

454. As far as counts 2 and 3 is concerned, the Crown's case is that the named defendants agreed on a course of conduct designed to deprive the Government and the people of the true market value of the land, which was significantly higher than that for which it was sold. The TCIG was, as a result of the agreement between the politician defendants, the 4 Belongers and MW deprived of monies for the land and in stamp duty.

455. The case in respect of NWP is based on how land changed from iron shore to beachfront, and then, after payment, the distribution of the funds, resulting to payments to the defendants as follows:

456. To MM:

23 rd May 2006	\$150,000 from funds designated for QH
24 th May 2006	\$100,000 from Alliance Realty
5 th June 2006	\$100,000 from LB

457. To FH and LH:

4 th July 2006	\$15,000
4 th July 2007	\$6,500 for valuations
16 th June 2008	\$300,000 moved through CG accounts for the purchase of the plot of land at 60903/85

458. To LB:

May 2006 \$1,000,000 designated for ER, which is then applied for various purposes

459. To JH:

December 2005 \$100,000 payment out from original \$200,000 deposit

February 2006 \$20,000 payment out from original \$200,000 deposit

June 2006 \$39,587.75 to his Scotiabank account

September 2006 \$200,000 paid on his behalf to Rhynnie Campbell

January 2007 \$200,000 to reduce a loan to Meridian Trust

January 2007 \$30,000 to Middles Caicos PNP

460. To MW:

15th May 2006 \$70,000 payment made to McLeans

May 2006 \$540,000 from the Alliance Realty account as being for his benefit

461. In relation to Count 7, the Crown say that this was a money laundering conspiracy between CG, FH and MM. It relates to monies passed through CG's account for the benefit of FH in respect of the property on Leeward and monies passed through John Doezer account.

462. In respect of Count 12: arranging for the layering of the proceeds of the NWP fraud by the transmission of the sum of \$1,800,000 to Alliance Realty, is the basis upon which count 12 is formulated. The allegation against JH and MW

is that they converted or transferred property knowing or at least suspicious as to the fact that it was the proceeds of crime: the \$1.8million laundered through Alliance Realty, which was created to receive the funds.

463. In respect of Count 3 so far as LB is concerned: the Crown say that by receiving for her benefit the sum of \$1,000,000, being the amount which her brother Earlson Robinson was paid for the sale of the land at NWP, LB acquired property which was criminal in origin, being the proceeds of the arrangement to defraud the TCIG knowing or at least suspecting that to be the case.

464. In respect of Count 14, the allegation against LB is that she assisted MM in obtaining \$100,000 from the sale of land.

Beaches

465. Beaches Resorts Providenciales TCI [Beaches] is a subsidiary of Sandals Resort International.

466. Unique Vacations Inc. [UVI] is responsible for reservations, bookings and collection of payment for vacation packages for Sandals, as well as all advertising, marketing and promotion of Sandals Resorts International 2000 Limited [SRI], the parent company of Sandals Group of companies.

467. SRI is the operator of all-inclusive resorts in the Caribbean and has a property in the TCI.

468. UVI is located in Miami, Florida and has the corporate responsibility for all bookings from the point of reservation, until the guest arrives at the resort, after which responsibility passes to SRI. UVI is responsible for the collection of payment for vacation packages for SRI.

469. UVI retains 16% of the revenue for its services, and the remaining 84% is retained by UVI for SRI to their instruction. During the course of the period we will be examining, funds were sent to resorts on a daily basis, according to the instruction of SRI. Those instructions came, in the main, from a man by the name of Dr Jeffrey Pyne who was, during the period with which we are concerned a Director of SRI and the Group Treasurer. The instructions to pay from Dr Pyne came primarily by telephone or fax and occasionally by email.

470. We will see during the course of the evidence that UVI made payments directly to the following people or entities involved in this case:

a. Prestigious Properties [PP] a real estate firm in which MM held a 20% shareholding, Philip Misick held 20% and Washington Misick held 60%. PP appears to have operated not only as real estate firm, but also an entity that would hold money for and on behalf of individuals. In particular, PP held a “client account” for MM.

b. Chalmers Misick & Co. The monies received were distributed, it is suggested, for the benefit of MM. The payments were made from an

account at SunTrust Florida to the client account of Chalmers Misick &Co, and

- c. The PNP. These monies reduced the overdraft of the party account and were applied for the benefit of MM and others such as JH, and to pay for an air charter cost.

471. The Crown say that the monies paid to PP between August 2005 and December 2010 total around \$1 million.

472. In October 1998, Franklyn and Whitney Bain [The Bain Brothers] were granted approval for a luxury resort development. "The Palms" (initially known as the "White Sands Resort") on approximately 5 acres of land.

473. The land lay between the Beaches on one side and a development to be built called the Veranda project on the other.

474. In March 2001 the Bain Brothers entered into an investment agreement to sell their shares in the company that held the rights to the land, and through which the CPL was held - Summer Nights Ltd - to TCI Hotels Limited for \$2m. The payment was conditional upon certain events.

475. By 11 October 2002, a Development Agreement had been signed between Summer Nights - the company that owned the rights - and the TCIG for a 140-room hotel to be built. There were no concessions in the agreement and the developer agreed to pay \$35,000 per annum for 10 years to the Scholarship fund.

476. On the 18 June 2004 the attorney Hugh O'Neill wrote to Dr Pyne c/o Beaches Resort Jamaica. In the letter O'Neill raised, in quite trenchant terms, concerns on behalf of his client, Summer Nights (the Bain Brothers interest) regarding the development of a road and a cultural market; having learnt that TCIG had obtained planning permission for the market.
477. On 23 June 2004, Mr O'Neill also wrote to Misick & Stanbrook, who were acting for Beaches TCI (BTCI). He complained about the way, in effect, his client Summer Nights Limited were being left out of the development discussions and that works were encroaching on their property.
478. It appears, so far as O'Neill is concerned, that Beaches were in discussion with TCIG and Summer Nights were not being involved. Is O'Neill's concern, expressed both to Sandals and their attorneys, justified?
479. On 7 September 2004 Floyd Hall, wrote to 'Dr Pines' (sic) referring to a conversation with the Chief Minister and confirming that it had been agreed to grant a concession to reduce the import duty rate to 5% to enable the expansion to proceed. The 5% rate was to apply to all items imported for the new construction of the Italian Village for 5 years and to the whole property for 10 years.
480. On 8 September 2004 the Chief Minister wrote to Mr Stewart, Chairman of Beaches committing to assisting Beaches in reopening after the recent Hurricane Frances and, in recognition of the Beaches commitment to the TCI,

offering further concessions including waiver of 10% service charge for 12 months on imported food and drink and 5 PRC's (permanent residency certificates) to Mr Stewart his family or any designated Director, plus noting that ExCo had approved the sale of a further 1.5 acres.

481. On 13 September 2004 Mr Hoza, the Chief Government Valuation Officer, produced a valuation for the parcel number 60803/81 (approximately 1.5 acres) lying behind the Summer Nights land, which was intended to be sold to TCI Hotels. The valuation was for \$1,050,000. on the basis that this land was needed to facilitate the expansion of Beaches Resort. The opinion was good for six months. The memo with the valuation was forwarded to Mr. Pyne from the Chief Minister's office.

482. On 23 November 2004 the Bain brothers (SNL shareholders and owners of one parcel of land) signed an Agreement of Sale with TCI Hotels Ltd, accepting Dr. Pyne's offer of \$1m for the remaining part of their interests.

483. On 21 December 2004 a final payment of \$1million was paid to the Bain brothers to complete the sale. The Bain Brothers were paid a total of \$1.8m for their shares in SNL.

484. As the Court will recall from the letter that MM wrote to Mr Stewart, Beaches wanted to acquire more land next to the development. Part of the land that they were interested in was designated as land for a cultural market. This would need to be moved if the expansion was to move ahead as Beaches

wished. The Government was not supportive of the local Market, but was supportive of the Beaches expansion. The Beaches expansion would also necessitate a move by Provo Water (who were using part of the site).

485. On 24 February 2005 SNL, now owned by TCI Hotels Ltd, achieved the freehold title to parcel 60803/89 for \$1,422,500.

486. On 3 March 2005 SRI sent \$500,000 from their Barclays Bank account in New York to PP's FCIB account. The wire transfer request referred to this as a deposit on property. The payment was credited to the client account at PP in the name of MM.. The money was then debited to Alexandra Resort, Belize Bank, Johnson International, Hallmark Trust and MM – bringing the balance back to zero. We will come back to explain some of these payments later.

487. On 22 April 2005, Misick & Stanbrook, who acted for Beaches, wrote to MM directly confirming that the land (60803/89) had been transferred successfully. In the letter the attorneys enquired about the transfer of a further 1.5 acres (parcel 60803/81) which had apparently been approved by ExCo (subject to the market value being established) and noting that MM had recently “agreed that an additional adjacent area of 1.5 acres” in the parcel would be transferred at market value. The author asked the Chief Minister to take the necessary steps to obtain the approval of ExCo for the transfer of the 3 acres at a market value to be approved by the Valuation Officer.

488. On 19 May 2005, a proposal was introduced to ExCo, via Paper 05/353, setting out a proposal for the sale of parcel 60803/80 and 81 (1.5 acres) to

Beaches for \$825,000. It was proposed that an additional 1.59 acres would be leased for the purposes of a cultural market (11 industrial spaces) and 1.4 acres were to be utilised for the Veranda development.

489. An ExCo Action Minute dated 10 June 2005 (05/460) recommended, approval that 1.5 acres (parcel 60803/81) would be sold to Beaches TCI Limited for \$825,000. There was also discussion about the sale of an extra 1.43 acres which was in the parcel that had been intended to be subdivided between 3 new owners. H.E. The Governor ordered accordingly.

490. On 7 July 2005 MM introduced the subject of Beaches to ExCo by oral mention (05/563). He recommended reducing the price of the land, as following Government and private valuations there was a “huge” difference in values. ExCo agreed that Beaches should receive a reduction in the price of the land parcel, and that the two plots should be sold to them for \$350,000 each. H.E. The Acting Governor concurred and ordered accordingly. And so, the land that was initially to be sold at \$835,000 for one portion is now two portions for \$350,000 each.

491. On 21 July 2005 \$350,000 was remitted to PP from UVI. An instruction was issued to SRI bankers Executive National Bank to wire the funds to FCIB, Providenciales for the account of PP. This payment was credited to the Michael Misick Client Account.

492. The money was disbursed as follows:

- a. 22 July 2005 \$213,200 wired to HD Comm,
- b. 27 July 2005 \$50,000 to Hallmark Trust and credited to MM's credit card held in the name of Chief Minister's Office. We will come back to this during the trial, and the Court will see the type of expenditure being incurred on the Chief Minister's card. The Crown will argue that this is not the sort of expenditure one would expect, and ask why funds that arrived in this method are being applied to reduce the indebtedness of the card.
- c. On 27 July 2005 \$30,000 was paid to First Caribbean International Bank,
- d. On 27 July 2005 \$10,000 was paid into MM's personal account at Belize Bank,
- e. On 10 August 2005 \$20,000 was paid to Hallmark Trust and credited to MM's credit card held in the name of Chief Minister's Office,
- f. On 26 August 2005 \$10,000 was paid to someone by the name of Tarsha Hall,
- g. On 8 September 2005 \$10,000 was paid to someone by the name of Mark Shubbin, and
- h. On 6 October 2005 \$6,785 paid to MM.

493. By September 2005 the sale of parcel 60803/81 had not completed. The Minister of Natural Resources presented a paper to ExCo seeking to deal with applications for CPL's for lots including parcel 60803/81. He indicated to ExCo that the lots 8-12 had been allocated to Beaches (TCI) Limited. This land was held on a 10-year lease by Provo Water Company for peppercorn rent. The suggestion was that the lease could be cancelled and therefore the land would be available. The proposal therefore was to combine 60803/80 and 81 and then subdivide the land as suggested in an attached annex (table A). This would give Beaches 2.84 acres as they had sought in June.

494. On the 28 December 2005 UVI remitted a further \$150,000 to the PP Account. This payment was credited to MM's Client Account. The payment was disbursed as follows:

- a. 28 December 2005 \$100,000 was paid to TCI Bank Limited as an investment in the bank,
- b. 10 January 2006 \$16,573.56 was paid to Prime Time Omnimedia as per MM request,
- c. 27 January 2006 \$2,310 was paid to PPC reference "North Caicos house",
- d. 31 January 2006 \$6,000 was paid to Jacqueline Lightbourne as per MM's instructions.

e. 27 March 2006 \$20,100 was paid to MM as per MM request.

495. In the days leading up to the deposit made on 28 December, Dr Pyne had met with MM.

496. We know this because On 22 December 2005 Ariel Misick wrote directly to the Chief Minister, stating that he understood that there had been an agreement to reduce stamp duty on a portfolio of properties being bought by Beaches. From this we can deduct that there was a meeting between Dr Pyne and MM, and that MM had agreed to a reduction in Stamp duty.

497. On 9 January 2006 under the hand of Floyd Hall a letter was sent to the Registrar of Lands stating that the stamp duty had been reduced to \$1m (the letter was copied to MM and also to Misick & Stanbrook). We know what the stamp duty should have been, because Misick & Stanbrook have disclosed, pursuant to a production order, a table showing what should have been paid. The company paid \$1million. The correct duty should have been \$2,497,012.50. The amount agreed was \$1 million, thus the agreement reduced it by \$1.5 million. The minister has a statutory right to exercise his discretion and accept less. The Crown say this discretion must be exercised in the best interests of the country, and not be influenced by undue payments, pressure or influence. There was, we suggest, a discussion between Pyne and MM, resulting in FH writing the letter. The relationship between MM and Sandals is tainted, the Crown say, by payments being made on his behalf to PP.

498. In 2006 BTCI continued with their desire to further expand the hotel property by building a complex on the adjacent land. This expansion was to be known as 'the Italian Village'.

499. Payments were made by UVI to Chalmers Misick client account on:

- a. 6 March 2006: \$200,000,
- b. 10 March 2006: \$150,000, and
- c. 29 March 2006: \$150,000.

500. The 6 March 2006 payment of \$200,000 was referenced 'GAS LEGAL'. Chalmers & Co provided no legal services to Unique Vacations the payer.

501. The 6 and 10 March 2006 payments were applied to pay for MM's wedding to Lisa Raye Misick as she was to become [LRM] as follows:

- a. 9 March 2006 \$130,000 by wire transfer to Preston Bailey Entertainment. Preston Bailey arranged and managed the wedding,
- b. 14 March 2006 \$35,065 wire transfer to Prime Time Omnimedia Ltd, the company that arranged the filming of the wedding, and
- c. 15 March 2006 a cheque for \$30,000 to Sky Juice, the wedding caterers.

502. The 6 and 10 March 2006 payments were also disbursed as follows:

- a. 15 March 2006, \$3,465 to Meland Russand Budwick, a US law firm in Miami, and
 - b. 22 March 2006 \$25,000 to an Emily Forbes, said to be relating to the purchase of land on North Caicos, and \$15,458.54 to Misick and Stanbrook.
503. On 9 June 2006 the now renumbered Crown Land Parcels 60803/107 and 108 were transferred to Beaches for \$700,000. \$68,250 (representing 9%) was paid in stamp duty. As a result of the price reduction, Beaches saved something in the region of \$862,000 (made up of \$825,000 + \$737,000 - \$700,000). The price paid was precisely in accordance with the recommendation to sell the land to Beaches made by MM to ExCo in July 2005 by oral mention (05/563).
504. On 4 July 2006 Ariel Misick QC wrote to the Chief Minister. It was made clear that the following concessions were sought in relation to the entire hotel development (setting out the various land holdings that had been acquired) including that part which was already developed:
- I. Exemption from payment of all customs duties and any other applicable duties for a period of 25 years on equipment,
 - II. Exemption from the payment of property taxes for 20 years, and

- III. Exemption from payment of any taxes on profits, gains and/or other turnover attributable to the development.
505. On 12 July 2006 an ExCo Paper was introduced by oral mention. The paper examined the proposed expansion and the concessions requested. MM recommended that the requested concessions be made. The Acting Attorney General specifically requested an independent assessment of the economic benefit to the Islands. The Acting Attorney General made this request because there was mounting evidence that all-inclusive resorts offered only limited benefit to the TCI. That was clearly not agreed.
506. On 13 September 2006 Cabinet approved the DA for Beaches. \$110m expansion to the resort with a concessional rate of 20 years considered by the Governor to be generous, MM explained this was fundamental to close the deal.
507. On the same day, Cabinet approved the grants of Belongership to a number of major investors in the Islands, including Butch Stewart, and Jeffrey Pyne.
508. On 11 October 2006 the Development Agreement for the construction of the Italian Village was signed.
509. Summarise the position: the DA was undoubtedly a huge development for the TCI. It was a significant investment. Beaches were seeking significant

concessions, which the acting AG wanted to have independently assessed, but which Cabinet agreed would be granted.

510. BTCI secured a revised Development Agreement again granting the entire resort significant commercial concessions including consent to build the Village to 6 storeys (the initial agreement was 2 storeys) and to increase the footprint of the building from 4.7 acres to over 7 acres. For a period of 20 years from the day of order the resort was granted full exemption from any future taxes on profits, gains, turnover, future property tax, capital levy, and other taxes on capital invested. The DA also afforded the resort:

a. For a period of 25 years from the day of order:

I. Reduction to 5% of customs import duties on, *inter alia*, all building materials, equipment, furniture, operational items, vehicles, and

II. Full exemption from customs import duties on five battery powered vehicles/carts.

b. For the life of the development:

I. Full exemption from all taxes, duties or levies on hotel promotional literature.

511. These concessions went further than the usual commercial practice in TCI Development Orders. Their length and scope is far greater than the equivalent concessions in the 2002 and 2003 Agreements.
512. Governor Tauwhare also considered the concessions went too far. He recalls questioning MM about this at the time; MM held the view that the development should be encouraged as Beaches was the biggest source of tourism in the Island. Beaches stood out, as far as the Crown's case is concerned, as particularly generous compared to other DA's although the duty was put at 5% in the end after the original recommendation of 0%. We restate once more: a political decision made honestly is one that is accountable at the ballot box. A political decision made when there are payments being secretly made to the maker of that decision is one that engages the criminal law. That is what this case is about, and Beaches is an example of it.
513. On 19 July MM wrote to his brother Ariel Misick at Misick & Stanbrook, confirming the concessions. The AG's Chambers saw the concluded DA as a "remarkable and unprecedented set of concessions". Whereas DAs were normally negotiated by TCInvest and the AG's Chambers, neither were involved in any negotiation, it all appeared to be "rubber stamped". In relation to this development, the AG would have expected \$114,000 contributions to the Scholarship fund annually for ten years or until construction concluded - in this case it was fixed at a flat rate of \$35,000.

514. On 13 October 2006 during a visit to Sandals, Jamaica, TCM wrote a note on Sandals headed paper 'from Chal Misick' to 'Andrew', referring to Andrew Ashcroft, the Senior Director and Money Laundering Reporting Officer of British Caribbean Bank. The note instructed Ashcroft to make two wire transfers from the Chalmers & Co account. \$70,717.02 to be paid to Universal Jet Aviation, which the Crown submit was for the use of MM in relation to a private aircraft, and the other payment was \$100,000 to MM and LRM.
515. Sandals [SRI] made the following payments to Misick & Stanbrook:
- a. 26 October 2006: \$150,000. There is no trace of this credit to the TCI Hotels ledger [SRI local company], however in response to the production order served on M&S in relation to the monies received from SRI, M&S responded with a ledger relating to Cromwell Trust (together with the SRI wire transfer) which matches the \$150,000 of this date,
 - b. 18 January 2007: \$362,332.00
516. On 30 October 2006 M&S sent \$150,000 by cheque to the PNP. On 22 January 2007 \$350,000 was transferred to the PNP account. What happened to the money once it arrived in the PNP account? \$15,000 was identified as going to Samuel Been (in two separate cheques of \$10,000 and \$5,000), \$25,000 to Jeffrey Hall and \$60,000 to TCI Sky King.

517. There was later a request to find out what happened to the money that was sent to Chalmers & Co. On 16 June 2010 Misick & Stanbrook wrote to Chalmers & Co to obtain information. This letter suggested that these payments were political contributions.

518. On 18 June 2010, TCM, on behalf of Chalmers & Co, sent a reply to Misick & Stanbrook. In that letter he said that:

- a. The funds had been received,
- b. Chalmers & Co did not have any client instructions to provide further information about the funds, and
- c. Chalmers & Co did not act at the time of receiving the funds and do not currently act, for the PNP.

519. On 18 August 2010, Patterson Mair Hamilton, a Jamaican firm of Attorneys wrote directly to TCM on behalf of Sandals requesting that full and frank disclosure of the beneficiaries of these payments be made within 14 days.

520. On 17 September 2010 Chalmers & Co replied to Patterson Mair Hamilton, as follows:

- a. The 18 June 2010 letter did not state that the payments were not a political donation,

- b. Sandals/Beaches Group ought to have been aware of such a significant donation, and
- c. The \$500,000 received on behalf of their client was a political contribution made by Patterson Mair Hamilton's client as a political contribution to assist with funding the re-election campaign of the PNP Government.

521. It is clear, the Crown submit, from the timings of the payments made for the benefit of MM then to Chalmers & co and to the PNP that Beaches knew what they were doing. All of the payments were secret. When the Court comes to look at how the DA's were reached by reference to concessions and consider the discounts in stamp duty, to look at MM's presentation to ExCo that they should take a reduced amount from Sandals, and look at the payments that were being made for his, among others, benefit, it is quite clear what lies behind the relationship and was kept secret. These were payments to procure advantages, which resulted in loss to TCIG and the people by stamp duty, value of land.

522. This sits in both count 1 and 2. It similarly is of assistance in relation to the conspiracy count between MM and TCM in respect of money laundering, and the use of the PNP account by way of donations not being applied for the proper purpose, and the use of the account to launder money.

SALT CAY

523. Salt Cay is a small island 2 miles long by 1 mile wide. Historically during the 19th Century the island produced natural salt on an industrial scale. Much of

the island was, until the matters to which we turn our attention, unoccupied Crown Land.

524. It has a population of between 100 and 130 permanent residents. It has a small airport and is about a 30-minute journey by boat from Grand Turk.

525. There is no doubt that the proposed development on Salt Cay was to be on an impressive and grand scale, with proposed investment of over \$600 million. Further, the resort would have brought no doubt a lot of publicity and media attention to the TCI and brought employment thereby creating a good opportunity for people of this country. As the development will show you, it also presented MM and MH in particular with a good opportunity to obtain money.

526. We suggest the evidence shows that within a couple of months of meeting the developer, a Slovakian banker by the name of Mario Hoffman [MHo], MM and MH entered into a relationship that can only be described as corrupt, that was to thrive between them for a period of 3 years during which they personally received quite astounding amounts of money.

527. MM was the beneficiary of a “loan” of \$6 million, and other monies. MH benefitted in excess of \$2 million. The loans were never to be repaid.

528. Payments into the PNP account alone exceeded \$750,000, which was quickly dispersed to the advantage of MM and MH (and to a lesser extent FH, LB and JH).
529. MM's brother, TCM, acted as, for want of a better phrase, personal banker and laundered millions of dollars of criminal property for all of their benefit.
530. You will see that the payments appear to coincide with concessions being granted.
531. In one of the transactions between the Crown and the developer, the Misick administration sold 122 acres of Salt Cay at half its value thereby losing the TCIG \$6.83 million.
532. Your Lordship will have to judge the secret personal gain of the politicians against their obligations to the TCIG and the people. We suggest that in breach of the Code they advantaged themselves at the expense of Government finances.
533. We turn now to Mario Hoffman. Between 2003 and 2008 the financier and developer of the proposed resort on SC was Mario Hoffmann [MHo], a Slovakian businessman. He controlled a company called Istrokapital, a financial company registered in Cyprus, and was during the material time a major shareholder in Postrova Banka, the former Slovakian post office bank.

534. In 1999 MHo purchased a holiday home on Providenciales. After that he visited the TCI on a number of occasions. A witness by the name of Simon Wood relates this history because he ended up in business with MHo.
535. MHo purchased land on Salt Cay and entered into an agreement with a local architect to build a high-end hotel and beachfront cottages. The project required the purchase of Crown Land.
536. By a letter dated 5th May 2005 and then at a meeting in August 2005 MHo was introduced to MM by Wood as the financier of the project. Within a relatively short time after the introduction MHo embarked on a much more ambitious and determined scheme to acquire most of SC, in order to carry out a grand plan to develop a high quality resort and golf course. In addition, he wished to have an International port of entry by both air and sea and it is after this development of these ideas that his relationship with individuals in Government began to develop. The Crown's case is that MHo offered financial inducements to politicians in exchange for the concessions he sought, as well as the allocation of Crown Land at significant discounts-
537. The extent of MHo's preparedness to ingratiate himself with the politicians is perhaps best reflected in the support he gave for MM, MH and their wives to be given Centurion American Express Cards, which are usually reserved for the wealthiest of American Express clients.

538. With the support of a guarantee these 2 political figures were empowered to spend lavishly, at some of the world's most luxurious goods suppliers and places.
539. MM and LRM managed between January 2006 and April 2009 to spend over \$4.8m on the Centurion Card. MH received his card in April 2007 and spent over \$1.1m from then until May 2009, with his wife named as an additional cardholder.
540. The support (apart from actually sponsoring the applications for the American Express card) was in the form of a loan of \$6m, which was guaranteed by J&T Banka a part of J&T Financial Group, in which MHO had an interest. The bank also became the principle funder for the proposed development, securing their loans by charges on the land owned by SC Estates Ltd.
541. We suggest that the size and timing of the indirect payments/and or lines of credit provided by MHO to MM and MH when viewed against the advantageous concessions granted to his development companies provides the irresistible inference that the payments made were for the purpose of bribing the Ministers for him to obtain advantages which he should not otherwise in commercial common sense have received.
542. Rhondalee Braithwaite-Knowles will give evidence as to the fact that such was MHO's 'influence' that at one stage the Ministers were willing to agree that MHO's Development Company was to have ultimate control over its own

planning and zoning decisions effectively giving the developers free reign to build what they wished on SC with little or no oversight thereby leaving residents with no means of effective challenge to the reshaping of their Island.

543. Only when the AGC and even the developers' attorney displayed concern that this may leave the Government open to Judicial Review did the Ministers take a different view about the control of the development decisions.

544. How MHo came to have such a close relationship with MM and the Government, and how that relationship operated to the advantage of MM and his Ministers, the disadvantage of the people of the TCI and especially the residents of Salt Cay is what this part of the case will examine. We will now examine some of the personalities involved in the case.

545. Kenneth Christianson was a resident of the TCI. He controlled Caribbean Island Investment Company Ltd ('CIIC'), a company registered in the TCI. In 1993 CIIC owned 4.74 acres of land on Salt Cay. He wanted to build a development hotel called 'Castaways' and enlisted Simon Wood, a local architect, who had lived and worked in the TCI over a period of 22 years. That was the original start, without any reference to MHo, of the intended development on Salt Cay. This was long before MM came to power.

546. In 2001, years after that purchase of SC land by CIIC, Simon Wood approached MHo whom he had met when MHo had bought a house on

Providenciales which needed work, in order to discuss the development of a hotel/resort complex. Wood introduced him to Kenneth Christianson.

547. MHo and Christianson agreed to enter into a joint venture partnership in order to develop the CIIC land on Salt Cay. Wood was not involved in this development proposal.

548. In May 2003 CIIC purchased a further 6.31 acres of Crown Land on Salt Cay.

549. In November 2003 MHo acquired control of the CIIC land on Salt Cay after buying Christianson out of the joint venture.

550. Over time MHo, acting through various companies that he controlled, purchased more parcels of land on Salt Cay, totalling 229.8 acres. This was comprised of 172.8 acres of Crown Land and 57 acres derived from private purchases. In addition - acting through Salt Cay Golf Club Ltd (which, you will hear in due course, was connected to TCM) - MHo acquired 1,152 acres of leasehold land with an option to purchase the freehold.

551. By 2008, as a result of these purchases MHo now had an interest in approximately 70% of the total land on Salt Cay.

552. By 2003 (after the PNP had come to power), no steps having been taken to develop the land, MHo approached Wood to go ahead with a limited Salt Cay

project. Wood agreed to act as MHo's partner in the development of a small hotel and spa resort.

553. In fact, nothing much happened after that until the end of 2004 when MHo again contacted Mr Wood – he wanted now to create a high-end resort development, a much larger project. Wood will tell this court how MHo was not sure that Wood had the capacity to handle this project to be completed in a short time. Wood introduced MHo to an architect firm in Miami and a joint venture was agreed with the architects in Miami Edward Lewis Architects Limited.

554. On 12 March 2005 the joint proposal was countersigned by MHo.

555. At this time it was felt that a Belonger partner would be necessary in order to secure Government backing for this project. Ben Walkin, working as a builder was asked to join the development and he will give evidence during the course of the trial.

556. In order to move the development forward, interests in the development were arranged as follows:

- a. MHo held a 50% stake through Salt Cay Estates Ltd, and
- b. Wood and Walkin held a 50% stake through Salt Cay Development Ltd.

557. In the course of the development two further companies were formed to manage certain aspects of it:

- a. Salt Cay Devco Ltd is the main company dealing with the development. A man by the name of Stefan Kral was the director and CEO. He did his business for the development through this company. The shareholder of this company was Salt Cay Estates, the company through which MHO held his interest in the development, and
- b. Salt Cay Golf Club Ltd. Formed by Chalmers Misick & Co. This company was formed, as the name suggests, in relation to the golf club.

558. On 5 May 2005, Wood, sent a letter to MM introducing MHO, as an “investor” who “is a European entrepreneur by the name of Mario Hoffman”.

559. Three months later (August 2005) Wood took MHO to meet MM. In October 2005, MM and Galmo Williams [GW] were in London attending the World Tourist Market Exhibition. While there, MM met MHO again ,who invited the group to travel to Prague on his private jet.

560. In Prague, on 18 October 2005, MM and GW were taken to see a European Champions League game. MHO introduced MM and GW to a number of people at this game: Peter Tkac, Petr Korbacka and Ivan Jakabovic. Tkac, Korbacka and Jakabovic were Directors of AC Sparta Praha, one of the teams playing, and members of the Board of Directors of J&T Financial Group. It was J&T Banka, with whom MHO was closely connected, who underwrote

the subsequent loan guarantee that facilitated the use by MM and MH of their Centurion Cards.

561. On 30 November 2005 ExCo met and MM introduced the 'Proposed Resort Community Development – Salt Cay Resort and Spa'. Of the defendants JH, FH, LB and MH were present at the meeting. The Council approved the following:

- a. The proposed sponsor's proposal to establish a resort community on the island of Salt Cay,
- b. Declare the Salt Cay Resort and Spa Development and Caribbean Islands Investment Company Ltd "an approved" enterprise under the Encouragement of Development Ordinance 1972,
- c. To instruct TCInvest, with the support of the AGC, to negotiate separate DAs with CIIC in relation to the hotel and Spa Development and jointly with CIIC and SCDL in relation to the residential development substantially on the following:
 - i. Granted freehold interest on 11.5 acre site at open market rate of Crown land to facilitate development,
 - ii. Grant of CPL for approximately 30 acres of Crown land to support the villa development,
 - iii. Grant of all land for this development to be subject to and in line with the new Crown Land Policy,

- iv. Reduce by 5% import duties on all construction materials and equipment to be used to implement both components of the project,
- v. Exempt temporarily all plant and machinery to be used to implement the project,
- vi. Require work permits issued to those involved in the development to be in line with current immigration policy,
- vii. Prior to signing of the DAs/Lease Agreements the sponsors must have satisfied the Department of Planning and DECR,
- viii. TCInvest satisfy itself regarding the bona fides of the Developers, and
- ix. The property to be surveyed at the developers' expense in accordance with the submitted plans.

562. On 8 December 2005, just over a week later, MM applied for the American Express Centurion Card.

563. The first named person on MM's application's verification page, Peter Tkac, a man MM had met once during the course of the football match in Prague, not only signed the document but also provided a guarantee of \$75,000 to American Express on his behalf. This happened on 13 December, and on the same day MHO deposited \$50,000 into the PNP account, described as "for the sponsorship of the Chief Minister's Christmas Party". By way of background, that was the first of what ended up being \$700,000's worth of donations to the PNP made by MHO between December 2005 and January 2007.

564. In January 2006, Cabinet approved an offer by CIIC (now owned and controlled by MHo) to acquire freehold title to 13.9 acres with a CPL over 30 further acres.
565. On 19 May 2006 MHo wrote to Walkin informing him that the costs of the project had escalated and he would have to invest additional funds if they were to remain partners. It was not going to be possible for the architect Wood or the builder Walkin to come up with the \$17m each required.
566. They tried to negotiate a settlement to enable them to leave the project. MHo was not immediately contactable. However, on 22 August 2006 MHo wrote to Walkin to cancel the project.
567. Just before that letter was written, on 2 August 2006 at Cabinet (FH, LB, JH and MH were all present), MM raised by oral mention the not so insignificant additional request that “Mr. Hoffman would like to add a golf course onto his existing proposal”.
568. Significantly, we suggest, the size and scale of the proposal would have warranted more than an oral mention so that consideration of what was being proposed could have taken place. Despite this last minute introduction Cabinet approved in principle the leasing of 222 acres of land to Salt Cay Golf Club Ltd for the purpose of developing an 18 hole golf course. This land was later valued by Mr Hoza at \$7,760,000.00. We will return to this and show Court that the land was leased at a peppercorn rent.

569. On 9 August 2006, MHo made a payment of \$100,000 to the PNP BCB account, this sum was credited to the account on the 18th August 2006. As we will see when we look at payments to the PNP accounts in a little more detail, this money was quickly dissipated fairly promptly to the benefit of the MM and FH amongst others.
570. On 23 August 2006, MM introduced a paper. Cabinet approved an option to acquire a further 41 acres of Crown Land surrounding the proposed hotel site on SC. A 50% Belonger discount was granted together with a further discount of \$500,000, which was said to be an “inducement”. The cost of the land was \$4.25m with no Charge to be put on the land to protect the interests of the TCIG. MHo was not a Belonger at that time and as we know, he was terminating the relationship with the Belongers who had no prospect of being able to invest in the project.
571. There was a further meeting of Cabinet on 20 September 2006. MM, by Oral Mention, advised Cabinet of amendments regarding the transfer of land to Salt Cay Resort; he re-emphasised the Belonger 50% discount obtaining approval for a proposal that if the developer disposed of the entire development built on Crown land to a non-Belonger after 5 years there would be no requirement to repay the 50% Belonger discount back to the TCIG. The clerk was instructed to inform Ms Braithwaite-Knowles from the AGC of the changes “immediately following Cabinet meeting.”.

572. On 27 September 2006 at a Cabinet meeting, again by Oral Mention, a Cabinet action minute records that according to MM, MHo had resided in the Islands for a number of years and had made many valuable contributions to the development of the Islands and therefore MM wished to offer him Belonger status. Cabinet approved this request. MM and MH were included as referees to support the application. The application would suggest that MHo is saying he has known MM and MH since at least 2003. The short and simple point is that MHo must have known that he had not known MM and MH for 3 years, and he was investing a lot of risk in it being picked up by MM and MH, or other Ministers. Indeed, rather than picking up on the fact that they had not known him for 3 years, MM in particular was effusively supportive for MHo's application for Belongership. On the Crown's case they had only met in August the previous year. It is unclear how a Premier with integrity could advise Cabinet that an applicant had lived on the Islands for many years and made valuable contributions, in support of an application form suggesting he had known him for 3 years, when he had not. As regards the valuable contributions; at the time of the application, MHo had not developed any part of the TCI, apart from renovating his own holiday home on Providenciales.

573. Governor Tauwhare raised some concern about the impact of the grant of Belongership to MHo in respect of the Salt Cay transactions. MM reassured the Governor that MHo did not rely on his Belonger status to benefit from any discounts and he had repaid any discounts received. By this time MHo had already bought 6.3 acres through Caribbean Island Investment Company

taking advantage of the Belonger discount. It is also to be noted that MHO had secured an option on 41 acres, at a time when he was severing his partnership with Mr Walkin, his Belonger partner, to which the discount applied.

574. On the same day, 27 September 2006, a further \$100,000 was paid into the PNP BCB account. The sum was credited to the account on 3 October 2006 having been sent on the day that Cabinet agreed to grant MHO Belongership. The Crown's case is that the money was applied, at least in part, for the benefit of MM, as on 30 October 2006, \$44,038.50 was sent to North Star Charter, a private air charter company.

575. On 29 September 2006, Walkin received a "Corporation Termination Agreement". He was offered a severance payment of \$3m. He received \$300,000 (a 10% deposit). Walkin's attorney was, on the face of this paperwork, TCM.

576. On 12 October 2006, and – it would appear – pursuant to the agreement, \$2,000,000 was transferred from MHO's J&T Banka (Prague) Harbour Management Development Ltd bank account to the Chalmers & Co FCIB account. That was, the Crown say, the \$2 million pursuant to the arrangement that Walkin had with MHO. What did TCM do with it? On 17 October 2006 Walkin received \$1m from Chalmers & Co. The Crown's case is that instead of sending the \$2 million to Walkin, TCM sent \$1 million. TCM had charged Mr Walkin a retainer of \$150,000 for representation during the putative project. Walkin doesn't recall receiving a receipt for this payment, -nor did he

receive the balance of the money. As we will look at in a little more detail later on it is the Crown's case that TCM distributed that money for the use of himself and his brother, Michael.

577. Mr Wood was retained as the project's architect and as such remained on board and did not receive any money.

578. On 4 October 2006 the Governor and Adrian Corr of Miller Simmons O'Sullivan (on behalf of SCE Ltd) signed an agreement for sale and deeds register for parcel 10702 (41 acres) for \$4.25 million. SCE Ltd had until 4th December 2006 to complete the sale. The price had been the subject of a 50% Belonger reduction (from \$9.5 million), and the \$500,000 inducement agreed in Cabinet earlier in the year on 23rd of August, although MHo had not had his application for Belongership approved at this time.

579. On 17 November 2006 MHo was granted Belongership.

580. On 29 November 2006 MM introduced the proposal for the Salt Cay and Spa (including golf course) Draft Development Agreement ('DA') to Cabinet. The DA was approved. The Agreement included the following concessions:

- a. That Customs Duties would be a flat rate of 5%, instead of 30%,
- b. A 99 year lease over 238.72 acres of land, for a golf course initiative, at an annual peppercorn rate of \$1 per acre per year for 20 years,
- c. That 50% Belongership discount to all Crown Land Purchase,

- d. The Draft DA and development order were to be signed off by the Governor, without further recourse to Cabinet upon “instructions” from the Premier.

- 581. Again there was an element of urgency as the minute records that the PS Office to the Premier, the AGC and TCInvest should be notified immediately so that the Agreement could be executed on 1 December 2006.

- 582. On 1 December 2006 a further \$100,000 was transferred from the MSO Terrapin Investments client account to the PNP account.

- 583. On 11 December 2006 Harbour Management Development (on behalf of Mho) made a payment of \$700,000 (described as a loan) from its J&T Banka Account in Prague to Chalmers & Co. This would appear to be the balance of the monies due to Walkin pursuant to the agreement. These funds were not applied for Walkin’s benefit, but instead for the use of MM, among others.