whether PNGBC was

intentionally run down during the period of the appointment of Mr Garth McIlwain. And term of reference number 8 relates to the question of revision of procedures.

[2.29 pm] Now, clearly in our submission none of those terms of reference enable the commission to deal with what is clearly on its face a transaction which pre-dated the whole process, which is a private transaction, and which is irrelevant to the very terms upon which the inquiry is to proceed. Mr Varitimos said that Niugini Nominees had certain dealings in shares subsequent to the commencement of the bidding process. Well, there is certainly no evidence of that.

10

MR VARITIMOS: No, I did not say bidding process, after the privatisation process.

MR EGAN: But even so, none of the terms of reference are specific enough or wide enough to encompass that private transaction. It really is as simple as that.

MR VARITIMOS: Sorry, I would like to be heard on that.

THE CHAIRMAN: Yes. Have you finished Mr Egan?

20

MR EGAN: For the moment Mr Chairman.

MR VARITIMOS: Could I say that in the bundle of material that Mr Egan gave me this afternoon which you Mr Chairman and commissioner have not seen included in this material is a share transfer form involving Credit Corporation, Niugini Nominees which has a date stamp on it which appears to be the Port Moresby Stock Exchange Limited's date stamp of 17 January this year.

MR EGAN: Yes. And that is- - -

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MR VARITIMOS: Sorry, I have not finished.

[2.31 pm] MR EGAN: If I could just assist my learned friend in that regard. If he had read the documents correctly and I appreciate he has not had a lot of time to do that but if he had read the documents correctly, he would see that the transfer of the shares, the subject of the evidence last Thursday and Friday given by Mr McIlwain and the subject of his extensive questioning, was a transfer to a company MSM Care Limited. And the transactions which or the transaction which Mr Varitimos has just referred to is indeed a share transfer from that company to an entity. And all of the entities have been provided in a bundle of documents which have been handed to my learned friend - - -

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THE CHAIRMAN: How many shares?

MR EGAN: I beg your pardon.

THE CHAIRMAN: How many shares were transferred?

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MR EGAN: There are a number of shares - excuse me for a moment, there are a number of shares ranging from 172 to in one instance to 5000 - 3750, 6000 - 6250. There are about 15 share transfers but they are from a company to a whole list of individuals who are Papua New Guinean individuals who ought not, in respect of whom there is no commercial reason why those private details should be disclosed.

THE CHAIRMAN: Well, how many shares - - -

MR EGAN: And none of them are politicians as far as I am told.

THE CHAIRMAN: How many shares did Niugini Nominees transfer to this MSM Ker Limited?

[2.33 pm] MR EGAN: One hundred and forty thousand, and that was the subject of the evidence last- - -

60

THE CHAIRMAN: Yes. And, what was the consideration shown in the transfer?

MR EGAN: Well, there is no consideration.

THE CHAIRMAN: Nil consideration. That was done on 17 January 2003, was it?

MR EGAN: No, it was not.

THE CHAIRMAN: Well, when was that transferred?

10 MR EGAN: That was initially contemplated in February 2001, and there is a document dated that date. But, it was effected in or about May 2001 at a time when - and that company, MSM - was the company nominated by Mr Padapu, a former employee of Teachers Savings and Loan, as the company into which these shares were to be directed/transferred.

THE CHAIRMAN: And, where did the 15 share transfers come in?

20 MR EGAN: Well, MSM subsequently, and there is a company search that has been provided to my learned friend, and the company search indicates that the shareholders of this company are various individuals none of whom are politicians, or bankers or Privatisation Commission members; and it is a company in respect of which Mr Padapu was, and remains, a director.

[2:35 pm] Now, Mr Padapu the source of such excitement is I am told at the offices of Posman, Kua Aisi at this very moment. And he is available to be questioned by Mr Varitimos at length. And perhaps that course ought be undertaken before Mr Varitimos even broaches the topic of his Niugini Nominees because on my instructions if he does that it will be quite apparent that it is an entirely innocent personal transaction.

30 THE CHAIRMAN: Well the MSM Ker Limited transferred all or some of the 140 shares to the 15 different people or to the same people.

MR EGAN: No different people.

THE CHAIRMAN: 15 different people. And what was the consideration for those transfers?

40 MR EGAN: Well they were sold on the open market through a broker. So they were sold at market presumably. These were custom credit, Credit Corp shares that were sold by MSM through a broker for market. So if - there is no hollow log there. That is what I am submitting to you and it might be better if my learned friend has the opportunity to speak to Mr Padapu before even raising the comment.

THE CHAIRMAN: Well Mr Padapu being - received the money for the sale of 140,000 shares.

MR EGAN: Well I do not believe all the 140,000 shares were sold.

[2.37 pm] THE CHAIRMAN: But, what were sold - - -

50 MR EGAN: What were sold were sold by a company, not by Mr Padapu. The shareholders of the company - - -

THE CHAIRMAN: Well, who benefited from the sale?

MR EGAN: Well, presumably the shareholders of the company benefited.

THE CHAIRMAN: Who were?

MR EGAN: I have not had the opportunity - - -

60 THE CHAIRMAN: Who were?

MR EGAN: Well, I do not know.

THE CHAIRMAN: Mr Padapu?

MR EGAN: No.

THE CHAIRMAN: He is a director.

MR EGAN: No, no. He is a director, he was a shareholder and then the shareholding was changed to a number of named people who all have the same surname. Now, subject to confirmation, it may be that all of those people are his children.

10 THE CHAIRMAN: His children? Padapu's children?

MR EGAN: Mr Padapu. So, I have not had the opportunity to speak to Mr Padapu. But, I invite my learned friend, Mr Varitimos, to speak to him. One would think that if you have a smoking gun, you have got some powder in the gun before it smokes. Now, the first person to speak to if there is any smoke in relation to this Niugini Nominees we would have thought is Mr Padapu. Now, it would seem that no attempt has been made to contact him. We have contacted him and he is available and will give all these details to Mr Varitimos and invite him to satisfy himself.

20 THE CHAIRMAN: Who are his solicitors?

MR EGAN: I beg your pardon?

THE CHAIRMAN: Who are his solicitors?

MR EGAN: I do not know.

MR VARITIMOS: He is in my learned friend's instructing solicitor's office at the moment.

30 THE CHAIRMAN: At the present time?

MR EGAN: Yes.

THE CHAIRMAN: Well, has your solicitor going to get instructions from him to accept service of a summons.

[2.39 pm] MR EGAN: I imagine so, if a phone is made available.

40 THE CHAIRMAN: Well, if he would do so,. probably by phone now, and we can arrange to have somebody serve your solicitor with a summons.

MR EGAN: Well, I do not think my instructing lawyer has a phone on him. And I do not know where a phone is. If a phone was to be made available, then that inquiry could be made.

THE CHAIRMAN: All right. Well, I think somebody has got a phone.

MR EGAN: Excuse me. I am told that the interview would have been completed by now, and he has left the office.

50 THE CHAIRMAN: Well, who is acting for him. Is your solicitor acting for him or not?

MR EGAN: No, he has not been summonsed. He has not been asked to, as I understand, he has been asked to speak to Mr Varitimos.

THE CHAIRMAN: All right. Well, I am asking you now.

MR EGAN: I beg your pardon?

60 THE CHAIRMAN: I am asking him to make himself available now so that we can serve him with the summons.

MR EGAN: Yes.

THE CHAIRMAN: Is your solicitor be able to contact him?

MR EGAN: Perhaps- - -

THE CHAIRMAN: Make arrangements for him to attend somewhere to be served?

MR EGAN: I do not know if- - -

10 THE CHAIRMAN: Or accept service on his power?

MR EGAN: Well, I do not know if my instructed lawyer in the commission now has his phone details. But, if he is given a phone he can ring the office of Posman Kua and make enquiries about what numbers Mr Padapu might be able to be contacted on for that purpose.

THE CHAIRMAN: Well, have we got a phone?

20 MR VARITIMOS: I am not sure whether anyone here has a mobile phone that we can borrow.

THE CHAIRMAN: We usually rely on Mr Aka.

MR VARITIMOS: There is a gentleman who has got a mobile phone here and I think he is kindly agreeing for it to be used.

[2.41 pm] Mr Igo has come to the rescue.

30 MR EGAN: But in any way I am sure Mr Varitimos has a lot of other questions to ask Mr Beangke apart from those relating to Niugini Nominees.

THE CHAIRMAN: I know.

MR EGAN: So if he was to commence that process we would not need to necessarily bother ourselves about the point. And that is the suggestion that I was seeking to make.

MR VARITIMOS: Could I just- - -

MR EGAN: Fruitlessly to try to save time.

40 THE CHAIRMAN: Yes.

50 MR VARITIMOS: Could I just indicate in response to what my learned friend says, that he is correct in substance in saying that - well, the documentation that he presented to me does contain a certificate of a transfer by Niugini Nominees of 140,000 shares for it appears nil consideration in February 2001 by a document that appears to be signed on behalf of the transferor, Niugini Nominees as Mr McIlwain, and appears to have been signed above signature of transferee, Mr Beangke. But in relation to the other shares there is in fact a document which has the date stamp of the Port Moresby Stock Exchange which my learned friend gave to me, dated 17 January 2003, which relates to transfer of shares by Niugini Nominees to another entity.

[2.43 pm] So it appears that there was a transfer as recently as this year in relation to a transfer of shares by Niugini Nominees.

MR EGAN: And it is a transfer to the Lutheran Church Superannuation Fund which surely on its face would indicate to anybody that it is a private transfer of shares to the Lutheran Church.

60 THE CHAIRMAN: That might account for the transfer of shares from MSM Ker Limited to other people if they were sold on the stock exchange but it still leaves a big question as to the reasons for the transfer of \$140,000 to MSM Ker Limited in the first place which if it is valued at \$10 a share, the current value was the value of the share you are talking about 1.4 million.

MR EGAN: In excess of a million kina. At the time I understand the shares were trading between K7 and K8 a share. So it is about a million kina. But it is in respect of a transfer to a company nominated by Mr Padapu who had nothing to do with the process, nothing to do. He was not- - -

THE CHAIRMAN: He was getting the shares from a company in which Mr Beangke had a half interest.

10 MR EGAN: And we say so what with respect.

THE CHAIRMAN: At no consideration.

MR EGAN: So what? I am not obliged if I like you enough Mr Chairman, I am not obliged to request payment from you if I want to gift you some shares.

THE CHAIRMAN: It is at a time when we are looking into the sale of the bank as to whether there was any illegal or improper conduct by anybody or a company involved in the bidding process for the bank. The evidence is that Mr Beangke has been very active in regard to making the bid by BSP.

20

MR EGAN: With respect which term of reference does that fall within?

THE CHAIRMAN: Three.

[2:45 pm]

MR EGAN: Whether in the bidding process, well the bidding process took place after.

THE CHAIRMAN: No we would read that to include the process starting from the putting in of the expressions of interest right through until the sale.

30 MR EGAN: Which pre-dates the gazettal.

THE CHAIRMAN: Pre-dates the gazettal of what?

MR EGAN: Of the - - -

THE CHAIRMAN: The NEC decision was the 14th of February 2000.

40 MR EGAN: Well the bidding process we would suggest is the process which took place subsequent to 28 March 2001 when the governor general declared that Finance Pacific Limited was to be a privatised enterprise.

THE CHAIRMAN: And we are concerned to investigate Mr Beangke's activities from that time until the sale.

MR EGAN: Subsequent to that date.

50 THE CHAIRMAN: And it turns out that he had an interest indirectly in a very large shareholder of the bidding entity which was not disclosed, it was kept secret to everybody and the question is why and what happened with regard to it. And that is the purpose, the thrust of our inquiry.

[2:47 pm]

MR EGAN: Well, the- - -

THE CHAIRMAN: You may very well be correct, but we do not want to go any further than the transfer of the 140,000 shares to MSM Ker Limited. But, it would seem to us that we certainly need to go that far.

60 MR EGAN: Yes. Well, perhaps if Mr Varitimos has the opportunity of speaking to Mr Padapu, that will at least clarify issues.

THE CHAIRMAN: Yes, I see you had a note there.

MR EGAN: I beg your pardon?

THE CHAIRMAN: You had a note from one of your off-siders.

MR EGAN: Oh, yes. Viz a viz what you just said, Mr Chairman. Credit Corporation, the company in which Niugini Nominees held the shares, was not involved in the bidding process in respect of BSP.

THE CHAIRMAN: No, but BSP was.

10 MR EGAN: BSP was.

THE CHAIRMAN: And, Credit Corp pre-merger was the largest shareholder in BSP.

MR EGAN: Yes. And, Credit Corp did not- - -

THE CHAIRMAN: Mr Beangke was the manager of Credit Corporation and the chairman of BSP.

[2.49 p.m.] MR EGAN: Credit Corp did not participate in the capital raising. And- - -

20 THE CHAIRMAN: No, it did not but Mr Beangke did.

MR EGAN: And Credit Corp's holdings in BSP- - -

THE CHARIMAN: Mr Beangke did.

MR EGAN: Well, Credit Corp's holdings in BSP remain the same after the merger as it did prior to the merger.

30 THE CHAIRMAN: It went down a bit but it may well be that that was an advantage to have the shares in the amalgamated bank.

MR EGAN: But only if - - -

THE CHAIRMAN: To the bank.

40 MR EGAN: Only if - it could only be relevant to term three of the terms of reference if there is some demonstrated basis for Mr Padapu being involved so as to influence anybody or somebody in the bidding process. And there is no such evidence before the inquiry to date and none is suggested. And you have not even, with respect, had Mr Varitimos speak to Mr Padapu to assess his position.

THE CHAIRMAN: We are concerned with the question of Mr McIlwain and Mr Beangke, both of whom were involved in different aspects of the bidding process and the sale of the bank. And they were secret shareholders in Niugini Nominees, which was one of the largest shareholders in Credit Corp which itself was the largest shareholder in BSP at the time.

[2.51 pm] MR EGAN: Well, I have made the application.

50 THE CHAIRMAN: Yes.

MR EGAN: I have indicated what course we will take if that evidence is sought to be adduced. So perhaps we might address that issue when it arises.

THE CHAIRMAN: We will reserve any ruling on that until we see. Yes Mr Varitimos?

MR VARITIMOS: I propose to call Mr Noreo Beangke.

60 **NOREO NOEL BEANGKE, sworn:**

XN: MR VARITIMOS

[2:53 pm] Q: Mr Beangke for the record, please state your full name and occupation and address?

A: Would that involve sir all the other positions I hold as well sir?

Q: You are on a number of boards?

10

A: I am indeed on a number of boards.

Q: Yes. Well I will get you to state your full name first please?

A: Noreo Noel Beangke.

Q: And your address?

A: Gerehu Post Office, Box 1787 Port Moresby.

20

Q: And your present association with BSP?

A: Chairman of the Bank of South Pacific.

Q: And you are also a board member of a number of other entities is that correct?

A: I am indeed.

Q: And what are those entities please?

30

A: I am deputy chairman of Oil Search Limited. A company listed in the Australian Stock Exchange. I am also chairman of PNG Coffee Exports, a company with an office in Goroka exporting coffee. I am director of New Guinea Islands Produce, a company that deals with processing and indirectly involved in export of copra from PNG. I am managing director of Credit Corporation. I am a director of Credit Corporation, Fiji Limited, a company that operates in Fiji. A subsidiary of Credit Corporation PNG. I am a director of Demakuri, a company that holds shares in Credit Corporation. I am a trustee of Savings and Loans of the Credit Corporation Staff Benefit Fund which has shares in Credit Corporation and shares in Bank of South Pacific.

[2:55 pm] 40

I am a director of Generals Holdings which is a company owned by my children. Off memory sir, that is about it I think, yes.

Q: And in relation to being directors of those companies, have you been directors of those companies since at least beginning of 2000?

A: At least beginning 2000?

Q: At least from the beginning of 2000.

50

A: To the best of my knowledge yes.

Q: Now, could you please just state your formal qualifications? Do you have a degree?

A: I have a degree, a Bachelor of Arts majoring in Economics from University of Papua New Guinea.

Q: And when did you obtain that?

60

A: 1976.

Q: And were you at the university whilst Sir Mekere Morauta was studying?

A: I was at the university immediately after Sir Mekere may have left.

Q: And is it correct to say that you have known Sir Mekere Morauta for many years?

A: I have been working for Sir Mekere since 1976 sir.

Q: And would you consider that he has been a friend since that time.

A: He has been a friend since that time. He has been my boss since that time.

10 Q: And could I suggest that you treated Sir Mekere Morauta since 1976 as a close friend?

A: He is a friend.

Q: And a close one.

A: A close one, sir.

20 Q: Since 1976.

A: Since 1976 he was my boss. I cannot say in 1976 he was a close friend but I have developed that relationship with him, yes.

Q: Well, certainly by the 1980s you would classify yourself as a close friend of Sir Mekere Morauta.

A: That is correct.

30 Q: And he the same with you.

A: That is correct.

Q: And in terms of working for Sir Mekere or your association with Sir Mekere, could you indicate what you are referring to?

[2.57 pm] A: How do you mean, sir?

Q: Well, you said that you had worked for Sir Mekere Morauta?

40 A: Yes.

Q: As, I understood it, from 1976?

A: Correct, sir.

Q: In what capacity did you work for Sir Mekere Morauta at that time?

50 A: He was then secretary of the Department of Finance at which I joined upon graduation from the University of Papua New Guinea.

Q: And since that time what positions have you worked for him for?

A: He retired from being the secretary of finance department around about 1982 and about 1983 I became the secretary of the finance department, sir.

Q: And, we need to go through chronologically, please, Mr Beangke.

60 A: Okay. So, I was working in finance department from 1976 to end of 1985, November I think correctly, in 1985. What happened in between then was, I think, about 1982 Sir Mekere actually went on to become managing director of PNGBC, I think. Now, I am not quite too sure of that. I was appointed secretary of the finance department around about 1983, 1984 and I was actually removed in November of 1985 as secretary of the department. I then was appointed in about 1986 as head of agriculture livestock.

[2.59 pm] Then and I was in that department for a couple of years until about February 1987 when I was appointed ambassador to Brussels. I was, I suppose if you like His excellency for two days. I resigned in about March or April that year and went to my village. Mr McIlwain approached me subsequent to that after which I then joined Credit Corporation I think it was on 4 July 1988.

Q: That was after an approach by Mr McIlwain to you?

10 A: That was, he came to the village to ask me to join up with Credit Corporation.

Q: In what capacity?

A: In as I think as secretary to the department after a qualification period.

Q: The board secretary?

A: Board secretary.

20 Q: And you took up the position as board secretary?

A: And I took up the position of managing director round about September in 1990.

Q: Of Credit Corporation?

A: Of Credit Corporation, the position I currently hold.

Q: And you have also been on the board of BSP?

30 A: I was asked to be on the board of BSP. I think I became a director of Bank of South Pacific in about 1992, sir and about 1993-4, I became the chairman of the Bank of South Pacific.

[3.00 pm] Q: And you have been chairman since that time?

A: And I have been since that time.

Q: Who approached you?

40 A: At that time it was Mr Peter Nicholls.

Q: Could I show you please a copy of a cheque which is made payable to Sir Henry or made payable to Henry ToRobert. Cheque number 913435 in the amount of K348,818.36. You accept that that appears to be a copy of a cheque made payable to Sir Henry ToRobert dated 8 October 2002, you agree with that?

A: That is correct, sir.

Q: And it is for the amount I indicated, K348,818.36?

50 A: That is indeed, sir.

Q: And you identify it as it appears to have been signed by Sir Henry ToRobert and another person?

A: I can recognise Sir Henry ToRobert's signature, sir.

Q: Do you confirm that the signature that is appearing on that cheque appears to be the signature of Sir Henry ToRobert?

60 A: That is in fact correct, sir.

Q: And can you identify the other signatory to that cheque made payable to Sir Henry ToRobert?

A: One of them is mine, sir.

Q: At the top, below the amount K348,818, there is Sir Henry ToRobert's signature there, is that correct?

A: That is correct, sir.

10 Q: Next to Sir Henry ToRobert's signature, whose signature is that?

A: I do not know.

[3.02 pm] Q: Now, at the bottom of that I suggest that - at the bottom of a copy of this cheque is the back of the cheque?

MR EGAN: Well, there is no way of establishing that that is the case, unless the original of the cheque is produced. I do not know whether it has been or not.

20 THE CHAIRMAN: Well, the witness can answer that.

MR VARITIMOS: I am going to ask this witness whether he recalls- - -

MR EGAN: Well, first of all there has to a basis laid for the question. Just because something is photocopied onto the one piece of paper does not establish anything.

THE CHAIRMAN: Well, the witness can be asked whether he recalls putting any endorsement on the cheque.

30 MR EGAN: Of course, but my learned friend phrased the questions in questioning in terms of it being, it would appear to be the back of the cheque. Now, there is no basis for saying that at all.

MR VARITIMOS: Well, this witness- - -

THE CHAIRMAN: Mr Beangke, does your signature appear on that document?

A: Mine, in fact, does, sir.

40 Q: And whose?

A: Yes sir.

Q: And who else?

A: And that of Irene Wardley, an officer of my company.

Q: But did you endorse that cheque on the back?

50 A: It would appear sir that that cheque would have been brought in by Sir Henry. And it would appear sir also that this would have been put on IBD in Credit Corporation and it would appear also that I would have said yes, pay to Credit Corporation and put a stamp on it.

MR VARITIMOS: The words 'please pay Credit Corporation (PNG) Limited', is that your writing?

A: No sir.

60 Q: Do you know Irene Wardley?

A: Yes.

Q: She works at Credit Corporation?

A: Correct sir.

Q: Does that appear to be her writing?

A: It would appear that that is her handwriting and it would appear also that Sir Henry may have come in and saw Irene Wardley who then put this in front of me to sign.

[3:04 pm] 10

Irene Wardley is responsible for managing our IBD transactions.

Q: Do you recall endorsing the back of the cheque that had been made payable to Sir Henry ToRobert for 348,000 odd kina?

A: That instant I cannot say that I recall although it was brought to my attention sir that Sir Henry had deposited some funds on deposit.

Q: Was that around October 2002?

20 A: It would have to be around October 2000.

Q: Now this piece of paper has a stamp on it, Credit Corporation PNG Limited.

A: That is correct sir.

Q: Now could you please, Mr Beangke explain the process in Credit Corporation? If a cheque is brought in, for example made payable to Sir Henry ToRobert, is it the case that that cheque can effectively be invested by Credit Corporation?

30 A: That cheque can be invested upon IBD in the Credit Corporation.

Q: And what does Credit Corporation do then in terms of investment?

A: It would then have to be deposited into Credit Corp bank account and transact that as an IBD for and on behalf of Sir Henry ToRobert.

Q: So is it the case that there should be some account details at Credit Corporation, the detail an account?

40 A: There is. There would have to be an IBD for Sir Henry ToRobert in Credit Corporation, sir.

[3.06 pm] Q: So effectively is it possible to get a statement similar to a bank statement from Credit Corporation that pertains to Sir Henry ToRobert.

A: Sure.

Q: Is that?

50 A: It is possible

Q: That is available.

A: Of course, sir.

Q: Yes. Do you mind, you might need a piece of paper.

A: Yes, could I please then

60 Q: Because there could be some notes.

A: I do have a piece of blank paper in that if I may please.

Q: I am happy to give one. This is just a list of things that I would ask you to attend to. I have just advised Mr Egan. He could not hear me. It is a bit like a shopping

list Mr Egan said. The first is if you could please obtain details of any IBD in relation to this cheque of K348,000. The second is to obtain any bank statements or print outs, in relation to any investments made or accounts held by Sir Henry ToRobert.

MR EGAN: Well, within a certain period of time I would submit. I am quite happy for my learned friend to phrase that in a wide fashion. But there might be accounts going back to 1970, 1980 for all we know.

10 MR VARITIMOS: Do you recall when Sir Henry ToRobert was appointed to the Privatisation Commission?

[3.08 pm] He would have been around?

THE CHAIRMAN: February 2000.

MR VARITIMOS: Well, if you could deal with from 1 January 2000.

20 A: And, may I, please, seek clarification?

Q: Yes.

A: And other transactions of that nature?

Q: Yes, relating to Sir Henry ToRobert.

A: In terms of the IBDs, sir?

30 Q: Yes. But, there should effectively be bank statements that you can print out in relation to any accounts

A: Well, we do not have bank statements but we do have IBD printouts, yes.

Q: Computer printouts. But, there might be more than IBD details, could there, or you only effectively invest on behalf of IBD?

A: I cannot. No, we are limited.

40 Q: So, you do not effectively have bank accounts as such?

A: We do not have bank accounts, no.

Q: You effectively invest as agent for the person?

A: We have IBDs.

Q: But, there is no other facility where you effectively have a bank account like a normal bank?

50 A: No, sir.

Q: So, could you just indicate, given that the cheque was made payable to Sir Henry ToRobert, how you were in a position to endorse - assuming that you did endorse - sorry, first of all, do you recall endorsing the back of a cheque around October 2002 that was made payable to Sir Henry ToRobert?

A: Obviously, I did endorse that cheque, and it is a third party cheque being payable into Credit Corporation bank account.

[3.10 pm] 60 But I am not quite too sure that there are many of that type of transactions. In fact I can say that there are not many of that type of transaction endorsing a third party. Because I think this is where the situation is, yes.

Q: I am just asking what the authority was to endorse the back of this cheque made payable to Henry ToRobert to please pay Credit Corporation.

A: To pay into Credit Corporation account.

MR EGAN: Well, again it has not been established that what appears and perhaps - - -

THE CHAIRMAN: The witness admitted that it was, he admitted that he had endorsed the cheque. He said that he endorsed the cheque. He remembers endorsing the cheque.

10

MR VARITIMOS: And could I say that this was provided by this witness's former lawyers and for the benefit of Mr Egan, I have requested the original cheque. Now, what authority Mr Beangke did you have to endorse the back of this cheque made payable to Sir Henry ToRobert to credit, to please pay Credit Corporation PNG Limited?

A: None. Whose cheque is it by the way?

Q: You have got a copy in front of you.

20

A: Yes. But it says Bank South Pacific Limited. That is the bank but I mean who does this bank belong to?

Q: Whose account is it?

A: Yes. Whose account it is.

Q: You want to know whose account, privatisation commission.

30

A: Okay, fine. I do not have the authority, no sir.

Q: So, could I suggest that neither you nor Mrs Wardley had authority to endorse the back of the cheque that was made payable to Sir Henry ToRobert for K348,818.00?

[3.12 pm] A:

No, but if it was actually brought into Irene for purposes of investment in Credit Corporation IBD then I can provide the detail if that was in fact the case, then it would have meant it was for the purposes of depositing it into Credit Corporation account.

40

Q: So, that would have required some written authority from Sir Henry, is that correct?

A: That would be correct, yes.

Q: So, you have got that on your list there to try and obtain that documentation?

A: Okay. And, that was? Please rephrase it again, sir?

Q: Any instructions, written instructions or advices.

50

A: Instructions from Sir Henry?

Q: In relation - from Sir Henry or in fact anyone else that was purporting to act on behalf of Sir Henry whether as agent or general power of attorney.

A: Okay, he would have seen Irene Wardley and Irene Wardley would have brought that cheque up to me.

Q: Did you ever have any discussions with Sir Henry ToRobert about this cheque that you recall?

60

A: No, sir.

Q: Did you have any discussion with Sir Henry ToRobert about investing any monies on IBD on his behalf?

A: We do IBDs everyday, sir, and they all come from all sorts of people, including Sir Henry as it appears here.

Q: And, do you recall having any discussion with Sir Henry about investing on an IBD on his behalf the sum of 348,000 odd Kina?

A: Irene Wardley would have done it. She is in charge of that operation.

10 Q: Well, do you recall speaking to him?

A: I cannot recall talking to him, no, sir.

[3:12 pm] THE CHAIRMAN: Now Mr Beangke that cheque to Sir Henry from the privatisation commission was a bearer cheque it would seem. It was made out to Sir Henry.

A: Made out to Sir Henry.

20 Q: Or bearer?

A: Meaning sir?

Q: Well it is a bearer cheque?

A: Yes.

Q: Now if Sir Henry wanted to invest that with Credit Corporation, he could endorse the back of the cheque, please pay Credit Corporation.

30 A: That is correct sir.

Q: Well why have you and Mrs Wardley endorsed the back of the cheque and not Sir Henry?

A: I do not remember. That is the reason why I need to be able to cross check it with Irene Wardley.

MR VARITIMOS: That documentation should be easily accessible I take it.

40 A: It is quite easily accessible, sir.

Q: Well I would seek to tender that document that the witness has referred to as exhibit 302.

THE CHAIRMAN: 302 that will be marked as exhibit 302, the cheque payable to Sir Henry ToRobert.

EXHIBIT 302 - CHEQUE PAYABLE TO SIR HENRY TOROBERT

50 MR VARITIMOS: You have indicated that you cannot identify the signature next to Mr or Sir Henry ToRobert's on that cheque?

A: I know of Sir Henry's cheque and that is his signature but the other one next to it, no.

[3.14 pm] Q: Now Mr Beangke - I am not sure whether Mr Chairman you wish me to deal with this issue of Niugini Nominees and make a ruling now or- - -

60 THE CHAIRMAN: Leave that for the moment.

MR VARITIMOS: For the moment. Mr Beangke, you were on the acquisition committee established by BSP in relation to this proposed bid?

A: That is right sir.

Q: What was the purpose of the acquisition committee?

A: That was a sub-committee of the board.

Q: The sub-committee of a board of BSP?

A: Of the Bank South Pacific, yes sir.

10 Q: And could I suggest that you were on that acquisition committee with Mr - I think it is Tom Fox. Is that correct?

A: Correct sir.

Q: And Mr Noel Smith?

A: Correct sir.

20 Q: And what was the purpose of that board or that sub-committee?

A: In between board meetings, because of the issues that were proceeding as it related to the bid process, decisions had to be made on behalf of that board. And that committee's role was to do it on behalf of the board so that it actually made the decisions on behalf of the board for the purposes of putting the documentation together to bid. So its role basically was to ensure that the decisions were being made on a timely manner in that process.

[3.16 pm] Q: Well, if we go back in time before the acquisition committee was established, when was the first time Mr Beangke that you heard that the government was proposing to privatise PNGBC?

30

A: I cannot recollect exactly when but I know that there has been publicity relating to that.

Q: And would that have been in 1999 after - I think Sir Mekere was sworn in as prime minister around July 1999, is that correct?

40

A: That would probably be correct, yes. I am very bad with dates. You have to excuse me on that but I know that Sir Mekere became prime minister round about that time, yes.

Q: And that was one of his policies, privatisation of the bank and could I suggest certainly by 2000, in year 2000 it was clear that the government was on a privatisation course?

A: Yes, sir.

Q: And one of the entities it proposed privatising was PNGBC?

50

A: Correct.

Q: Now, when in 2001, if you take your mind back to the beginning of 2001, what did you understand in relation to the position, in relation to privatisation of PNGBC?

[3.17 pm]

A: In 2001 sir?

Q: Yes.

60

A: I understood that the government was going to privatise PNGBC, yes.

Q: Did you consider at any time - or when did you consider for the first time that BSP should perhaps look at acquiring or expressing some interest at least in acquiring PNGBC?

10 A: BSP was in the position of having grown from the first acquisition from National Australia Bank about '92/93 and had a growth rate which I think started thereabouts from about 5 per cent of the market share to round about - at that stage just before 20 per cent, I would suggest. I cannot recollect the numbers quite correctly but it had this rate of growth which was actually going and it was in fact organic in the growth. We were a very small bank acquired by a group of Papua New Guineans. It probably began by the Catholic Church, Port Moresby Archdiocese, together with Credit Corporation at the initial set. And so we were enjoying this growth. And I think it must have actually occurred to some of us who had been involved in it for that time that if in fact PNGBC was privatised, as the government wanted to, and if in fact that bank had gone into foreign hands, we stood a chance to be able to be losing the rate of growth that we did actually enjoyed.

[3:19 pm]

20 So it must in the minds of some of those people including I think Mr Smith and myself, it must be in the minds of ourselves as to just exactly how we could maintain that rate of growth that we were enjoying at the time. Going from 5 per cent owned by Papua New Guineans and going from 5 per cent to round about just on 20 per cent and the danger of having foreign banks coming to take over the rate of growth we were enjoying. So, it must have actually some time appeared to have past our minds as to whether or not we should actually take interest in putting that bid together.

Q: Could I suggest that in fact by middle of 2000 you would have clearly have been aware that the government proposed to privatise the bank? That is sell part of the interest in the bank.

30 A: Well, if they were going to privatise it, I am not quite too sure whether as late as 2000, I am sorry what was that again, 2001?

Q: By middle of 2000 you would have been aware that the government proposed to privatise the bank.

A: I do not know whether it was 2000. I think we made the decision in about September 2001, September or August I think. I think it was around August or September in Madang.

40 Q: At the moment Mr Beangke I am just asking you at this point in time about when you first became aware that the government proposed to privatise the bank, and I am suggesting you would have been aware of that by middle of 2000.

A: I guess so, yes.

[3:21 pm]

Q: Could I suggest that Mr Smith has given some evidence that or along the lines that the bank at one time reached a water shed in terms of the fact that the growth that had been achieved that you are referring to over a number of years had effectively stagnated or at least certainly was not increasing to the extent that it had previously?

50 A: Well you probably are referring to the rate of growth and not necessarily - the rate would have to be in terms of the percentage from year to year. But the growth was actually continuing but the rate may have slowed down in terms of that growth. I think that is what you are talking about. I do not have the numbers to suggest that the rate or the speed at which it was growing may have actually slowed down.

Q: Well in your mind Mr Beangke, when in your mind whether you expressed it to anyone or not did you first start considering the prospect of perhaps BSP should look at acquiring interest in PNGBC?

60

A: I would say have to be about towards the end of 2000. Maybe beginning of it but it had not come to the board at that stage.

Q: No I am not Mr Beangke now. I am just trying to work out in your own mind what was happening. I am not asking you when it actually went to the board you understand that?

A: Yes.

Q: I am just asking you in your mind when you started giving consideration to perhaps BSP, in fact giving consideration to taking up an opportunity of acquiring an interest or at least investigating inquiring an interest in BSP.

10
[3.28 pm] A:

It may have actually occurred to me that there is an entity, though it is a bank that could probably could be privatised. And, I think at that time BSP was, as a nationally owned company, was probably getting itself into a position where it could possibly put a tender.

Q: And when, in your mind, did you come to that view that it could possibly put in a tender?

20
A: I think it was discussed over some months I would say.

Q: Could I suggest that you had turned your mind to the issue of BSP looking at the prospect of lodging a bid or at least lodging an expression of interest for a bid well before it was raised at the first board meeting of BSP?

A: We could have. We could have.

Q: Now, could I suggest, given your experience in the industry, that one should always be looking - that you would always be looking for an opportunity for growth.

30

A: Definitely.

Q: For the benefit of Credit Corporation and BSP.

A: For the shareholders of Bank of South Pacific first, then indirectly Credit Corporation.

Q: Yes. And, a possible acquisition of PNGBC provided an opportunity for growth.

40

A: That is correct, sir.

Q: Because, could I suggest that, you would have irresistibly come to the conclusion that PNGBC, albeit having some down sides, had considerable benefits to its network.

[3.25 pm]

A: Its network, yes.

Q: It had a very large branch network?

50

A: Correct, sir.

Q: Distributed throughout the whole country?

A: Yes, sir.

Q: It had a strong client base. You agree with that?

A: Yes, sir.

60

Q: So, could I suggest that soon after you learnt that the government was proposing to privatise the bank, you would have turned your mind to the prospect of BSP investigating an acquisition?

A: Of course, sir. I do not think that we would have actually let that opportunity go without - but, if they were going to privatise it, there we were, Bank South Pacific being owned by Papua New Guineans; and that was an opportunity for us to buy a greater part of the bank that will give us a commanding market share. The question basically had to be posed whether or not we should actually go to the extent of putting in a bid.

THE CHAIRMAN: When did you first pose the question that you might bid for it or the bank should not be- - -

10

A: It had to be in 2001, sir.

Q: 2001?

A: Yes.

Q: Not before?

20

A: It might have been in our minds, but I think seriously looking at it, it may have been probably in the beginning of year 2000.

Q: You had never raised it with the board prior to the time it was raised?

[3.27 pm] A:

We may have, but I doubt whether it is minuted; we may have. But, we were enjoying this growth, sir, and that was the thing. And, here was the Bank South Pacific, a bank put being a nationally-owned bank doing fairly well by the industry standards in this country, and we were very mindful of the fact that should the government wish to privatise it, we were going to go in there and do it. But whether or not the board actually got to that early and you are trying to talk to me about dates and I cannot really refer it, but when the government made that decision I am sure that that was actually in the minds of us, particularly of myself, Noel Smith, and possibly Tom Fox and the board of the Bank in thinking about the possibility of getting to a position to be able to put the bid in.

30

MR VARITIMOS: Because what I am just trying to get you to assist the commission on Mr Beangke is, not at this point when the board formally resolved- - -

A: Yes.

40

Q: To put in a bid or an expression of interest.

A: Yes.

Q: What I am trying to do is to go back in time. You understand that?

A: Yes.

Q: And evaluate in your mind the process.

50

A: Yes, I understand that.

Q: Let us clarify the position if this be correct.

A: Yes.

Q: BSP had been expanding in terms of growth over a number of years?

A: Yes.

60

Q: PNGBC offered a great opportunity, potentially for BSP?

A: Yes.

Q: In terms of branch network and other benefits. Is that correct?

A: Correct.

Q: You given your experience in the industry would have been aware that an acquisition of PNGBC provided a great growth opportunity to BSP?

A: Correct.

[3.29 pm] Q: And therefore the benefit of the shareholders of BSP?

10

A: Correct.

Q: And indirectly Credit Corp.?

A: Well, as a major shareholder at that time, yes.

Q: Now could I suggest that as soon as you heard that it was proposed to privatise PNGBC you would have immediately, it would have immediately rung a bell in your mind that yes we BSP should look seriously at acquiring an interest in PNGBC?

20

A: Well, I think it was Noel Smith that suggested the idea. But yes the opportunity was presenting itself there. The government was selling it. We were in the position I think of putting together - and I think with all the other shareholders being shareholders of either Credit Corporation or BSP with levels of capital - I mean it had to - we had to pose that question, yes.

Q: But could I suggest that that opportunity that you have referred to would have been abundantly clear to you as soon as you heard they were about to privatise the bank?

30

A: I am not quite too sure whether - and that announcement was done about, what, 2000, you are suggesting?

Q: Well, the Privatisation Act was actually dated 1999.

A: Okay, fine.

Q: But, I think you will find that it did not come into operation for some time.

40

A: Yes.

THE CHAIRMAN: The NEC decided to sell 51 per cent interest in the bank- - -

A: Correct.

Q: From 14 February 2000.

A: Right.

50

Q: How soon after that decision did you hear of it?

[3:30 pm]

A: We would have had to start thinking about that sir.

MR VARITIMOS: But in terms of the decision that the chairman has referred you to, the NEC decision on 14 February 2000, you are confident that you would have heard around then or very shortly thereafter of a decision of the government to privatise the bank?

A: Yes.

60

Q: And could I suggest that at that time you in your own mind whether you expressed it to others or not would have considered that BSP should seriously consider the prospect of acquiring an interest in PNGBC?

A: Well I am not quite sure whether we would have but I am sure that it may have actually past my mind, yes.

THE CHAIRMAN: Had you discussed with Sir Mekere Morauta at all after the decision, cabinet decision on 14 February 2001?

A: I did visit Sir Mekere with - - -

10 Q: And discussed the sale of the bank with him?

A: Yes. I did actually did a courtesy call on him and being at that stage also a finance minister and being a Papua New Guinean bank, owned bank as it were, I thought it was proper that I made a courtesy call on him to say to him basically that we intend to put the bid, Bank of South Pacific and left it at that. That was the only thing I recall actually saying to him sir.

[3.32 pm] MR VARITIMOS: You recall having a meeting with Sir Mekere Morauta when?

20 A: Yes, and I cannot actually said to you in your time sequence, just exactly when that was, sir.

THE CHAIRMAN: What I asked you though is in 2001.

A: Right.

Q: After the cabinet decision that they were going to sell 51 percent of the bank - - -

MR VARITIMOS: I think it was 2000, I am sorry I think?

30 THE CHAIRMAN: 2000, yes. February 2000.

A: I recall I went with Mr Smith to see him, yes.

Q: Well, I think you will find that is a lot later. What I am asking you about is after the cabinet decision in February 2000, did you have any discussions during the year 2000 with Sir Mekere Morauta about the government decision to sell the bank.

40 A: No, sir. I cannot recall any conversation that I may have had with him.

Q: Did you have any discussion with any one in the Bank of South Pacific about the bank putting in a bid at the appropriate time to buy PNGBC?

A: I cannot recall, sir. In actual fact I do not think I did. It was actually first put to me by Noel Smith.

Q: By Noel Smith?

50 A: Yes.

Q: All right.

A: But that does not exclude the fact that I may have actually thought about that process.

Q: Well, if you thought about it, you did not express it to any one?

A: I do not think I did express it, sir.

60 Q: You did not speak to Noel Smith about it?

A: I may or in fact I recall I may have actually spoken to him but I am not quite too sure whether it was round about that time we were going to put the submission to the board.

Q: Yes. Well now the advertisement went in to the newspapers in April/May 2001. Did you see any of those newspaper advertisements?

A: Yes.

[3.35 pm] Q: And did you read from the advertisement that the government was offering the bank for sale?

10 A: Correct, sir.

Q: What did you do when you saw the newspaper advertisement?

A: I actually in fact I think spoke to Noel Smith.

Q: The advertisement went in April/May, what discussion did you have with Mr Smith at that time?

20 A: Whether or not it was possible for us then to put in a bid but I would say he would have actually contacted me first then. Because I recall, we discussed many many things actually sir with Noel.

Q: Do you remember what he said about it or what you said about it after the advertisement appeared in the newspaper?

A: Would we be in a position, I think, it went something to the effect whether we would be in a position to put a bid in. And that related to the possibility of us whether or not we can raise the capital in order to do it.

30 Q: Was that what Mr Smith said to you that it depended on whether we can raise the capital?

A: I cannot exactly recollect what he said to me sir.

MR VARITIMOS: Mr Beangke, as the chairman indicated to you we do have in evidence the fact that advertisements started appearing in April, I think about 10 April in both local papers and international papers including the Financial Review?

40 A: Correct.

Q: And they started, I think about 10 April, do you recall that?

A: Yes.

Q: And they proceeded I think until early May, perhaps up to even 10 May?

A: Right.

50 Q: Did you see the advertisements that were appearing in the papers here in April?

A: Yes.

Q: For the sale of the bank?

A: Yes.

Q: And did you actually see the advertisement in the Financial Review, Australian Financial Review?

60 A: I cannot recall that Financial Review but I do recall seeing it, yes.

Q: Could I suggest, once you saw the advertisements that would have provoked your mind to think about this issue of whether BSP should look at acquiring an interest in PNGBC?

A: Correct sir.

[3.37 pm] Q: That would I suggest immediately have provoked your interest. Do you agree with that?

A: Provoked my interest?

10 Q: In your mind, once you saw the advertisements I suggest that you would have considered that BSP should at least investigate the prospect.

A: Yes.

Q: Of acquiring PNGBC.

A: Yes.

20 Q: And, could I suggest, with a person of your experience and position, it is likely that you would have raised that with Mr Smith, that issue or prospect, once you saw the adds.

A: Correct, sir.

Q: And, is it the case that at that time you were regularly in contact almost on a daily basis with Mr Smith, albeit by phone?

A: I have been in contact with Mr Smith on a regular basis for 10 years or 11 years.

30 Q: Almost on a daily basis?

A: Almost on a daily basis, yes.

THE CHAIRMAN: Did you notice from the advertisements that there was a closing date for expressions of interest in buying the bank?

A: Yes, I think I may have noticed that.

Q: You noticed that?

40 A: Yes, sir.

Q: And now the fact is that BSP did not put in any expression of interest.

A: At the board meeting - well, I cannot recall whether or not in fact we actually complied with the timing aspect of it. But, it was left to the management in order to be able to do that, sir, if we were going to do it. I am not quite so sure about the exact timing of whether or not we did comply within the time.

50 Q: Well, the facts seem to be that the bank did not discuss it at the board until August 2001?

A: Yes, that is correct, sir.

Q: Now, at that point in time, the time for the expression of interest that appeared in the notice had expired.

[3.39 pm] A: It may have been mentioned to me but I accept that, sir.

60 Q: Well, why did the board not discuss the prospect of putting in a bid after it saw the advertisement in the paper and before the time limit for the expression of interest expired?

A: I cannot quite recollect but it may have had something to do, sir, with the fact of whether or not we could raise the capital or things sufficient to be able to buy the 51 per cent.

Q: Well, did you decide when you considered it first that you could not raise the capital?

A: We had to go out and solicit funds from institutional holders, sir.

10 MR VARITIMOS: I have a copy of some of the advertisements, Mr Beangke, that may assist you, exhibits 58 and 59. If you could have a look at these please.

A: Yes.

Q: And could I suggest that, they indicate that expressions of interest should be received by no later than 15 June 2001. Now, Mr Beangke, you have exhibits 58 and 59.

20 A: Yes.

Q: Do you recall seeing advertisements in similar terms to the ones that you have just seen?

A: Yes.

Q: Do you recall whether you actually saw in terms of exhibit 59 that particular advertisement?

[3.41 pm] A: I cannot recall whether I have seen that one in 59 but I can recollect seeing some
30 of this, yes.

Q: 58,

A: Yes.

Q: You are pointing to 58,

A: Yes.

40 Q: Is that correct?

A: Yes.

Q: That I am not sure from the evidence whether that was in fact a flyer that was distributed.

A: I am not quite too sure whether it was but I do recall actually seeing the advertisement associated with the sale of the bank, yes.

50 Q: And could I suggest that it did have a closing date as the Chairman was referring to.

A: Yes, 15 June 200- - -

Q: And you would have recalled - you would have recalled that there was the closing date for the lodging of expressions of interest.

A: 15 June 2001.

60 Q: You remember that?

A: Correct, sir.

Q: Thank you. So now with the benefit of those advertisements Mr Beangke, could I suggest that you and Mr Smith were highly likely to have spoken about the possibility of BSP lodging an expression of interest prior to 15 June.

A: Mr Smith and I could have actually spoken about it.

Q: Well, could I suggest that it was highly likely that you and Mr Smith would have spoken about the advertisements or the advertisements that you had seen particularly in the context that you were talking to him everyday almost.

10
[3:43 pm]

A: As early as June/July.

Q: Well, you saw the advertisement, I suggest, in April?

A: Yes.

Q: Is that correct?

A: Yes.

20

Q: You were speaking to him almost on a daily basis?

A: Yes.

Q: You acknowledge that the prospect of acquiring an interest in PNGBC would be beneficial to BSP?

A: Correct.

30

Q: You acknowledge that in April, you would have been aware that an acquisition of an interest in PNGBC would have been beneficial to BSP?

A: Correct.

Q: And it provided a great potential opportunity to BSP and its shareholders?

A: True.

40

Q: You were speaking to Mr Smith almost on a daily basis?

A: Yes.

Q: An opportunity like this has never come up in the history of the country?

A: Correct.

Q: And, an opportunity like this is never likely to come up again for an organisation such as BSP?

50

A: Correct, sir.

Q: So, could I suggest that it was highly likely that you would have raised or discussed with Mr Smith soon after you saw the advertisements in April about the prospect of BSP?

A: Yes, I may have, but, I cannot, honestly, I cannot recollect whether or not it was done before or after basically because even the context of that and the context of the advertisement, I can say that it has actually occurred that there was this opportunity which you were quite correct in saying would never have actually appeared or appear again in future.

60

[3:45 pm]

I thought that I must have thought of that possibility, yes.

Q: But could I suggest particularly in the context of having daily phone calls that sometime between seeing the advertisements and the date for the closing of the expressions of interest on 15 June that you would have spoken to Mr Smith about it?

A: I may have, yes.

Q: Well I am saying it is more probable than not that you would have spoken to him.

10 A: Yes I think I might have, yes.

Q: Well you agree that it is more likely than not that you would have?

A: It is more likely and I - oh yes of course this is an opportunity that is not going to rise again so I may have as chairman of the bank, I would be silly not to have discussion with him.

Q: I mean the advertisements were simply asking for expressions of interest is that correct?

20

A: Correct.

Q: It was not going to cost anything effectively to lodge an expression of interest other than the cost of preparing one letter?

A: Correct. Now in fact I do recall, yes.

Q: Well what do you recall now Mr Beangke?

30

A: I do recall that we did say that there would be - it would not cost you anything to have expression of interest put together, yes.

Q: And you recall now raising that with Mr Smith?

A: Yes.

Q: And could I suggest that would have been shortly after you saw the advertisements in April?

40

A: I cannot recollect the timing of it but it was in fact a discussion to the effect that we should express expression of interest basically because it will not cost us anything and at the same time probably assess the possibility of fund raising, yes.

Q: Well you would have to, could I suggest that as you indicate, you could lodge an expression of interest without costing any money, you agree with that?

[3.47 pm]

Sorry, you have say for the transcript.

50

A: I am sorry. Sorry?

Q: You agree that it was not going to cost anything by lodging an expression of interest?

A: Correct.

Q: But you would also have to subsequently assess the position?

A: Assess the possible - assess whether or not we can raise sufficient funds in order to be able to bid.

60

Q: And could I suggest that - well, I am asking for your recollection now but I am giving you the benefit of trying to think about it. You do recall, you indicated to Mr Smith, do you, that it would not cost anything to lodge an expression of interest or words to that effect?

A: I may have, yes.

Q: Well, you indicated the context of some conversation a moment ago about- - -

A: Yes.

Q: Indicating that it would not cost anything?

10 A: Yes, I do recall that aspect of it.

Q: Now that was in the context of a conversation with Mr Smith, was it?

A: Yes.

Q: And could I suggest that that is likely to have occurred soon after you saw the advertisements in April?

20 A: Maybe so.

Q: Well, that is likely to - the advertisements were likely to have turned your mind to the issue?

A: Yes.

Q: And you saw that 15 June was the date for lodging expressions of interest?

A: Yes.

30 Q: So obviously in terms of that conversation it had to be before 15 June?

A: Yes. It depended on - I think it goes back to the timing of the certain dates for the board meetings. And I think the board - Noel and I may have actually discussed it probably long before we put it to the board.

Q: Well, could I suggest in fact that is what occurred? That what has occurred is it went to the board meeting on a particular date in August 2001, but you and Mr Smith had discussed the matter prior to that?

[3:48 pm] 40 A: Yes. It could have happened most times it has yes.

THE CHAIRMAN: Would it require a resolution of the board for Mr Smith to write away and express an interest?

A: I cannot recall that but for a sizeable aspect of that it would - not if it was going to have a considerable cost element to it. If it did then it would have been subject to board approvals as it were. Now in expression of interest, if it in fact it did not cost the bank anything I would have suggested that probably we could do it subject to the board approval.

50 MR VARITIMOS: Well the expression of interest you were aware was not going to make any commitment for the bank?

A: That is precisely the point.

Q: And do you recall raising that point with Mr Smith?

A: I recall talking about the expression of interest basically because - and I am not quite sure whether we went to the board with it and I cannot recollect that sir.

60 Q: Well I am trying to determine so you can assist the inquiry Mr Beangke what is more likely than not. Could I suggest the likelihood is that you saw the advertisements in April which you agree to?

A: Yes.

Q: They were asking for expressions of interest by 15 June?

A: Yes.

Q: You certainly recall speaking to Mr Smith about effectively, it not costing anything to lodge an expression of interest, that discussion obviously would therefore have had to have occurred to make any sense prior to 15 June?

10
[3.49 pm]

A: Yes.

Q: And could I suggest the likelihood is that that discussion would have been provoked by the advertisements and therefore likely to have occurred very shortly after you saw the advertisement?

A: I recall that I have said to Mr Smith, what happened to that expression of interest and I am not quite sure whether we had done it then. And I think it came in the context that we may have probably not lodged the expression of interest at that time. But I do recall that, yes.

20

Q: So is it the case Mr Beangke that your recollection now is that you had a discussion with Mr Smith wherein it was discussed that it was not going to cost anything to lodge an expression of interest. That is the first point, is that correct?

A: Correct.

Q: And then subsequently you queried Mr Smith whether he had lodged an expression of interest or not?

30

A: We did express an expression of interest.

Q: Well, subsequently, yes. But you indicated before Mr Beangke that you asked him about whether it had been done and I thought you were suggesting that perhaps Mr Smith indicated that it had not been done?

A: I am not quite sure whether he did say it to me that he did not do it but I am sure we have expressed an expression of interest, yes.

40

Q: Certainly an expression of interest was sent but I was seeking from clarification from you whether you recall whether Mr Smith indicated at anytime that in fact an expression of interest had not been lodged. I am talking about an earlier time?

[3.50 pm]

A: Well, you are losing me on the sequence of it but we did actually have expression of interest lodged. It may have been before or after the date of closure and if that is what you are - - -

Q: Well, the expression of interest according to the records was after the closing date.

50

A: Oh is that right?

Q: Yes.

A: Okay, well I remember, yes.

Q: Yes. But what I am suggesting - now, you would have been aware that PNGBC was a much larger financial institution than BSP?

60

A: In terms of the size, yes.

Q: Yes. And that any acquisition of PNGBC by BSP would have required a considerable capital raising exercise by BSP?

A: I did not know at that time, no.

Q: Well, BSP did not have surplus funds to acquire PNGBC?

A: Correct.

Q: So funds would have had to have been raised on behalf of BSP?

10

A: Correct.

Q: And could I suggest that would have been apparent to you when you saw the advertisements in April 2001?

A: Correct.

Q: Did you have in mind, Mr Beangke the likely amount of capital that would need to have been raised to make an acquisition?

20

A: No.

Q: You did not?

A: No.

[3.52 pm] Q: When did you form any view on the likely amount of capital that would need to be raised on behalf of BSP to make an acquisition or bid?

30

A: That would be after we did the due diligence. We engaged Deloitte from Sydney to have a look at PNGBC and to tell us exactly what it was worth and from which we had to make our own decision whether or not we proceeded with it. And Gadens also of Sydney together with Deloitte who actually went in and did the due diligence after our expression of interest prior to us working out whether or not we could raise the capital and whether we could raise it from here or from elsewhere.

Q: There was a board or memorandum for the board of 24 August 2001?

A: Yes.

40

Q: Which was provided by Mr Smith- - -

A: Yes.

Q: To the board that dealt with the concept of BSP acquiring PNGBC?

A: Yes.

Q: Do you recall seeing that?

50

A: Yes, I recall that.

Q: And Mr Smith said amongst other things in that memorandum to the board that following discussion with members of the accounting and business community over the past 10 days, it was clear that the perception is that ANZ remains a front runner for the acquisition of both PNGBC and Bank of Hawaii. You recall seeing such a memo?

A: Yes.

60

Q: In your mind around 24 August 2001, did you have any perception of who the likely bidders were going to be?

[3.54 pm] A: ANZ would have to be because ANZ were going for the if you like, control of banking in the Pacific including Fiji. I knew that they were interested in Bank of Hawaii in Fiji and in PNG because I do business also in Fiji as well.

Q: Anyone else that you have heard?

A: I cannot recall now, I have no idea whether anybody else was interested.

10 Q: What about Westpac?

A: Well, I did not know whether they were going to be interested. If they did, I was more worried about our own bid.

Q: Now, the statements made in this memorandum of 24 August, "However, ANZ's resultant 62 per cent share of the market is not considered the best outcome for the country." Did you hold that view?

A: I held it very strongly, sir.

20 Q: You held that view in August 2001.

A: I held it in August 2001 and in fact I still hold this view that maybe in the long term interests of the country it may not necessarily be good for a foreign bank to own 62 per cent of the banking sector in this country. And that is probably a view that I have held for some time basically going through the annual reports of the many number of years that they have actually contributed, done business here they have been repatriating after tax profit - - -

30 Q: Have you - - -

A: Excuse me a minute.

Q: Yes.

A: After tax profit in excess of 100 per cent every year in this country.

[3.56 pm] I think that it is very important to see where Bank South Pacific was coming from because we will retain 100 per cent and more in this country.

40 Q: Have you always held that view?

A: I have always held this view.

Q: So, you have never considered that a bid by ANZ or, for example, Westpac- - -

A: In the best interests of PNG.

Q: Should be considered?

50 A: I have held the view that a foreign bank winning the view would not be in the best interest of Bank South Pacific but, more importantly, for the country.

Q: Did you express that view at any time to Sir Mekere Morauta?

A: Mekere Morauta and I go back many, many years, and I am sure he has got those views; but, I cannot recollect expressing it to him. But, I can suggest this to you, sir, that I believe ownership of a greater percentage of the market by a Papua New Guinean bank is probably in the best interests of this country, sir.

60 Q: All right. And, you say that with great conviction?

A: I say that with a great conviction because I believe what I have said.

THE CHAIRMAN: Was that to your knowledge a conviction or view shared by Sir Mekere Morauta?

10 A: Sir, I do not he was the Prime Minister of the country at that time, and I am sure he has got his own views about matters of this nature. But, sir, you will recall that I work for a company which is wholly nationally owned, Credit Corporation; owned by Papua New Guineans, owned by in fact teachers, public servants. And, in fact, the Bank of South Pacific in the early days of my assisting to put it together does actually reflect that shareholder ownership and does in fact purport to contribute greatly to the ownership of the sector of which I am responsible for.

[3.58 pm] MR VARITIMOS: Did you ever speak to the Central Bank or have any views expressed to you by the Central Bank on this issue?

A: I meet with the Central Bank almost all the time basically because I do actually deal with the compliance issues relating to the operations of Credit Corporation and on a lesser extent to Bank of South Pacific.

20 Q: So, for many years you have had regular meetings with officers of the Central Bank?

A: For many, many years including my time in the finance department in Waigani, I have had a lot of association with the Central Bank.

Q: So, that would include the governor, I take it, and the deputy governors?

30 A: That would include all the governors that have come and gone through that office, sir.

Q: And, how regularly over, say, the last ten years, would you have had meetings with the governor's office?

A: I would say - the governor is a regulator and at his whim I could be in his office.

Q: So, are we talking about - - -

40 A: But, I do actually do a monthly statement to the Central Bank on a monthly basis and I would have spoken to him on a lot of occasions, sir.

THE CHAIRMAN: How well did you know him?

A: I went to school with him, sir.

Q: Mr Kamit, you went to school with him?

A: Sir.

50 Q: And, have you been friends with him since school days?

A: I played rugby league and he played rugby union, sir.

MR VARITIMOS: You could still be friends though.

A: I am still friends

[3.59 pm] Q: So, you have been friends with the governor since school days. Is that correct?

60 A: I went to university with him, sir.

Q: You went to university. And did you ever have any discussions with the governor at any time as to what his belief was as to ANZ or any other foreign banks?

A: I cannot recall talking about any other banks. I may have suggested to him that as a matter of courtesy BSP could well be putting in a bid.

Q: Is that likely that you would have told him that?

A: That is quite likely that I would have told him, sir.

10 Q: So in terms of contact with the governor, how regularly over, say the last five years would you have had contact with the governor either on a professional or non-professional basis?

A: Well, regular. How good is regular? Once a month?

Q: We are talking about monthly, once a month and we are talking about weekly.

A: Twice monthly. I cannot tell you once a month, twice a month, but I do have regular contact with him sir.

20 Q: So it is normally on a monthly basis at least?

A: Not normally. I would not say that. Sometimes I could not probably talk to him for two months.

Q: Sometimes you would see him three or four times in a month?

A: Sometimes I see him three or four times in a month or in a week.

THE CHAIRMAN: Do you see him at social functions as well?

30 A: I do see him sir.

Q: And do you socialise with him and his family, you and your family?

A: I cannot say I socialise with him and the family but I do actually go to some cocktail parties, if that is what you mean sir.

[4:00 pm] MR VARITIMOS: Well it has got in this document. It has recently been put to the writer that the necessary funding may be available to BSP to acquire PNGBC with of course certain provisos.

40 A: I am sorry.

Q: From this memo from Mr Smith to the board, he said it has recently been put to the writer that the necessary funding may be available to BSP to acquire PNGBC. Were you aware around 24 August 2001 that in fact the funding or funding may be available to BSP to acquire PNGBC?

A: Funding from where?

50 Q: Well from any sources?

A: We could have - because of - we had to go to the local institutions for fundraising. That much I was pretty clear by August 2001.

Q: But you would have been aware of that in April 2001?

A: I was aware of that in April 2001.

60 Q: Well Mr Beangke, if you do not mind coming back tomorrow.

A: Sure.

Q: Mr Yama is coming in the morning. I am not sure how long he will be.

A: Mr Yama?

Q: Yes.

A: Okay sir.

10 Q: Now could I just raise something for the record in relation to a matter Mr Egan has raised. Mr Egan has of course kindly suggested that I can speak to this gentleman Mr Padapu which I will. Hopefully some contact has been made with him but at the same time of course in providing a statement hopefully to Mr Beangke, Mr Beangke could of course address the issue in relation to the share transfers because he effectively was a party or the company was a party so I would ask if that could be addressed in that statement.

[4.01 pm] MR EGAN: Well, time will need to be spent doing that and that will be done.

THE CHAIRMAN: Yes. We will adjourn now until 9.30 in the morning.

20 **THE WITNESS WITHDREW**

AT 4.01 PM, THE PNGBC COMMISSION OF INQUIRY WAS ADJOURNED UNTIL THURSDAY 6 MARCH 2003 AT 9.30 AM.

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